

Pacific Coast Federation of Fishermen's Associations • Institute for Fisheries Resources • Humboldt Fishermen's Marketing Association • California Wetfish Producers Association • West Coast Fisheries Consultants • Western Fishboat Owners' Association • American Fisherman's Research Foundation • Alliance of Communities for Sustainable Fisheries • Fishermen's Marketing Association • Oregon Trawl Commission • Midwater Trawlers Cooperative • West Coast Pelagic Conservation Group • West Coast Seafood Processors Association • Ventura County Commercial Fishermen's Association • Commercial Fishermen of Santa Barbara • California Fisheries and Seafood Institute • Responsible Offshore Development Alliance

January 28, 2019

Bureau of Ocean Energy Management  
Office of Strategic Resources  
760 Paseo Camarillo (Suite 102)  
Camarillo, California 93010

*Submitted online at Docket No. BOEM-2018-0045 at <http://regulations.gov>*

RE: Docket No. BOEM-2018-0045

To whom it may concern:

We the undersigned understand that the Bureau of Ocean Energy Management (BOEM) is soliciting information and nominations regarding three 'call areas' that your agency has deemed suitable for wind energy development in the U.S. Exclusive Economic Zone off the coast of California. We are pleased to provide comments on these areas and appreciate the opportunity provided by BOEM to highlight the importance of these call areas to the commercial seafood industry and fishing-dependent communities of the West Coast.

We urge BOEM to ensure that one renewable industry is not supplanted for another – we are determined to harvest, and supply to the nation, sustainable seafood for generations to come and urge you to comprehensively assess impacts of proposed wind energy development to our industry as soon as possible.

The potential impacts to the fishing industry resulting from the development of the proposed call areas are numerous and significant, requiring a thorough and in-depth analysis. The loss of 1,073 square miles of fishing grounds would have devastating impacts to the fishing communities for whom those seemingly small areas represent a large portion of their most accessible and productive fishing grounds. As offshore wind energy is a new industry and the floating power generating structures proposed for the application you are considering are a new technology, a precautionary approach to wind energy area scoping, designation, leasing, and permitting should be taken with respect to impacts to fisheries, dependent fishing communities, and the marine and coastal environment.

BOEM is required to consider the impacts of its activities to commercial fisheries and coastal communities. The Outer Continental Shelf Lands Act (OCSLA) § 388<sup>1</sup> explicitly requires the consideration of impacts to fisheries and the mitigation of interference when leasing submerged lands to wind power: “The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for:

- “prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas”; and
- “consideration of any other use of the sea or seabed, including use for a fishery”.

Section 18(a)(1)<sup>2</sup> of the OCSLA requires BOEM to consider the impacts projects will have to our industry, to the environmental resources we rely on, and to the communities we are a part of. This section requires that “management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.”

We believe BOEM is statutorily obligated to fully evaluate all economic, social, and environmental impacts to commercial fishing activity resulting from wind energy leasing in full compliance with the National Environmental Policy Act (NEPA) and the OCSLA, and that it will be required to prepare an Environmental Impact Statement (EIS) documenting impacts to the human environment and natural resources of commercial fisheries. An EIS is required when considering “major federal action significantly affecting the quality of the human environment” (NEPA § 102(2)(C)<sup>3</sup>). The human environment “shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment... When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.” (40 CFR § 1508.14).

These effects may be direct, indirect, or cumulative. 40 CFR §§ 1502.16, 1508.7, 1508.8. Direct effects are those “which are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect effects are those “which are caused by the action and are later in time and farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” 40 C.F.R. § 1508.8(b). A cumulative impact is “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other

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<sup>1</sup> See - 43 U.S.C. §1337

<sup>2</sup> See - 43 U.S.C. §1344(a)(1)

<sup>3</sup> See - 42 U.S.C. §4332(2)(C)

actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7.

Our fishing communities have already lost thousands of square miles of fishing grounds to various types of fishing closures and restrictions, including but not limited to Marine Protected Areas (MPAs), marine mammal and turtle conservation areas, general and gear/stock-specific habitat restrictions, cable areas, and shipping channels. Some of these closures have been adequately mitigated, while others have not. Additional losses of fishing grounds will have significant cumulative impacts on fishing effort, catch, and the value of our industry. Such losses will also have consequent multiplied impacts on the fishing communities and allied industries that we serve.

We urge your careful and thorough consideration of how wind energy development projects will impact fisheries. Several commercially harvested stocks occurring in or near the proposed call areas for which effort has been limited for many years are in the process of being rebuilt or will soon be rebuilt. Several others have been limited because of constraints based on gear type rather than stock abundance. BOEM’s close coordination with our industry and fishery management agencies will be required in order to properly scope future impacts of proposed wind energy projects.

We also urge your careful consideration of how project construction, installation, staging, and maintenance operations will interfere with fishing operations. This consideration should include maritime operations, loss of shoreside infrastructure and commercial fishing space, transit and safety needs of fishing vessels, and increased vessel traffic in and around ports associated with proposed projects. We will also seek assurances that wind energy companies will take full responsibility for complete decommissioning at the end of the lifespan of their facilities or termination of a lease as a leasing condition.

Your agency’s full consideration of the extraordinarily complex landscape of the human environment of commercial fisheries must begin now – at the siting stage – and not be delayed until a stage in which only minor accommodations can be made, in order to ensure compatibility with commercial fisheries without the loss of massive investments on the part of the offshore wind energy companies and the federal government. At these later stages it will be too late for meaningful stakeholder input, and mistakes may have been made that would have been relatively simple (and inexpensive) to correct had the leasing process been approached holistically at an early stage.

Excluding nearshore areas in part due to high fishing activity is a proactive step that may lessen impacts, but we do not feel this consideration alone is adequate. Focusing on nearshore areas is an oversimplification of where valuable fishing occurs. While for some fisheries the nearshore areas are more essential, other fisheries primarily rely on fishing grounds farther offshore. Furthermore, it is reasonably foreseeable that BOEM’s leasing and permitting activities will result in hazards to navigation and the establishment of restricted areas near and around cable areas and the placement of cables within nearshore fishing grounds, significantly affecting commercial fisheries.

We disagree with BOEM's assertion that it has chosen call areas that are not high value fishing grounds. As seafood industry organizations and businesses, we are aware the proposed wind energy areas are situated within productive fishing grounds, constituting an important part of the 'human environment' of the coast of California. Our respective organizations and businesses rely on these areas to harvest seafood and generate revenue; and provide a healthy and sustainable source of protein for seafood consumers in the U.S.

As you know, BOEM has not adequately undertaken scoping activities that would enable it to characterize the nature, extent, and value of fishing activities occurring within or in close proximity to the call areas. We are unable to provide information at a high enough resolution to inform your scoping process because, for many fisheries, this information does not exist or is restricted from dissemination based on the State's data reporting and/or confidentiality requirements. We encourage you to consult with the National Marine Fisheries Service (NMFS) and the Oregon Department of Fish and Wildlife, in addition to the California Department of Fish and Wildlife and fishing communities, to determine the scope, extent, and value of fisheries permitted by those agencies that are prosecuted within these proposed call areas.

As this is the first time these agencies and the fishing industry are being requested to provide this type of information, much of its collection and analysis will require novel approaches that will take a significant amount of time to develop, peer review, and groundtruth. We request that you begin this process now. Under BOEM's accelerated environmental review process pursuant to Executive Order 13807 § 4(a)(i)(B) (Aug. 15, 2017), failure to initiate these inquiries until after a lease is issued will not leave sufficient time to fully inform the agency and developer of fisheries considerations until all major decisions regarding siting, design, and operations have been made.

The designation of wind energy areas will also impact fishery science surveys and management that both enable and constrain commercial fisheries. BOEM's call areas are situated in and/or enclose essential fish habitat (EFH) and habitat areas of particular concern (HAPC) for commercially important fish and shellfish species. They are also situated within established or proposed critical habitat areas for several species listed under the federal Endangered Species Act that necessarily effect commercial fisheries, impacts to which could further constrain the prosecution of commercial fisheries in the call areas and in fishing industry sectors as far away as the Bering Sea. Additionally, seasonal acoustic and trawl surveys that inform fishery management on the West Coast occur within the proposed wind energy areas and can be reasonably expected to be displaced by call area designation and leasing/permitting activities. The acoustic and trawl surveys provide critical information to several fishery stock assessments and depend on a randomized sampling model for statistical precision. If these areas cannot be surveyed it will result in greater scientific uncertainty in fisheries management decisions, which could have the effect of decreasing allowable catch levels stock-wide.

Furthermore, BOEM should keep in mind the most current fishing regulations and update its databases to recognize recent changes. For example, the most recent commercial fishing

dataset included in BOEM's collection of maps<sup>4</sup> include industry activity from 2015 and before. More than three years of data makes a lot of difference. For example, the Pacific Fishery Management Council and NMFS have updated the Rockfish Conservation Areas for the trawl fleet and are comprehensively revising the EFH areas. BOEM would be remiss to depend on outdated data for potential siting of wind energy projects.

We urge BOEM to work with members of our industry, state and federal fishery managers, and fishing communities to develop and implement approaches that can adequately define, characterize and scope the cumulative socioeconomic impacts of wind energy projects in California. These impacts should be comprehensive with respect to the harvested species that occur, and gear types that are used, both in these proposed call areas and along cable transmission lanes proposed to deliver energy from offshore to the mainland. A list of the harvested species and gear types that can be reasonably expected to occur or be used within the proposed call areas, including impacted nearshore areas, can be found in the Appendix to this letter. Impacts to each of these fisheries and gear types should be considered by BOEM.

Properly scoped, sited, and mitigated wind energy areas may be able to adequately address the needs and concerns of the seafood industry and coexist with the human environment of the West Coast commercial seafood industry. However, comprehensive assessment of all reasonably foreseeable impacts of call area designation, including the displacement of commercial fishing activity and associated impacts to dependent fishing communities, and the early implementation of the NEPA process, will ensure that you are able to make informed decisions about how to proceed in considering the development of wind energy projects in fishing grounds that we and our members have fished for generations.

Sincerely,

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<sup>4</sup> <https://databasin.org/galleries/ae21ddeb4fd642f1a382f96adc898dbe>

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## Appendix

### List of Species Fished Within Call Areas and Associated Transmission Lines

Chinook Salmon - *Oncorhynchus tshawytscha*  
Dungeness Crab - *Metacarcinus magister*  
North Pacific Albacore - *Thunnus alalunga*  
Pink Shrimp - *Pandalus borealis*  
Spot Prawn - *Pandalus platyceros*  
Market Squid - *Doryteuthis opalescens*  
Pacific Sardine - *Sardinops sagax*  
Northern Anchovy - *Engraulis mordax*  
Pacific Mackerel - *Scomber japonicus*  
Jack Mackerel - *Trachurus symmetricus*  
Pacific Bonito - *Sarda chiliensis*  
California Halibut - *Paralichthys californicus*  
Swordfish - *Xiphias gladius*  
Common Thresher Shark - *Alopias vulpinus*  
Shortfin Mako Shark - *Isurus oxyrinchus*  
White Seabass - *Atractoscion nobilis*  
Sablefish - *Anoplopoma fimbria*  
Hagfish - *Eptatretus stoutii*  
Lingcod - *Ophiodon elongatus*  
Longnose Skate - *Beringraja binocolata*  
Night Smelt - *Spirinchus starksi*  
Kellet's Whelk - *Kelletia kelletii*  
Pacific Sanddab - *Citharichthys sordidus*  
Cabezon - *Scorpaenichthys marmoratus*  
Petrale Sole - *Eopsetta jordani*  
Dover Sole - *Microstomus pacificus*  
English Sole - *Parophrys vetulus*  
Rex Sole - *Glyptocephalus zachirus*  
Longspine Thornyhead - *Sebastolobus altivelis*  
Shortspine Thornyhead - *Sebastolobus alascanus*  
Arrowtooth Flounder - *Atheresthes stomias*  
Grenadier - *Coryphaenoides acrolepis*  
Black Rockfish - *Sebastes melanops*  
Blue Rockfish - *Sebastes mystinus*  
Bocaccio Rockfish - *Sebastes paucispinis*  
Canary Rockfish - *Sebastes pinniger*

Widow Rockfish - *Sebastes entomelas*  
Yellowtail Rockfish - *Sebastes flavidus*  
Vermilion Rockfish - *Sebastes miniatus*  
Chilipepper Rockfish - *Sebastes goodei*  
Copper Rockfish - *Sebastes caurinus*  
Darkblotched Rockfish - *Sebastes crameri*  
Quillback Rockfish - *Sebastes maliger*  
Gopher Rockfish - *Sebastes carnatus*  
Grass Rockfish - *Sebastes rastrelliger*  
Shelf Rockfish Group - *Genus Sebastes*  
Slope Rockfish Group - *Genus Sebastes*

**List of Gear Types Fished Within Call Areas and Associated Transmission Lines**

Troll  
Pole and Line  
Pot  
Trap  
Jig  
Trawl  
Longline  
Purse Seine  
Drum Seine  
Brail  
Drift Gillnet  
Set Gillnet