

Attachment 9

Fisheries Mitigation Requirements and Recommendations

Section 3.11 of the SGD describes the elements that each Applicant must submit as part of its FPP. ***In addition to*** each of the elements listed in Section 3.11, the FPP must also include an explanation of how the Applicant will implement each of the fisheries mitigation measures that are described in this Attachment. These fisheries mitigation measures are intended to establish a set of baseline requirements that are required of each Qualified Project and provide additional guidance to developers on additional measures BPU encourages applicants to employ. The fisheries mitigation measures span all phases and components of a Project, including on-shore and off-shore activities, and including pre-construction surveys, construction, operation, and, as applicable, decommissioning. Required mitigation measures are indicated by “shall,” whereas recommended measures that BPU encourages developers to employ or consider are indicated by “should.” If any of the required minimum fisheries mitigation measures cannot be implemented or are not applicable to the Applicant’s Project, the FPP must explain why.

Where mitigation measures are not defined for a specific resource type or activity, it is expected that the Qualified Project shall:

- Work collaboratively with the State, federal agencies, and other stakeholders to identify such impacts and to develop approaches that avoid impacts on biodiversity and ecosystem services;
- Where avoidance is not possible, minimize such impacts;
- When impacts are predicted to occur notwithstanding the implementation of practical avoidance and mitigation measures, rehabilitate or restore ecosystems; and
- Where significant residual impacts are predicted to remain, offset such impacts.

The requirements and recommendations below are based on the BOEM [COP Guidelines](#), Attachment A, Best Management Practices (“BMPs”), but incorporate updates reflective of evolving BMPs since the initial development of the BOEM BMPs. They are not intended to supplant or alter the federal or state regulatory process or any other requirements under federal, state, and local permit programs.

Qualified Projects, after approval by the BPU, shall develop an adaptive Fisheries Monitoring Plan. The Fisheries Monitoring Plan shall be informed by collaboration with NJBPU, the NJDEP, NOAA Fisheries, and regional science entities, to detect impacts to marine fisheries.

Fish Resources and Essential Fish Habitat

- The Qualified Project shall collect data to adequately identify and characterize Essential Fish Habitat, following recommendations in the NOAA publication, [“Information Needs to Assess Essential Fish Habitat Impacts from Offshore Wind Energy Projects Along the U.S. Atlantic”](#) (September 2021), and any subsequent updates.¹
- Qualified Projects shall also follow the recommended steps for mapping seafloor habitat in [“Recommendations for Mapping Fish Habitat”](#) (March 2021), and any subsequent updates, to ensure that the information collected is sufficient for BOEM to meet the requirements for the

¹ Further information may be found at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/aquaculture/information-needs-assess-essential-fish-habitat-impacts>.

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Essential Fish Habitat consultation under the Magnuson Stevens Fishery Conservation and Management Act.

Conflicting Use Avoidance, Minimization, and Mitigation

- Qualified Projects shall actively engage with fishing communities to ensure that Project design maximizes safe access to fisheries to the extent feasible.
- The Qualified Project shall consult with the fishing industry preferably through regional fisheries groups to inform siting of turbines, substations, and interarray and export cable routes and regarding navigational safety and risk management, transit routes, and employment opportunities to displaced fishers (*e.g.*, use of fishing vessels for survey work).
- Qualified Projects, after approval by the Board, shall develop a Fisheries Communication Plan in collaboration with the fishing industry, preferably through regional fisheries groups.

Fisheries Compensation

- Qualified Projects after the award is made shall develop and implement a program for addressing damage to or loss of gear, vessels, and income from interactions with offshore wind surveying, construction, operation, or decommissioning activities or structures. In developing the program, the Qualified Project should follow the “Compensation for Gear Loss and Damage” section of BOEM’s Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf² and consult the commercial fishing industry and other leaseholders to ensure consistency, fairness, and accessibility in substantiating losses, filing claims, mediation, and reimbursement.
- New Jersey was one of nine states on the east coast that encouraged BOEM to develop Draft Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf. Qualified Projects should address compensation to commercial and recreational fisheries by, at a minimum, following BOEM’s Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf.² Qualified Projects shall work with state, federal, and fishing industry representatives to identify the most appropriate entity for administration of fisheries mitigation funds.

² BOEM’s Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries on the Outer Continental Shelf are in draft form as of November 2022 (https://www.boem.gov/sites/default/files/documents/renewable-energy/DRAFT%20Fisheries%20Mitigation%20Guidance%2006232022_0.pdf), but are expected to be finalized prior to the Application Submission Deadline.