



September 28, 2020

The Honorable Lisa Murkowski
 Chair
 Senate Energy and Natural Resources
 Committee

The Honorable Joe Manchin III
 Ranking Member
 Senate Energy and Natural Resources
 Committee

The Honorable Mike Lee
 Chair
 Senate Energy and Natural Resources
 Committee
 Subcommittee on Public Lands, Forests, and
 Mining

The Honorable Ron Wyden
 Ranking Member
 Senate Energy and Natural Resources
 Committee
 Subcommittee on Public Lands, Forests, and
 Mining

Chair Murkowski and Ranking Member Manchin, and Subcommittee Chair Lee and Ranking
 Member Wyden:

We represent a group of diverse commercial fishermen who make a living, create jobs, and feed
 Americans while relying on the health of and access to nation's coasts and oceans. We submit
 this letter to make recommendations about the Opening Federal Financial Sharing to Heighten
 Opportunities for Renewable Energy (OFFSHORE) Act of 2020 (S. 3485) and to provide some
 comments on offshore energy projects from the seafood perspective.

Commercial fishing is among the oldest industries in the United States and serves as the historic and cultural backbone of coastal communities across the nation. It is also extremely significant to local, state, and national economies, generating over \$212 billion in sales and providing 1.7 million jobs annually. We believe offshore renewable energy uses such as offshore wind (OSW) and fisheries may coexist successfully off America's coasts, but not under the current planning process.

We respectfully request to be included in further discussions around legislation that may disrupt our industry if not properly sited and researched. We also respectfully submit for serious consideration the following comments and recommendations to ensure the OFFSHORE Act and others like it address the most pressing needs in this growing industry.

First, the highest research funding priority for any bill addressing OSW should be resources for the National Marine Fisheries Service (NMFS) to conduct research, planning and environmental review, and fisheries monitoring throughout the life of the project.

OSW development is currently occurring in the absence of comprehensive research, and those studies must be conducted before, during, and after construction, as well as on an ongoing basis during operation. There are no requirements for long term study of fisheries impacts from turbine operation, and current studies consider time periods that are too brief to make meaningful conclusions about impacts.

NMFS Regional Fisheries Offices and Science Centers are responsible for the stewardship of the nation's fisheries and living marine resources as well as their habitats. Science Centers provide scientific, technical, and research support for fish stock assessments, ecosystem-based management, and various regulatory mandates such as the Endangered Species Act. The Science Centers have the expertise to contribute to the BOEM offshore renewable energy process; however, their current ability to fully engage is limited by resource constraints.

NMFS also has a unique capability to conduct cooperative research, working directly with the industry and organizations such as the Responsible Offshore Science Alliance on regional research coordination to ensure inclusivity and effective communication with all stakeholders.

Offshore renewable energy development is progressing at an exponential pace in the U.S. The rapid growth of OSW activities in particular has resulted in increased demands for staff time and resources from Science Centers. As a result of that increased demand, the Science Centers currently lack the capacity to fully engage or meet their regulatory requirements while also fulfilling the increasing number of requests for fisheries data and analysis from BOEM and other stakeholders—analysis which is critical to inform OSW siting and planning.

Loss of consistency in fishery survey efforts is also a significant concern for the fishing industry as it may lead to increased scientific and management uncertainty, and potential decreases in catch limits as required by the Magnuson Stevens Act. Fisheries rely on up-to-date and comprehensive data to ensure stock assessments are accurate and inform fishery management. NMFS has determined that it will not be able to operate its survey vessels in Wind Energy Areas.

The loss of its ability to conduct fisheries-independent data collection due to inaccessibility will not only obstruct understanding of stock status within development areas but will also increase uncertainty in regional stock assessment models.

In addition, NMFS will need additional funding to adjust to and account for the impacts turbines will have on fish stocks such as noise, electromagnetic fields, sedimentation, habitat alteration, and ecosystem-level impacts like changes to Cold Pool stratification, which are currently unknown.

Second, research dollars for these purposes should not be provided to state governments, as many states do not have the expertise to conduct the needed research and it would result in a piecemeal solution at best.

As the bill is written, resources would flow to the state(s) nearest to the OSW project and be apportioned based on project distance. This equation will often misalign with the location of actual socioeconomic impacts. In certain cases, it would not allow for any remediation, research, or compensation to a number of affected parties, as fishermen often fish far from their home state. In but one example, the state with the greatest gross economic impacts from future leasing in the New York Bight would be Massachusetts, which would be excluded from revenue sharing under the proposed model.

Additionally, there is no way to ensure that augmented funding to states will be directed toward conflict minimization. States already enjoy lease revenue sharing, and neither these nor other funds currently directed to states for OSW development have ever been used for related fishery management needs or direct compensation for losses. Instead, the resources remain with energy regulators who do not have the expertise necessary to prioritize, understand, or conduct fisheries-related research. These funds can and should be earmarked for fisheries research by individual states but a portion of lease revenue must also be *guaranteed* for this purpose, which is mostly effectively achieved at a federal level.

Third, we strongly recommend creating a contingency fund to compensate for business and environmental impacts. This should be administered by the National Marine Fisheries Service (NMFS) in a new program modeled after the oil and gas contingency fund.

Proper siting, adequately funded research, and scientific understanding will significantly limit environmental and economic impacts resulting from OSW turbine construction and operation. However, some impacts will be unavoidable. It will be imperative to create consistency with the current oil and gas contingency fund for this newer ocean use in order to compensate for business and environmental impacts. The current interpretation of OCSLA leaves compensation considerations to individual states, which does not correspond with the geographic realities of commercial fishing or guarantee relief to affected businesses.

The displaced and/or impacted industry will need funds to adapt to the significant changes in the environment, such as modifications to at-sea and shoreside operations, technology upgrades, innovative gear, or job and skill training. Since the OSW industry is creating these new costs, and the fisheries sector will be by far the most adversely impacted by OSW development, it will

be necessary for some portion of the operating fees and other monies to directly support fisheries operators and infrastructure.

Fourth, research funding should not be tied to lease sales.

Research needs to be predictable and ongoing because environmental science for OSW and fisheries is critical to resolving conflicts. Once those funds are in place, project-by-project funding can be appropriate for additional work that is specific to the lease area or a new technology.

The breadth and scale of potential impacts from offshore wind projects merits a precautionary approach to development based on thorough and in-depth analysis. Due to global markets and political interest, OSW energy development is well-funded, but fisheries science is not. It is imperative to ensure that scientific experts, regulatory entities, and fishermen themselves are adequately funded to perform the research and engagement needed to effectively inform planning. This critical work must not be left to better funded but less knowledgeable entities.

Robust, early investment in research is the best way to plan for coexistence between these ocean uses and avoid contentious and expensive delays, such as the challenges faced by Vineyard Wind.

Fifth, Section 3 of the OFFSHORE Act attempts but falls short in ensuring the Jones Act is completely applied to all Outer Continental Shelf activities.

The language specifically refers to production of energy, but does not address site assessment (surveys) or construction. In practical terms, this means U.S. mariners and industry would benefit only from activity surrounding servicing the turbines and the much more considerable work of surveys and construction may remain foreign. Any changes to the Outer Continental Shelf and Lands Act (43 U.S.C. 1333) should comprehensively ensure the U.S. economy benefits from this use of U.S. land.

We appreciate the opportunity to provide these comments and hope to be a partner with the Committee on these issues in the future. Thank you for your leadership on energy and natural resource issues in the United States Senate and for considering living natural resources and commercial and recreational fishing industries as you move forward with any offshore energy legislation or activity.

Sincerely,

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