

## Testimony of Meghan Lapp

Congressional Field Hearing, Wildwood NJ, March 16, 2023

Thank you, Congressmen, for the opportunity to speak. My name is Meghan Lapp, and I am the fisheries liaison for Seafreeze, a Rhode Island commercial fishing company. We own five federally permitted commercial fishing vessels and two shoreside facilities. Offshore wind is the single greatest threat to US commercial fishing. Over the past 8 years I have spent countless hours attending BOEM meetings, state meetings, workshops, webinars, stakeholder phone calls, developer meetings, writing hundreds of pages of comments, reading thousands of pages of materials, and meeting with elected and appointed officials to raise the issues I testify about today. BOEM has stonewalled and forced us into litigation as our only recourse.

Right now, BOEM has leased 28 leases totaling over 2.3 million acres on the East Coast, with plans to soon lease another 1.7 million acres<sup>4</sup>. One wind energy area off the coast of RI is larger than the state itself. These leases are sited on top of extremely productive, historic, commercial fishing grounds and important vessel transit routes. As the 7<sup>th</sup> most regulated industry in the nation,<sup>5</sup> the fishing industry is not legally able to just relocate our vessel activity to accommodate offshore wind development. Our vessels will not be able to safely operate in a wind farm.

BOEM documents acknowledge this fact. For example, one document states, ““some fisheries...may not be able to safely operate and harvest the resource in the [wind area]. In this situation, a large portion of annual income for vessels may be inaccessible during operations...”<sup>6</sup> The BOEM Record of Decision approving that offshore wind farm stated “it is likely that the entire....area will be abandoned by commercial fisheries due to difficulties with navigation.”<sup>7</sup>

Yet BOEM has refused to deconflict fishing grounds at the outset of its leasing process. Prior to leasing what is now Empire Wind, I provided BOEM with confidential fishing data from over 20 commercial fishing vessels in the lease area and requested that BOEM relocate the site prior to leasing. This was also suggested by NOAA Fisheries and US Senators due to fisheries conflicts. BOEM refused. Rather, in April 2016, prior to lease sale, BOEM Director Hopper announced at a NY Task Force Meeting that, “I’m not a marine biologist, but I’m a history maker” and proceeded to speak about how BOEM and NY would make history with the first NY wind farm.

---

<sup>4</sup> See [Outer Continental Shelf Renewable Energy Leases Map Book \(boem.gov\)](https://www.boem.gov/outer-continental-shelf-renewable-energy-leases-map-book) and [Central Atlantic | Bureau of Ocean Energy Management \(boem.gov\)](https://www.boem.gov/central-atlantic-bureau-of-ocean-energy-management).

<sup>5</sup> See <https://www.mercatus.org/research/data-visualizations/mclaughlin-sherouse-list-10-most-regulated-industries-2014>.

<sup>6</sup> BOEM, Vineyard Wind DEIS, p. 3-184.

<sup>7</sup> See Vineyard Wind ROD at [Record of Decision for Vineyard Wind 1 Signed \(boem.gov\)](https://www.boem.gov/record-of-decision-for-vineyard-wind-1-signed), p. 39.

Radar interference from offshore wind turbines is also major safety problem for our vessels, making transit in the dark, fog, or inclement weather impossible inside a wind farm. Marine navigation without reliable radar is a life-threatening situation. In 2018, I went to USCG headquarters to discuss this issue with the chief of the Office of Navigation Systems. As I placed several offshore wind radar interference studies on the table, the captain was shocked, completely unaware of the issue. Upon leaving that meeting, when we asked what should our next steps be, USCG personnel responded, "We don't know what to tell you; this is literally the first we've heard of this." This is incredible.

In 2019, the USCG conducted a Port Access Route Study off the coast of MA and RI regarding offshore wind. In multiple comments I asked for the USCG to investigate and analyze marine radar interference as part of that Study. The USCG response was that they were "not aware of an authoritative scientific study that confirms or refutes the concern that WTGs will degrade marine radar,"<sup>8</sup> despite a radar interference modeling study the USCG itself had conducted on the Cape Wind project in 2009.<sup>9</sup> Notably, USCG staff in charge of the MA/RI PARS left the agency prior to the finalization of the study to become the Head of Marine Affairs for a prominent offshore wind company holding multiple leases in the area of analysis.

In 2022, the National Academies of Sciences released a report entitled, "Wind Turbine Generator Impacts to Marine Vessel Radar",<sup>10</sup> confirming years of issues I had raised to BOEM and the USCG and quoting part of my USCG comment submissions. The study identified areas of potential future research, but no immediate solutions. In 2019, the USCG had admitted that any analysis of radar interference was left to the wind developer and that it had not conducted any evaluation of radar interference on its own operation or search and rescue capabilities.<sup>11</sup> The fact is that search and rescue, a core mission of the USCG, will be compromised, but without any analysis on what this will mean for US mariners.

BOEM's response has been to approve projects anyway, leaving analysis and solutions to developers AFTER construction, despite a legislative mandate to provide for "safety". The result will be a grand experiment using the lives of US mariners as the subjects. Approving projects without comprehensive solutions prior to construction is beyond irresponsible.

Throughout my interaction with BOEM in what cannot even be called a process, BOEM has assured the fishing industry that our interests would be taken into

---

<sup>8</sup> Draft MARIPARS, Section III H (2), p. 24.

<sup>9</sup> Appendix M to the Cape Wind Energy Project Final EIS, January 2009. Submitted to the United States Coast Guard, December 16, 2008; USCG Order #HSCG24-08-F-16A248 Cape Wind Radar Study.

<sup>10</sup> Wind Turbine Generator Impacts to Marine Vessel Radar (2022), National Academies Press, available at <https://nap.nationalacademies.org/catalog/26430/wind-turbine-generator-impacts-to-marine-vessel-radar>, also attached.

<sup>11</sup> See USCG to RI Senator Sosnowski, November 25, 2019, attached.

consideration at the end. But by this stage, it is too late and BOEM has already designed the scope of its project review to exclude any such consideration and accommodation. BOEM states that the purpose and need of their review is to meet the goals of the developer, state energy targets, and to fulfill the speculative power purchase agreements between the developer and state utilities signed prior to federal project review. For example, BOEM refuses to consider or analyze no build areas to accommodate commercial fisheries already operating in the area or transit lanes to accommodate safe transit through wind energy areas, because to do so would reduce the size of the project and make the developer unable to fulfill the previously signed power purchase agreement. In effect, this makes BOEM a third party to a private contract. And BOEM allows that private contract to override all legislative requirements, public duties, and interests of all other ocean uses. A federal process designed to regulate offshore wind cannot be subjugated to a speculative private contract or state legislation.

The problem is BOEM. BOEM overrides “cooperating agencies” and heralds itself as the lead agency for offshore wind no matter the subject. This is inappropriate and has led to BOEM ignoring past USCG navigational safety advice, as well as population level impacts detailed by NOAA Fisheries on our nation’s natural resources, including critically endangered species and commercially important fish stocks.<sup>12</sup> BOEM analysis is so rushed and incomplete as the agency accelerates offshore wind review that its documents no longer even make any sense. For example, as I reviewed BOEM analysis on a project recently out for public comment, the conclusion that BOEM reached was that there would be no differences in impacts to the benthic (ocean floor) environment from pile driving 94 turbines and trenching 300 miles of cables into the ocean floor or from not building the project at all.<sup>13</sup> The reality is that nobody in the US government is at the helm actually critically regulating any of this activity. There is no independent analysis occurring. There is no oversight in what appears to be a textbook definition of regulatory capture. In reality, and in practice, the offshore wind developers are at the helm.

Thank you for the opportunity to testify.

---

<sup>12</sup> See USCG to BOEM at see <http://www.boem.gov/USCG-NY-Area-ID-recommendation/>; the USCG recommended 2 nm setbacks but BOEM leased the Empire Wind lease with a 1 nm setback. See NOAA Fisheries to BOEM, October 25, 2021, where BOEM’s activities would have “long term population impacts” to Atlantic cod, attached. See also NOAA Protected Resources to BOEM, May 13, 2022, citing potential population level impacts to critically endangered North Atlantic Right Whales from leases sited in the MA wind energy area, attached.

<sup>13</sup> See Comments on Sunrise Wind, attached.