



December 29, 2015

Office of Renewable Energy Programs
Bureau of Ocean Energy Management
45600 Woodland Road, VAM-OREP
Sterling, Virginia 20166

Re: Comments on Request for Feedback (ID: BOEM-2015-0091-0001)

The Marine Energy Council (MEC) of the National Hydropower Association (NHA) is pleased to provide these comments in response to your September 30 request for comment. The MEC represents the U.S. wave, tidal, and current (tidal, ocean, and river) and OTEC industries. Our industries interact with the Bureau of Ocean Energy Management (BOEM) primarily when developers or others seek to site generating devices on the Outer Continental Shelf (OCS).

The MEC has been satisfied with BOEM's renewable energy program and its impact on the wave, tidal, and ocean current industry to date. We believe the Memorandum of Understanding and guidance documents that BOEM has developed with the Federal Energy Regulatory Commission (FERC) have helped to clarify the regulatory process and reduce the chances that developers will have to navigate through multiple Federal approvals in developing a project.

The MEC also believes the scientific studies that BOEM has conducted or is supporting on critical issues such as electro-magnetic fields, sound impacts, and other issues relevant to renewable energy generation on the OCS will be very helpful to developers and resource agencies as more projects proceed toward deployment. We encourage BOEM to continue to work with the Department of Energy to address environmental issues and barriers to development and deployment, and suggest that BOEM prioritize funding of studies that would help address specific National Marine Fisheries Service (NMFS) concerns regarding potential project effects. Individual members have also expressed appreciation for the cooperative attitude that BOEM staff have shown with recent and ongoing project activities.

However, the MEC is concerned about the standards that BOEM applies to determine competitive interest in lease areas since this has the potential to significantly delay proposed projects. The MEC also believes that BOEM could improve the implementation of its analyses conducted under the National Environmental Policy Act (NEPA). BOEM's process for establishing competitive interest in areas of the OCS where wave and marine current turbines could be installed is of concern because if the standard of competitive interest is low, developers could face significant delays and uncertainty when they try to get a project in the water. In states where unsolicited lease requests have been made for large areas (i.e. New York) the competitive process has resulted in over four years of delay. Findings of no competitive interest clarify FERC's jurisdiction and avoid sequential NEPA reviews by BOEM and FERC. Because the amount of ocean footprint needed for devices is relatively small, the MEC asks that BOEM strongly consider the currently enormous availability of ocean space when determining competitive interest for any specific area requested for development.

Further, with respect to NEPA, the MEC sees a connection between offshore wind and marine energy projects. Offshore wind projects have the significant potential to assist in the development and growth of the wave and tidal industry by establishing electrical infrastructure, environmental data, and a supply

chain that could be utilized for more rapid deployment of wave, tidal, and ocean current devices. However, the MEC believes BOEM's approach to NEPA review for offshore wind may unnecessarily delay project reviews and approvals. BOEM regulations under CFR Title 30 Part 585 provide for conducting a NEPA review after a final Construction and Operations Plan (COP) is submitted. This creates a very real potential that after several years of environmental studies and development of a final detailed COP that a new issue could arise in NEPA scoping creating a significant delay in an already lengthy process.

The marine energy industry would benefit from BOEM adopting a NEPA process that starts earlier and combines activities conducted under the Site Assessment Phase (SAP) of a lease with NEPA scoping and issue identification. This would allow studies to be specifically focused on issues of concern with respect to project development instead of general inventories that may or may not be relevant to decision making. The Council on Environmental Quality's (CEQ) "Final Guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act" of 2012 specifically calls for early NEPA integration in planning.

The MEC believes that BOEM and CEQ should review the approach BOEM takes to NEPA and seek ways to streamline and improve it to remove sequential and redundant review steps. For example, BOEM conducts NEPA assessments for lease issuance and SAP approval without considering the reasonably foreseeable future action of project development, creating a framework that institutionalizes multiple NEPA reviews. The Federal Energy Regulatory Commission has combined NEPA scoping efforts with pre-filing consultation efforts for licensing hydroelectric developments for over 20 years. This was done specifically in response to delays caused by post-submittal NEPA analyses.

Also, the MEC is concerned about the costs of the NEPA process and requests that BOEM continue and expand the efforts they have begun to conduct some NEPA review on a regional basis to reduce the extent of subsequent studies required later by developers on a site-by-site basis. There are several areas where resource potential is high that would benefit from this type of programmatic review.

We appreciate the opportunity to provide these comments and look forward to working with BOEM to advance the development of clean renewable energy in the United States. The Marine Energy Council and NHA staff is available to respond to any questions regarding these comments. Please feel free to contact us.

Sincerely,



Jeffrey Leahey
Deputy Executive Director
National Hydropower Association