

THE ROLE OF THE MINERALS MANAGEMENT SERVICE IN OFFSHORE RENEWABLE ENERGY DEVELOPMENT

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INTRODUCTION

Section 388 of the Energy Policy Act of 2005 (EPAAct) gave the US Department of the Interior (DOI) jurisdiction over activities that “produce or support production, transportation, or transmission of energy from sources other than oil or gas” (43 U.S.C. § 1337(p)(C) & (D)). The Secretary of the Interior delegated this authority to the Minerals Management Service (MMS). On April 29, 2009, MMS published a final rule entitled *Renewable Energy and Alternative Uses of Existing Facilities on the Outer Continental Shelf* (“final rule” or “regulatory framework”; 30 C.F.R. Part 285). In the final rule, MMS established procedures for authorizing and managing renewable energy projects on the Outer Continental Shelf (OCS). This article briefly explains the contours of MMS jurisdiction, the procedures for obtaining authorizations for renewable energy activities on the OCS, and the status of current OCS renewable energy

leasing activities. MMS recognizes that it must balance a multitude of existing and evolving OCS interests, so in launching the offshore renewable energy program, the bureau is committed to securing the involvement of all entities that hold these interests.

MMS JURISDICTION OVER RENEWABLE OFFSHORE ENERGY History

Since the bureau’s creation in 1982, MMS has exercised jurisdiction over many kinds of energy and mineral activities on the OCS, including oil, gas, salt, sulfur, sand, and gravel leasing and development. Until recently, this jurisdiction did not extend to renewable energy. Thus, when Cape Wind Associates proposed to site 468 MW of wind power in Nantucket Sound in 2001, the New England District of the US Army Corps of Engineers (USACE) assumed the position of lead permitting authority by virtue of its jurisdiction over “any

obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States” (§ 10 of the Rivers & Harbors Act of 1899), and its authority over dredging and filling activities (§ 404 of the Federal Water Pollution Control Act [“Clean Water Act”] and § 103 of the Marine Protection, Research, and Sanctuaries Act of 1972). In the years that followed, the proposed project has undergone federal environmental review, including several public comment periods, public hearings, and related legal proceedings. MMS issued a Final Environmental Impact Statement in January 2009, and Secretary Salazar announced on April 28, 2010 that the project was approved, and that MMS would soon issue a commercial lease for the project.

Congress designated DOI as the lead federal agency for renewable energy leasing in federal waters when it passed EPAAct. In November 2007, recognizing that delays in completing rule making

were holding up necessary activities in support of renewable energy development and production, MMS established an “Interim Policy” for the issuance of five-year limited leases authorizing site assessment and technology testing activities. Under the Interim Policy, MMS received over 40 nominations for limited leasing areas, which it winnowed to 16 proposed lease areas for priority consideration. MMS announced a public comment period, inviting expressions of competitive interest, which closed on June 30, 2008. Of the remaining 16 priority lease applicants, 10 were interested in wind resources (six offshore New Jersey, one offshore Delaware, and three offshore Georgia), two in wave resources (offshore northern California), and three in ocean current resources (offshore southeastern Florida). Of these, 11 of the applicants have since withdrawn their applications. On June 26, 2009, Interior Secretary Ken Salazar offered five Interim Policy leases to Deepwater Wind LLC (two leases, both in New Jersey), Bluewater Wind Delaware LLC, Bluewater Wind New Jersey Energy LLC, and Fishermen’s Energy of New Jersey LLC, for a total of four facilities off the coast of New Jersey and another offshore Delaware. Deepwater Wind LLC declined one of its leases, but the other has been executed, as have Bluewater’s New Jersey and Delaware leases. Interim Policy applications are still in process for activities offshore Georgia and Florida.

No other applications received under the Interim Policy will be processed, and no new Interim Policy applications will be accepted. Henceforth, all OCS renewable energy activities will be authorized

in accordance with the regulatory framework announced by President Barack Obama on Earth Day 2009. Regulations for renewable energy leasing on the OCS are described in greater detail in the section below on regulatory framework procedures.

Federal Waters

The federal OCS may be generally defined as that area of submerged lands between state waters and international waters. Federal waters start at three nautical miles (~ 5.5 km) from the coast for most states. However, for historical reasons, off Texas, Puerto Rico, and Florida’s west coast, federal waters start at nine nautical miles (~ 16.7 km), and the Great Lakes contain no federal waters whatsoever, because state boundaries extend to the Canadian boundary (Louisiana’s waters extend to three “imperial nautical miles,” a distinction that affords the state an extra 12 feet [~ 4 m] or so). Federal waters extend from the state boundary to the federal-international boundary—a line that is complicated to describe, but which is never closer than 200 miles (~ 322 km) from shore. (Defining the seaward boundary of federal jurisdiction is somewhat complex, and beyond the scope of this article.)

“Renewable Energy”

Although MMS is now the lead federal agency for the siting of renewable energy projects on the OCS and will aid in coordinating various interests, obtaining necessary authorizations is hardly one-stop shopping. The EAct gives DOI jurisdiction over “energy from sources other than oil and gas.” The regulatory

framework implements a subset of that authority—“renewable energy,” which is defined as “energy resources other than oil and gas and minerals, [including] wind, solar, and ocean waves, tides, and current” (30 C.F.R. § 285.112). The final rule also implements MMS’s authority to permit “alternate use of existing facilities.”

As lead agency, MMS will coordinate National Environmental Policy Act (NEPA) document preparation, as well as consultations with other agencies required by the Endangered Species Act, NHPA, the Coastal Zone Management Act (CZMA), the Migratory Bird Treaty Act of 1918, the Marine Mammal Protection Act, the Magnuson-Stevens Fishery Conservation and Management Act, and others. MMS will also coordinate and consult with other interested parties, as required by EAct and other laws. Such parties include state, local, and tribal governments, and federal agencies, including USACE, the National Oceanic and Atmospheric Administration (NOAA), the Coast Guard, the Department of Defense, the Federal Energy Regulatory Commission (FERC), and the Federal Aviation Administration.

MMS jurisdiction is not exclusive. The agency shares federal OCS jurisdiction over many kinds of projects with a variety of other agencies. Table 1 outlines MMS jurisdiction over various OCS activities.

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Table 1. Minerals Management Service (MMS) jurisdiction over various activities on the federal Outer Continental Shelf (OCS)

Wind, solar, hydrogen production	MMS has statutory jurisdiction for leasing, operations, and decommissioning activities, which is implemented in the regulatory framework.
Transmission supporting renewable energy	MMS has statutory jurisdiction for authorizing rights-of-way, and rights of use and easement, and managing operational and decommissioning activities, which is implemented in the regulatory framework.
Alternate use of existing OCS facilities	MMS has statutory jurisdiction for leasing activities, which is implemented in the regulatory framework.
Hydrokinetic (wave, tidal, current)	MMS has statutory jurisdiction over <i>leasing</i> , which is implemented in the regulatory framework. However, FERC oversees project <i>licensing and operation</i> .
Hybrid (wind, solar, or hydrogen) + (hydrokinetic)	MMS has statutory jurisdiction over <i>leasing</i> of an entire project, which is implemented in the regulatory framework. However, FERC has jurisdiction over the <i>licensing and operation</i> of the hydrokinetic portion of a project.
Conventional transmission	Transmission that serves primarily renewable energy is covered by MMS's jurisdiction as implemented by the regulatory framework. Jurisdiction over conventional transmission on the federal OCS is not implemented by the regulatory framework.
Carbon sequestration	MMS has statutory jurisdiction, but no implementing regulations. MMS may issue implementing regulations in the future.
Ocean thermal energy conversion	Not MMS's jurisdiction. NOAA has jurisdiction under the Ocean Thermal Energy Conversion Act of 1980.
Geothermal energy	MMS has statutory jurisdiction, but no implementing regulations have been issued yet.
Aquaculture	Not MMS's jurisdiction under existing law.
Obstructions in "navigable waters"	USACE has jurisdiction over permits for any obstructions affixed to the OCS, though MMS may coordinate with USACE on certain requirements, such as NEPA if MMS is the lead agency.

USACE = US Army Corps of Engineers. FERC = Federal Energy Regulatory Commission. NEPA = National Environmental Policy Act.

REGULATORY FRAMEWORK PROCEDURES FOR OCS RENEWABLE ENERGY LEASING

The final rule issued by MMS in April 2009 details procedures for those seeking authorization for renewable projects on the federal OCS. Following issuance of the final rule, the MMS Office of Offshore Alternative Energy Programs (OAEP) staff led workshops in 11 US cities during the month of June 2009 to explain its renewable energy regulations. Moreover, MMS has published

guidelines to aid in the interpretation of the regulatory framework. A brief primer on the regulatory framework follows.¹ MMS anticipates issuing additional instructions to guide industry on regulatory ambiguities on an as-needed basis.

Initial Steps

When a developer approaches MMS to discuss applying for an offshore renewable energy lease, that developer is directed to the appropriate office² and assigned to a member of OAEP or

regional staff who can provide general advice on the application process. It is strongly advised that a prospective developer meet with the designated MMS contact, as well as other MMS environmental and policy staff to discuss the process for authorizing commercial operation. During this stage, MMS will likely contact the state or states that could be affected by the proposed project. MMS will also strongly advise the prospective developer to coordinate with other resource agencies and

¹ The process described here is how the program functions for projects on the Atlantic seaboard from North Carolina to Maine. Currently, the Herndon, Virginia, office primarily handles leasing for these projects. The Gulf of Mexico office processes projects sited offshore of states from South Carolina to Texas, the West Coast office processes projects offshore the US West Coast and Hawai'i, and the Alaska office handles Alaskan projects. Each office handles projects in its area more or less independently of other offices, so actual implementation of the rule may vary slightly depending on where the project is sited.

² A document directing applicants to the appropriate office has been published as NTLA No. REN-NO1, and can be found on the MMS Web site (<http://www.mms.gov/offshore/RenewableEnergy/index.htm>) or downloaded directly from <http://www.mms.gov/ntls/PDFs/2009REN-NO1.pdf>.

potentially affected states directly. In noncompetitive lease applications, MMS actually requires, where available, “a statement that the proposed activity conforms with State and local energy planning requirements, initiatives, or guidance” (30 C.F.R. § 285.230(e)).

Although MMS issues federal leases, MMS will work with federal agencies, states, and localities to ensure that their concerns are addressed. State and local cooperation is driven by at least four concerns: (1) EPO’s requirement that MMS “provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way” (Energy Policy Act of 2005 § 388, 42 U.S.C. § 1337(p)(7)); (2) CZMA’s requirement that federally permitted activities on the federal OCS be consistent with the coastal zone management plans developed by affected states; (3) a desire to involve state, local, and tribal interests in the development of a technological frontier that is entirely new to this country, even though it is commonplace in Europe; and (4) MMS’s past experience, which demonstrates that early stakeholder involvement is crucial for the success of large-scale projects of this kind.

MMS is currently working to establish federal/state/local/tribal task forces for facilitating intergovernmental cooperation. The task forces will give affected governments an opportunity to provide input to leasing and related authorization processes, ensuring that MMS considers

relevant information such as marine spatial planning studies, renewable portfolio standards, and other energy policies and initiatives. MMS is not required to use task forces by any explicit requirement—rather, it has proposed task forces as one way to facilitate compliance with EPO’s consultation requirements, and the concept generally has been embraced by interested and affected parties. Therefore, in a given state, it is possible that MMS could proceed with leasing and comply with the consultation requirements by using alternative means, especially if the affected state requests a different approach. However, as the OCS renewable energy program gets underway, MMS foresees using task forces as the primary vehicle of federal/state/local coordination, and integrating the task forces’ input into its leasing decisions.

The task forces, however, are only one of several ways that the bureau will obtain input regarding the considerable diversity of OCS resource interests. Other sources of input include environmental reviews, consultations with other state and federal agencies, regional bodies,³ publicly available information such as can be found on the Multi-Purpose Marine Cadastre⁴, and comments submitted to MMS directly by the interested public.

Competitive Interest

EPO requires the Secretary of the Interior to issue leases, easements, and rights-of-way “on a competitive basis unless the Secretary determines after public notice of a proposed lease,

easement, or right-of-way that there is no competitive interest” (Energy Policy Act of 2005 § 388, 42 U.S.C. § 1337(p)(3)). The leasing process may be initiated by submission of an unsolicited application, or MMS may start the process by issuing a Request for Interest (RFI) or a Call for Information and Nominations (Call).

Unsolicited Applications

If MMS receives an unsolicited application meeting the requirements established by the regulatory framework (30 C.F.R. § 285.230), it may proceed by issuing an RFI for the area proposed in the application. The area defined by the RFI may be limited to the area in the application or may be expanded to a larger area that includes the area in the application. If MMS receives no other indications of interest in the proposed lease area in response to the RFI, it will issue a finding of no competitive interest, and may process the lease using noncompetitive procedures. If MMS receives other expressions of interest and determines that there is competitive interest in the proposed lease area, MMS will use a competitive process to offer and award the lease.

Request for Interest

Alternatively, MMS may initiate the process by issuing an RFI covering a proposed area selected following consultation with affected states and others. Based on the information received in response to the RFI, MMS will determine whether to proceed with leasing competitively or noncompetitively. To

³ Currently, several regional organizations are involved in efforts to coordinate marine spatial planning, including Northeast Regional Ocean Council (NROC), Mid-Atlantic Regional Council on the Ocean (MARCO), New England Mid-Atlantic Governors (NEMAG), Interagency Ocean Planning Task Force, and Atlantic States Offshore Wind Energy Consortium. MMS will be actively seeking to involve such regional entities in the bureau’s own planning efforts.

⁴ The Multi-Purpose Marine Cadastre is a publicly available marine information tool that integrates legal, physical, ecological, and cultural information into a common map. The map can be accessed through the MMS and NOAA Web sites at <http://www.mms.gov/offshore/mapping/Viewer.htm>.

proceed with a noncompetitive process, it may be necessary to issue a second RFI for any specific area proposed for leasing in response to the original RFI.

Competitive Process versus Noncompetitive Process

Competitive Process

Having determined that more than one party is interested in the same OCS area, MMS will hold an auction to determine which party will win the lease. The first step in the competitive process is for MMS to issue a Call, followed by a 45-day public comment period. After receiving and processing responses, MMS publishes a Proposed Sale Notice, followed by an additional 60-day public comment period, and then a Final Sale Notice at least 30 days before the date of the sale, describing the proposed lease area, lease term, auction type, bid systems, and other details to be employed (30 C.F.R. § 285.216). The regulatory framework gives MMS the choice of four possible auction methods: (1) sealed bidding, (2) ascending bidding, (3) two-stage bidding (combination of sealed and ascending bidding), and (4) multiple-factor bidding (30 C.F.R. § 285.220). The first three auction formats are standard approaches based on monetary bidding criteria. The multiple-factor auction is a new approach designed to allow MMS to consider nonmonetary factors such as technical merit, financing, environmental concerns, historical investment in data collection, and compatibility with state and local needs. Once MMS determines the winner of the auction, it will issue a lease. The winner has 10 days to execute and return the lease to MMS. Nonwinners will have their deposits returned.

Noncompetitive Process

A would-be developer can receive a lease noncompetitively if MMS determines that there is no competitive interest in the area. When MMS determines that there is no competitive interest, the bureau will publish a notice to that effect. This action triggers a 60-day clock. By the end of the 60 days, the applicant must submit either a General Activities Plan (GAP) in the case of an application for a limited (five-year) lease, or in the case of a commercial (30-year) lease, a Site Assessment Plan (SAP) (30 C.F.R. § 285.231. For information on environmental reviews, see the later section on this subject).

Limited Versus Commercial Leases

At the beginning of the application process, an applicant needs to decide whether to initially apply for a limited or a commercial lease.

Limited Leases

A limited lease has a term of five years and does not entitle the holder to a commercial lease for the same area. Limited leases authorize developers to build a meteorological tower (met tower) or similar facility on a site in order to collect data or test technology. Resource data may be required of developers to assure financial backers that wind resources are adequate. The facility can and should also be used to gather environmental data that will be required as a part of NEPA document preparation. A limited-lease applicant must submit a GAP shortly after receiving the lease (30 C.F.R. § 285.236; the requirements of a GAP are explained in 30 C.F.R. §§ 285.645–6). MMS foresees that a limited-lease holder may wish to apply for a commercial lease during the limited-

lease term. In such cases, MMS would implement a commercial leasing process, and the ensuing commercial lease would supersede the limited lease once it has been issued.

Commercial Leases

Commercial leases will have a term of 25 to 30 years with the possibility of renewal unless a different term is negotiated. This type of lease is needed to produce and sell electric power. A developer may seek a commercial lease before or after obtaining a limited lease, or a developer may seek a commercial lease without ever obtaining a limited lease. For example, holders of limited leases obtained under the Interim Policy will likely apply directly for a commercial lease. At some point during the journey from concept to commercial operation, a lessee will need to prepare an SAP (SAP requirements are explained in 30 C.F.R. §§ 285.610–11) and a Construction and Operations Plan (COP) (COP requirements are explained in 30 C.F.R. §§ 285.626–7). If the lease was awarded competitively, the lessee will have six months to submit either an SAP or a combined SAP/COP.

Each lease issued by MMS, whether limited or commercial, will include the right to a project easement to accommodate facilities necessary for the full enjoyment of the lease. Such facilities may include transmission cables, pipelines, and other appurtenances.

Rights-of-Way and Rights of Use and Easement

A right of use and easement (RUE) or right-of-way (ROW) is needed to authorize facilities and activities involving transmission or other operations in

support of multiple OCS projects or projects located in state waters. For example, a developer who wishes to build and operate a “backbone” high-voltage transmission cable on the OCS to allow several wind farms to connect to the grid would seek an ROW grant from MMS. An ROW will normally

(National Environmental Policy Act § 102, 42 U.S.C. § 4332), which triggers the requirement for a NEPA review, including lease sales, lease and grant issuances, and agency decisions on GAPs, SAPs, and COPs. That said, MMS will seek opportunities to combine these actions and use tiering to the extent

by the lease sale and GAP decision. These two actions could conceivably be combined, because the lease sale environmental compliance documents will analyze those activities that are reasonably likely to occur as a result of the lease issuance. For a noncompetitive limited lease, MMS envisions a single review, triggered by the lease issuance and GAP decision.

Noncompetitive ROW grants and RUE grants will probably require a single review covering a GAP decision and grant issuance. A competitive ROW or RUE grant could require separate reviews covering the lease sale and the GAP.

“ MMS IS CURRENTLY WORKING TO ESTABLISH FEDERAL/STATE/LOCAL/TRIBAL TASK FORCES FOR FACILITATING INTERGOVERNMENTAL COOPERATION. ”

apply to transmission cables or pipelines (30 C.F.R. § 285.300; 30 C.F.R. § 285.112 [definition of ROW]) whereas an RUE is for other kinds of “facilities or other installations,” such as offshore substations or maintenance platforms (30 C.F.R. § 285.300; 30 C.F.R. § 285.112 [definition of RUE]). The steps required to obtain an ROW or RUE grant are similar to those required to obtain a lease (these regulations are spelled out in 30 C.F.R. § 285.300 *et seq.*).

Timing and Frequency of Environmental and State Consistency Reviews

The timing of environmental reviews appears to be a recurring question among those seeking to understand the rule (more on the timing of environmental reviews can be found in the final rule’s preamble; 74 *Fed. Reg.* 81, 19658, 19690-91). Several steps in the process will likely qualify as “major Federal actions significantly affecting the quality of the human environment”

permissible to streamline processes for complying with these statutes.

For a competitive, commercial lease, several environmental compliance reviews will probably be required—at least one for the lease sale and SAP decision, and a second for the COP decision. MMS will examine reasonably foreseeable site assessment activities in the lease sale review and compliance documents. If examination of an SAP later reveals potential impacts that were not previously identified and evaluated, additional review may be required.

For any commercial lease, another potential way to combine reviews would be to submit an SAP and a COP at the same time, allowing MMS to combine the plan decisions into a single action. This could result in only a single NEPA review covering the lease issuance, SAP, and COP decisions.

For competitive limited leases (note that limited leases are not expected to be issued competitively under normal circumstances), reviews will be triggered

Also in the Rule

The final rule covers the entire life cycle of a project, including provisions beyond the scope of this article, including:

- Financial/technical qualification of lease applicants (30 C.F.R. §§ 285.106–07)
- Fees (30 C.F.R. § 285.500 *et seq.*)
- Lease/grant assignment (30 C.F.R. §§ 285.408–11)
- Facility design, fabrication, and installation requirements (30 C.F.R. § 285.700 *et seq.*)
- Inspections and assessment of facilities (30 C.F.R. § 285.820 *et seq.*)
- Decommissioning (30 C.F.R. § 285.900 *et seq.*)
- Alternate use RUEs for existing facilities on the OCS (30 C.F.R. § 285.1000 *et seq.*)

STATUS OF CURRENT FEDERAL RENEWABLE LEASE AND GRANT ACTIVITIES ON THE OCS

MMS has received expressions of interest in renewable leases offshore the East Coast, West Coast, and Hawai’i. This

section will discuss the status of leasing activities, where MMS knows of interest, current as of February 2010.

MMS has received the most interest in renewable activities for areas of the Atlantic offshore the eastern seaboard. As noted above, the earliest serious interest in OCS renewable development included the Cape Wind project

the first OCS wind development. MMS task forces have been established to consider commercial leasing offshore Delaware, Massachusetts, New Jersey, Rhode Island, and Virginia. Other states, including Maryland, New York, South Carolina, Florida, and North Carolina are expected to follow soon. This collaboration will assist MMS in

700 MW approximately 15 miles south of Rockaway. Meanwhile, the New York Department of State is undertaking a broader marine spatial planning effort in New York and adjacent federal waters. In Maine, there are several initiatives in state waters, including meteorological evaluations, and the testing of deepwater wind technologies. Maine has passed streamlined permitting procedures for companies that wish to test renewable ocean energy technologies. And in December 2009, the state announced the selection of three offshore wind demonstration sites.

MMS has received two commercial lease applications for projects offshore Virginia. The bureau is currently evaluating the companies' qualifications and reviewing the applications for completeness. The proposed areas will likely be included in the Commonwealth's RFI area following task force consideration.

The Gulf of Mexico region is working with states in the Southeast to fulfill their renewable energy goals. In North Carolina, Governor Bev Perdue has announced the establishment of the Governor's Scientific Advisory Panel on Offshore Energy, which will examine offshore energy resources, including wind, oil, and gas. In South Carolina, MMS is advising the state's Regulatory Task Force for Coastal Clean Energy, and will soon initiate a federal task force related to development off that state. In Georgia, Southern Company has issued a Request for Proposals for a project off Savannah. In Florida, three ocean current project developers have met with MMS to discuss projects.

MMS has spoken with developers regarding several "multistate" proposals. For example, developers have expressed

“THE RESPONSIBLE DEVELOPMENT OF RENEWABLE ENERGY ON THE OCS DIRECTLY ADVANCES SEVERAL CENTRAL DOI ENVIRONMENTAL AND ECONOMIC GOALS.”

off Massachusetts, and Interim Policy leases were issued for locations offshore Delaware and New Jersey.

The Cape Wind project is the furthest along in the permitting process. On April 28, 2010, Secretary Salazar announced that he was moving forward with the Cape Wind project proposal, and that he would be issuing a commercial lease. Details of the decision considerations, environmental stipulations and mitigations, etc. are described in the Record of Decision, which is publicly available. This announcement followed a recommendation by the Advisory Council for Historic Preservation (ACHP) that the project not be permitted to move forward. MMS is awaiting submission of a COP.

MMS has received expressions of interest in offshore development from at least a dozen developers. A handful of East Coast states are engaged in a bit of healthy interstate competition to see

evaluating federal waters' suitability for development. In many cases, such efforts are aided by state-driven research. For example, Rhode Island has commissioned its universities to create a "Special Area Management Plan," Massachusetts has an Ocean Management Plan, and in Virginia, a plan is being developed by the Virginia Coastal Energy Research Consortium. Many states will incorporate the findings of such studies into task force recommendations. MMS will consider task force recommendations when selecting geographic areas for an RFI or Call.

In New York, the Long Island Power Administration and the Consolidated Edison Company is leading a collaboration between private and public (state and city) entities ("collaborative"). The collaborative issued an RFI for developers, equipment manufacturers, and other interested parties, and is considering a wind development of up to

interest in building transmission lines in federal waters roughly parallel to the East Coast. As wind facilities are built, they could tap into this transmission “backbone” instead of sending individual lines all the way to shore.

SUMMARY

The responsible development of renewable energy on the OCS directly advances several central DOI environmental and economic goals.

One of these goals is to increase the potential for the production and transmission of renewable energy on DOI-administered land. The regulatory framework contributes directly to this goal. Estimates vary, but the potential resource is widely acknowledged to be very large. Offshore renewable energy offers many well-documented advantages, including proximity to load (sources of demand), and high-quality wind, wave, and current resources.

Another of these goals is protection of the country’s natural resources. The regulatory framework seeks to ensure that development proceeds at a responsible pace, and with coordination among tribal, local, state, and federal agencies and due consideration of environmental concerns. However, MMS recognizes that while offshore development necessarily entails environmental impacts, in many cases, the systemic environmental impact may be beneficial. Offshore renewable energy can be used to offset other more polluting forms of energy generation, such as energy from fossil fuels, which can reduce systemic emissions of carbon, mercury, smog, and other pollutants. With this in mind, the

agency will work to realize the environmental advantages of offshore wind while mitigating environmental impacts.

Since its inception, MMS has acted as a gateway for the use of publicly held ocean energy and mineral resources. In this role, MMS has acquired expertise in managing OCS development, balancing industry and private interests, and ensuring the receipt of fair value in exchange for resource access. This expertise is equally important for the leasing of submerged lands for wind as it is for the development of oil and gas, and it is formalized in MMS’s legislative mandate.⁵ Wind on the OCS has only recently been considered a potentially useful resource. Now that the technology and economics have begun to line up behind offshore renewable development, MMS must be prepared to negotiate an appropriate return in exchange for access to this newly valuable resource.

Finally, the bureau believes that commercial-scale offshore energy development will have attendant economic benefits. Offshore renewable energy is a nascent industry in the United States. The successful deployment of commercial-scale offshore renewable energy projects can spur the creation of jobs and investment. Much remains to be done before commercial-scale OCS renewable power is sold into the grid. Turbine makers are currently reluctant to site large-turbine manufacturing facilities in the United States. At this time, apparently no vessels capable of deploying large offshore wind turbines or cables exist in the United States. Port facilities must be adapted before they can accommodate the kind of activity that

would be needed for the construction of offshore wind facilities. Once development begins, these shortcomings will need to be addressed, and the effort to do so will create “green jobs” and have other positive economic effects.

These goals are not unique to the federal government. Many have an interest in seeing offshore renewable development succeed, including coastal states, environmentalists, the financial industry, developers, and interested citizens. Concurrently, the multiple-use interests of fishermen, endangered species, tribes, landowners, and others must be appropriately balanced. Most of the criticism voiced to the bureau is related to the length of time that the process takes. Although MMS understands the reasons for this impatience, it is bound by environmental laws and regulations. Further, the bureau believes that offshore renewable energy development must be “done right.” If leases or grants are awarded hastily, or without allowing adequate public involvement, the resulting backlash could smother a nascent industry. MMS takes seriously its responsibility to provide access to the nation’s ocean for renewable energy development, while ensuring the protection of the myriad interests that share our collectively managed federal waters. ☐

⁵ OCSLA § 8(p)(4): “The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for...a fair return to the United States for any lease, easement, or right-of-way under this subsection.”