



## The Role of MMS in Renewable Energy

The President announced on April 22, 2009 that the Department of the Interior completed the Final Renewable Energy Framework or rulemaking process to govern management of the Minerals Management Service (MMS) Renewable Energy Program. The final rule establishes a program to grant leases, easements, and rights-of-way for orderly, safe, and environmentally responsible renewable energy development activities, such as the siting and construction of offshore wind farms on offshore public lands, also known as the Outer Continental Shelf (OCS), as well as other forms of renewable energy such as wave, current, and solar.

### What authority did the MMS receive over renewable energy on the OCS?

Section 388 of the Energy Policy Act of 2005 authorizes the Department, specifically the MMS, to:

- act as the lead agency for Federal offshore renewable energy and alternate uses of America's offshore public lands,
- ensure consultation with States and other stakeholders,
- grant easement, leases, or rights-of-way for renewable energy related uses of the Federal OCS,
- pursue appropriate enforcement actions in the event violations occur,
- require financial surety to ensure that facilities constructed are properly removed at the end of their economic life, and
- regulate, monitor, and determine fair return to the Nation.

### What are MMS's program objectives?

The Program embraces a "cradle-to-grave" approach that encompasses:

- Coordination through Federal, State and local task forces;
- Lease and grant issuance including competitive and non-competitive leasing as well as commercial and limited leases;
- Plans and operations oversight, including site assessment, construction and operations, and general activities plans, plan approval, and environmental and safety monitoring and inspections;
- Payments to cover bonding activities; and
- Decommissioning at the end of a project's life span.

Additionally, key mandates for the Renewable Energy Program include:

- Safety;
- Protection of the environment;
- Coordination with affected State and local governments and Federal agencies;
- Fair return for use of OCS lands; and
- Equitable sharing of revenue with States.

### What are the program milestones?

- **Energy Policy Act of 2005** – In August 2005, the Energy Policy Act of 2005 was enacted, granting authority to MMS to grant easement, leases, or rights-of-way for renewable energy related uses of the Federal OCS.
- **Programmatic Environmental Impact Statement (PEIS)** – In November 2007, the MMS announced in the Federal Register the availability of the Final PEIS in support of the establishment of a program for authorizing renewable energy and alternate use activities on the OCS. The Final PEIS examined the potential environmental effects of the program on the OCS and identified policies and best management



practices that could be adopted for the program. The Record of Decision, which was released one month later, affirmed that the MMS would proceed with establishment of the Renewable Energy Program for the OCS based on the analysis presented in the PEIS.

- **Interim Policy** – In November 2007, the MMS announced an Interim Policy for authorization of the installation of offshore data collection and technology testing facilities on the OCS. The Interim Policy was designed to jumpstart baseline data collection efforts in advance of final regulations. After a comprehensive review of site nominations and project proposals, determination of no competitive interest, and completion of the environmental analysis of proposed projects, Secretary Salazar offered five exploratory leases for renewable wind energy resource assessment on the OCS offshore Delaware and New Jersey on June 23, 2009.
- **MMS-FERC MOU** – On April 9, 2009, the MMS signed a Memorandum of Understanding (MOU) with the Federal Energy Regulatory Commission (FERC) to clarify jurisdictional understandings regarding renewable energy projects on the OCS. This MOU helps develop a cohesive, streamlined process for oversight of hydrokinetic projects on the OCS (e.g., wave energy, current energy). Under the agreement, the MMS has exclusive jurisdiction with regard to the production, transportation, or transmission of energy from non-hydrokinetic renewable energy projects, including wind and solar. FERC has exclusive jurisdiction to issue licenses for the construction and operation of hydrokinetic projects, but companies will be required to first obtain a lease through MMS.
- **Final Renewable Energy Framework** – In an Earth Day speech at a wind turbine tower manufacturing plant on April 22, 2009, President Barack Obama announced

that the MMS had finalized the framework for renewable energy production on the OCS. The framework formally establishes a program to grant leases, easements, and rights-of-way for orderly, safe, and environmentally responsible renewable energy development activities, such as the siting and construction of off-shore wind farms, on the OCS. Guidelines that clarify the implementation of the framework were released on August 3, 2009.

### What activities are on the horizon?

- Continue coordination with stakeholders. (Congressional delegations, coastal States, Federal Agencies, industry, the environmental community and the general public). Establish Task Forces with States to facilitate dialogue regarding OCS leasing with State, Federal, Local, and Tribal governments.
- Initiate environmental studies through contracting scientific and engineering information.
- Determine leasing priorities. The MMS is currently engaged with the States of Delaware, New Jersey, Rhode Island and Massachusetts, Virginia, North Carolina, Maine, and others, and is in the process of establishing Task Forces with Delaware, New Jersey and Rhode Island to consider renewable energy development on the OCS offshore these States.
- Prepare environmental compliance documents (NEPA, ESA, CZMA, etc.).
- Monitor activities and facility inspection.
- Initiate the commercial leasing process and work with the State Task Forces to issue Requests for Interests – initially offshore the States of Delaware, New Jersey, and Rhode Island.