



MMS Comments

Posted by [Glenn](#) on February 27, 2006 - 11:41pm in [The Oil Drum: Local](#)

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ACT NOW TO MAKE WIND AND OTHER RENEWABLE ENERGY AVAILABLE OVER THE COMING DECADES

Write to MMS and Help Make the Rules that will Govern Offshore Renewable Energy for the Next 10-30 Years - DEADLINE IS FEBRUARY 28, 2006

A Rare Situation in Which INDIVIDUAL Comments will get noticed, heard, and even written into crucial Federal Regulation!

The Minerals Management Service (MMS), an agency with the US Department of the Interior is now soliciting public comments for the regulations it is writing to govern alternative energy projects to be located on the Outer Continental Shelf (OCS). These comprehensive and far reaching regulations will govern every aspect of the business of offshore energy generation, including: project siting, leasing, environmental protection, navigation safety, and royalty payments.

Why this matters: As some of you know, after Congress makes a law, the relevant executive agency often solicits comments from affected parties (state and local governments, companies, consumers). These comments are given great weight when the regulators and staff sit down to draft final rules. Especially in this age of "small government," understaffed agencies often don't have the manpower to sort through the legal and scientific implications of proposed regulations. They let the commenters do it!

Usually that means: industry lawyers and lobbyists decide how civil laws apply to the industry they represent. Industry has the most at stake when rules affect their business and they will spend the money it takes to make regulations come out their way. They hire the lawyers, scientists, and engineers they need to understand what an ideal regulation would look like from their point of view and then try to make it happen. Rulemaking is normally an arcane and technical process and rarely do agencies get even a thousand comments on comment solicitations. Not too many private citizens keep up with the arcane world of regulation, and few have the time or expertise to comment even if they did. But since the number of comments on most issues is so rare, even a few hundred comments from private citizens could have a real impact on the future of offshore wind, solar, and tidal energy over the next ten, twenty, or thirty years.

This time it will be different! We have talked to representatives of the offshore alternative energy industry. We have learned about their concerns and what kind of regulations will allow offshore alternative energy to happen while protecting other legitimate interests. We are providing some of that key information below. If Oil Drummers use it to respond to the MMS in force, we will be listened to. Today, every single e-mail will have real weight. I am counting on the passion, education, and civility of our readership to ACT NOW at this point of MAXIMUM

LEVERAGE. It will never matter more than this.

To send a comment to the MMS, use the following [link](#):

Here is a copy of the letter Sunlight already submitted to MMS; Use it as a model. Washington officials know the difference between individually written letters that demonstrate passionate concern. After the letter there are some links to other information so you can understand the basic issues for yourself and make this letter your own.

SAMPLE LETTER

Dear sir or madam:

I understand that you will soon be drafting regulations for offshore alternative energy platforms. I am very concerned about US dependence on foreign oil and hope that you will make the final rule as friendly as possible to offshore alternative energy development without compromising other vital interests of the United States. Here is what I would like to see:

A simple application process. The applications should minimize the burden for those who would put up alternative energy projects. MMS should rely on the developer to evaluate feasibility; he wouldn't go ahead if it made no economic sense.

Fair access to lease properties. I would like to see the Bureau of Land Management (BLM) policy for wind also extended to OCS renewables. The BLM process allows prospective developers to lease development rights while proving up their potential for a limited time. Then the developer must put up his wind farm or give up the lease, but an operating lease should have a term of twenty years or more. This is similar to the use it or lose it philosophy that underlies oil leases let by the MMS.

A streamlined review process. I believe that the standard of single agency review and federal pre-emption that current law permits builders of liquefied natural gas terminals (LNG) demonstrates the seriousness with which our Government properly views our energy supply situation. Given that most types of renewable energy arguably entail fewer environmental risks than LNG, it would seem that a similar standard should obtain. Failing this I would like to see a "one stop shopping" procedure whereby alternative energy project builders would submit an application to MMS and all affected parties - other federal agencies, state and local governments, shipping companies, airlines, oil companies with nearby platforms--would comment to MMS. MMS would then make its recommendation. It is to be hoped that as lead agency with expertise in this area, and with input registered by all other interested parties, the MMS recommendation would receive due weight in the courts if need be.

Low and fair royalty payments. In its regulation of onshore wind farms the Bureau of Land Management charges a 3% royalty on wind farm revenue once the wind farm is up and running. This would seem to be fair for offshore renewables in all forms. We believe that offshore renewable energy revenues should not exceed the BLM precedent. OCS oil is property of the citizens of the United States and can be extracted only once; that is the very good reason for the traditional 27% OCS oil royalty. By contrast, energy will continue to flow from the sun, winds, and tides indefinitely. What renewable energy we use today will not diminish what we can use tomorrow or the day after that.

It is my hope that the general spirit of the final rule will be to minimize obstacles to bringing OCS renewables projects online and to keeping them there. We need not decide

to prefer solar, wind, tidal or any form of alternative energy over any other; science and the free market will show us the way. Finally, it is my hope that MMS will do its best to unleash the entrepreneurial energy of OCS alternatives developers so that they can contribute to US energy independence.

Yours truly,

The following links might prove useful to anyone drafting a customized letter:

[Minerals Management Service- main page for offshore renewables](#)

[Link to Explanation of MMS's new authority to regulate offshore renewables](#)

[Link to Advanced Notice of Proposed Rulemaking \(ANOPR\) - the actual legal basis for soliciting comment for OCS development of alternative energy projects](#)

[Ocean Renewable Energy Coalition](#)

[The Cape Wind Project - Proposed Windfarm on Nantucket Sound](#)

[Excellent newspaper article on proposed wind farm off Long Island, NY](#)

Below is an (edited) list of comments to MMS given to us by the Long Island Power Authority (LIPA), one of the key agencies working on the proposed offshore Long Island wind farm.

Public Comments to the

Minerals Management Service (MMS)

Alternate Energy-Related Uses on the Outer Continental Shelf (OCS)

Notice of Proposed Rulemaking

- Offshore wind power facilities will not be developed or operate successfully on the OCS if MMS establishes regulations that impose significant additional costs, measured both in terms of dollars and time, beyond those inherent to planning, construction, and operation
- Unduly burdensome regulation of renewable energy development in the OCS only benefits the fossil fuel-fired and other generators with which wind energy must compete.
- MMS must recognize that the actual potential for wind energy development on the OCS is acutely sensitive to the price and schedule imposed by the agency's regulatory program. The Administration and Congress have clearly stated that they are seeking ways to reduce the Nation's dependence on foreign energy sources, prevent worsening oil and natural gas shortages and allocation problems, and encourage the private sector to voluntarily invest in non-greenhouse gas emitting energy technologies. MMS, while protecting the public interest in environmental quality and safety, should also seek every opportunity to resist imposing unwarranted burdens on this emerging industry.
- MMS should make access for resource and site assessment as simple and efficient as possible.
- MMS should employ a relatively simple "permit" process to administer the short-term activities involved in performing site and resource assessments.
- MMS should allow industry to conduct the necessary due diligence of potential development projects and approach MMS for development review and approval.
- MMS should allow developers to sign a Wind Resources Evaluation Lease with

provisions that would allow conversion by the developer to into a Wind Power Production Lease at the end of the evaluation term.

- The duration of a lease issued for OCS wind energy development should be at least 20 years or the life of the project, with rights of renewal and assignment. The 20-year period would match the length of a typical power purchase agreement for a wind energy facility.

- MMS should use every means possible to constrain the time period required to complete the agency decision-making process leading to issuance or denial of leases or other agreements needed to allow renewable energy development on the OCS.

- Many wind energy projects are financially feasible today because Congress has enacted a Production Tax Credit (PTC). The PTC has been authorized several times by Congress. Wind energy developers must be able to plan, receive permit approvals, construct and commence operations of facilities within the window afforded by the PTC.

If the application and leasing process extends beyond this window, it is likely that no developer will be able to count on taking advantage of the PTC, jeopardizing the financial feasibility of the project.

- Any payment structure should recognize the nascent state of the industry and be designed to encourage the development of these activities until the technologies are better established. In this regard, MMS should consider following the example of other nations and waive any royalties, fees, rentals, bonuses, or other payments during the first ten years of operation of an offshore alternative energy project..

- The requirements contained in the 3800-page Cape Wind Draft Environmental Impact Statement are excessive and would halt future offshore wind development if required from every project.

- Develop timely leasing and permitting schedules that include NEPA flexibility.

- Identify where interested parties can provide input. Currently it is unclear.

- Public involvement is critical early in the process to identify potential issues at a site.

- MMS should view OCS wind development as a vital strategy to conserve the Nation's non-renewable energy resources and protect the Nation's air, water, and lands.

- MMS should incorporate the cost of externalities associated with fossil fueled electric generation into any assessment of the benefits and impacts of OCS renewable energy development.

- MMS engage in a full dialogue with wind regulators and developers in Europe, particularly the United Kingdom.



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