



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

Ms. Maureen A. Bomholdt
Program Manager
Alternative Energy and Alternate Use Program
Minerals Management Service
MMS Alternative Energy and Alternate Use Programmatic EIS
Argonne National Laboratory, EVS/900
9700 S Cass Ave
Argonne, IL 60439

DEC 7 2007

Dear Ms. Bomholdt:

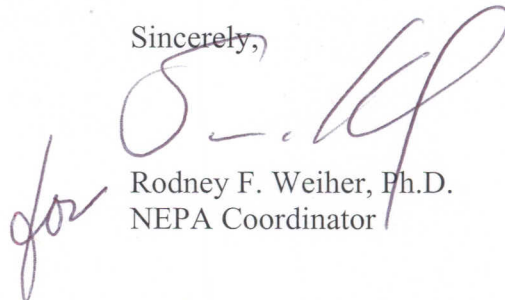
The National Oceanic and Atmospheric Administration (NOAA) has reviewed the Minerals Management Service's (MMS) Final Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf (FPEIS). NOAA appreciates the opportunity to comment on this document and looks forward to working closely with MMS on future development and implementation of this important new program. NOAA commends MMS on developing the FPEIS in furtherance of the Administration's alternate energy legislative initiative culminating in MMS' responsibilities under the Energy Policy Act of 2005.

These comments originate from the NOAA National Ocean Service Line Office. The contact in that office is:

David Kaiser
NOAA NOS
UNH, 246 Gregg Hall
35 Colovos Rd
Durham, NH 03824-3534
Phone: 603-862-2719
Fax: 603-862-3957
Email Address: david.kaiser@noaa.gov

We hope our comments will assist you. Thank you for giving us the opportunity to review this document.

Sincerely,



Rodney F. Weiher, Ph.D.
NEPA Coordinator

Enclosure



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**NOAA Comments on
Minerals Management Services (MMS)
Final Programmatic Environmental Impact Statement for Alternative Energy
Development and Production and Alternate Use of Facilities on the Outer Continental
Shelf (OCS) (FPEIS), November 2007**

The following comments are from NOAA's National Ocean Service. These comments also take into account associated activities on the OCS involving installation of meteorological or marine data collection facilities to assess alternative energy resources (e.g., wind, wave, and ocean current) or to test alternative energy technology to produce or support production of alternative energy.

1. The FPEIS concludes that technology testing (e.g. "single demonstration units") may be tested with minimal disturbance to the environment. Given the Federal Energy Regulatory Commission's (FERC's) and NOAA's National Marine Sanctuary Program's experience with the Finavera project in the Olympic Coast National Marine Sanctuary, that may not be a proper assumption. Even small demonstration projects may generate significant environmental concerns that have to be addressed and/or mitigated. Therefore, even demonstration projects should be licensed by MMS, although MMS' rulemaking for the Alternative Energy program should develop criteria for demonstration and research projects that impose less regulatory requirements than full-blown projects and still encourage research and demonstration proposals to assess alternative energy technologies. MMS will also need to consider whether research and demonstration projects will be covered under this FPEIS, a separate environmental impact statement, or an environmental assessment. This would also likely include any testing to find "best areas" for certain approaches to generating alternative energy on the OCS.
2. MMS appears to be using 130 decibels (dB) as an "example" of ambient noise conditions, which is as much as 40dB too high in many areas. MMS acknowledges NOAA's previous comment on this, and note our citations for why 130dB is too high in some areas. However, MMS continues to use 130dB in the FPEIS.
3. NOAA recommends that MMS, in coordination with NOAA and other federal agencies, as part of later NEPA documents or MMS' rulemaking, develop a series of detailed maps/charts, that include National Marine Sanctuaries, military-specific areas, other protected areas, sensitive habitats, etc. to assist MMS, other federal agencies, states, applicants in assessing proposed project locations.
4. MMS should consider, probably in its proposed rulemaking for the alternative energy program, the NEPA consequences and regulatory requirements when the size of a project is to be increased over what was originally proposed, either prior to licensing or after original project is completed.
5. In MMS' proposed rulemaking NOAA recommends that MMS develop explicit, reasonable, standards of reference for potential impacts, such as per KWH or BTU (or per thousands thereof), for ease of comparison.

6. In the Introduction, MMS includes maps of its OCS Planning Areas. While federal agencies and states are familiar with the planning areas, the general public and alternative energy industry may not be. NOAA recommends that MMS include in its future NEPA documents and proposed rulemaking a description of how the planning areas were derived and their relevance to MMS decision-making.
7. NOAA recommends that the following terms be clarified. It appears that terms used in paragraphs 4.1 and 4.21 in Chapter 4 are inconsistent with terms defined in the glossary. Paragraph 4.1 defines 3 nautical miles (n.m.) as 3.5 miles and 5.6 km, but the glossary says 3.3 miles and defines 9 n.m. as 10.4 miles and 16.7 km, but the glossary says 10.2 miles. For future NEPA documents and MMS' rulemaking, NOAA recommends that this information be reconciled and also that the following language be used:

4.1: The extent of Federal (U.S. Department of the Interior [USDOI]/Minerals Management Service [MMS]) jurisdiction of the OCS is defined under the Outer Continental Shelf Lands Act (OCSLA) using principals of international law and extends to the limits of the Exclusive Economic Zone, which is 200 nautical miles (n.m.) from the U.S. baseline set forth under the Convention on the Law of the Sea. Federal jurisdiction over the submerged lands begins seaward of the coastal states' jurisdiction, which generally extends from the shore out to 3 n.m. (3.45 geographic miles; 5.55 km), except for Texas and the Gulf Coast of Florida, where state jurisdiction extends to 9 n.m. (10.35 geographic miles; 16.66 km).

4.21: In States affected by this rule, State boundaries extend 3 n.m. from the coastline, except off the Gulf coast of the Florida Panhandle, where that State's boundary extends three marine leagues (approximately 9 n.m.) from the coastline.

Also, under Chapter 11: Glossary, for future reference, please consider the following revisions to "coastal state" and "continental margin" to account for use of these terms under international law:

11-4: Coastal State: In its international context, the term refers to a nation state or country. In its domestic context, the term refers to a state that borders oceanic waters of the Atlantic or Pacific Oceans, or the Gulf of Mexico within the United States.

11-4: Continental margin: A collective term used in UNCLOS that comprises the submerged prolongation of the land mass of a coastal State and consists of the seabed and subsoil of the shelf, the slope, and the rise.

8. NOAA continues to agree with MMS that the development and issuance of regulations for alternative energy projects proposed for the OCS would provide increased assurance that potential adverse effects on humans and biota from such projects would be more thoroughly considered. NOAA, however, continues to suggest that MMS assess incremental impacts from new projects and evaluate the cumulate impacts from licensed and proposed projects.

Therefore, NOAA recommends that MMS, through its rulemaking for the alternative OCS energy program and other related actions, continue to work with NOAA, other federal agencies, states, and industry on examining regional ocean management structures focusing on areas of known interests for alternative energy development to help determine: (1) the project capacity of areas of preferred development; (2) potential for conflict with other uses of the areas; and (3) assessment of impacts on resources of those areas looking at existing and proposed uses of the areas.