

local governments to consider becoming cooperating agencies in the preparation of the EIS. We invite qualified government entities to inquire about cooperating agency status for the EIS for the proposed 5-year program. Using the guidelines from the Council on Environmental Quality (CEQ), qualified agencies and governments are those with "jurisdiction by law or special expertise." Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and to remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision making authority of any other agency involved in the NEPA process. Agencies should also consider the "Factors for determining Cooperating Agency Status" in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. The appropriate pages can be found at: <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html> and <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencymemofactors.html>.

The MMS, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to MMS during the normal public input phases of the NEPA/EIS process. MMS will also consult with tribal governments on a government-to-government basis. If further information about cooperating agencies is needed, please contact Mr. James F. Bennett, at (703) 787-1660.

#### Next Steps in the Process

The MMS plans to issue the proposed program and draft EIS in mid-summer 2009 for a 90-day comment period. We plan to issue the proposed final program and final EIS in spring 2010. The Secretary may approve the new 5-year program 60 days later to go into effect as of July 1, 2010.

Dated: January 8, 2009.

**Randall B. Luthi,**

*Director, Minerals Management Service.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### Cape Wind Energy Project

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of Availability (NOA) of final Environmental Impact Statement (EIS) for the proposed Cape Wind Energy Project on the Outer Continental Shelf (OCS) off Massachusetts, in Nantucket Sound; Request for Comment.

**SUMMARY:** The MMS is announcing the availability of a final EIS for the proposed Cape Wind Energy Project. Cape Wind Associates, LLC (CWA) has requested a lease, easement or right-of-way, pursuant to section 8(p) of the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1337) as amended, and proposes to construct and operate a wind energy facility on the OCS off Massachusetts, in Nantucket Sound. The final EIS is intended to inform the public of the proposed action and reasonable alternatives, including the "no action" alternative; analyze the direct, indirect, and cumulative environmental effects of the proposed action and each of the reasonable alternatives; address public comment received on the draft EIS that was released in January 2008; and provide information to support decision-making.

**Authority:** This NOA is published pursuant to the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)) and regulations (40 CFR 1506.6) implementing the provisions of NEPA.

**SUPPLEMENTARY INFORMATION:** The MMS has received a request from CWA for a lease, easement or right-of-way to construct and operate a wind energy project on Horseshoe Shoal on the OCS in Nantucket Sound. The proposed project would consist of 130 offshore wind turbine generators arranged to maximize the project's full potential electric output of approximately 468 megawatts. Each turbine would be approximately 440 feet high. The proposed wind turbine array would occupy approximately 25 square miles, and would be located approximately 5.6 miles from the coast of Cape Cod, Massachusetts, 9 miles from the coast of Martha's Vineyard, and 13.8 miles from the coast of Nantucket Island. The proposed array would be in a grid formation where the distance between each turbine is proposed to be one-third mile from north to south and one-half mile from east to west. The wind-generated electricity from each of the

turbines would be transmitted via a 33-kilovolt submarine transmission cable system to a centrally located electric service platform. This platform would transform and transmit electric power via two 115-kilovolt lines extending over 12 miles to the Cape Cod mainland, where it would ultimately connect with the existing power grid.

In November 2001, CWA filed a permit application with the U.S. Army Corps of Engineers (USACE), New England District, under section 10 of the Rivers and Harbors Act of 1899, in anticipation of constructing a wind project located on Horseshoe Shoal in Nantucket Sound. The USACE released a draft EIS concerning issuance of the section 10 permit in November 2004.

Subsequently, Section 388 of the Energy Policy Act of 2005 (EPAct) amended the OCSLA to give the Department of the Interior, in consultation with other relevant federal agencies, authority for issuing leases, easements, or rights-of-way for alternative energy projects on the OCS. Additional information on the MMS Offshore Alternative Energy Program can be found at: <http://www.mms.gov/offshore/alternativeenergy/>.

After reviewing the draft EIS prepared by the USACE, which was completed prior to the EPAct amendment of the OCSLA, the MMS prepared its own draft EIS analyzing the potential impacts of the project under the broader authority granted to it under the OCSLA, as amended. The MMS launched a renewed scoping process by publishing in the **Federal Register** (71 FR 30693) on May 30, 2006, a notice of intent to prepare the EIS. The 1,321 public comments received in response to that notice were considered and taken into account in the draft EIS, as well as the final EIS. The MMS also considered and took into account over 5,000 public comments made during the review period for the USACE draft EIS, as well as those made at USACE public hearings held in Yarmouth, Martha's Vineyard, Cambridge, and Nantucket, Massachusetts.

On January 18, 2008, MMS published a notice in the **Federal Register** stating the availability of the draft EIS. The public comment period lasted 60 days (until March 20, 2008) and then was extended another 30 days to April 21, 2008, to provide the public with additional time to review the draft EIS and provide comment. The MMS received comments through its *Public Connect* Web site, via e-mails, via oral and paper copy comments provided at the four public hearings: (the Mattacheese Middle School in West Yarmouth, Massachusetts; the

Nantucket High School in Nantucket, Massachusetts; the Martha's Vineyard Regional High School in Oak Bluffs, Massachusetts; and at the University of Massachusetts Boston Campus in South Boston, Massachusetts), and via paper copy comments mailed in. In all, more than 42,000 comments were received. All comments received were logged in and responded to as appropriate and are included in the final EIS.

**Contents of the Final EIS:** The final EIS considers all reasonable alternatives to the proposed action, including several other offshore sites in the New England region, as well as non-geographic alternatives at the proposed Horseshoe Shoal site made up of a smaller project alternative, a condensed configuration, phased development, and the no-action alternative. Seven alternatives: the proposed action, no action, a smaller project, condensed configuration, phased development, and alternative sites at Monomoy Shoals and south of Tuckernuck Island—are subjected to detailed analysis in the final EIS, including an analysis of direct, indirect, and cumulative environmental effects, and identification of the preferred alternative (Horseshoe Shoal). Changes in the document since the draft EIS include the addition of a final avian and bat monitoring plan, a finding of adverse visual effects to 29 properties evaluated as eligible for listing on the National Register of Historic Places, updated mitigation measures, and proposed mitigation measures to ensure navigation safety from the U.S. Coast Guard based on a 2008 report by the Coast Guard analyzing two existing studies regarding the effects of wind turbines upon shipboard radar and navigation. Although this information was an outgrowth of comments received on the draft EIS and has not resulted in significant changes to the analysis of impacts prepared for the draft EIS, MMS is seeking comments related to these issues that will be considered for the Record of Decision.

**EIS Availability:** To obtain a single CD-ROM copy of the final EIS, you may contact the Minerals Management Service, Environmental Assessment Branch (MS 4042), 381 Elden Street, Herndon, Virginia 20170. An electronic copy of the final EIS is available at the MMS's Internet Web site at: <http://www.mms.gov/offshore/AlternativeEnergy/CapeWind.htm>, as are electronic copies of attachments to the final EIS and reports used in its preparation. For a list of libraries in Massachusetts that were provided copies of the final EIS, visit MMS's Internet Web site at: <http://>

[www.mms.gov/library/](http://www.mms.gov/library/) or contact MMS as indicated below under the heading **FOR FURTHER INFORMATION CONTACT**.

**Comments:** Although this is a final EIS, you may provide comments. No decision on the proposed project will be made until at least 30 days from the publication of this notice. Federal, state, local government agencies, and other interested parties may provide written comments on the final EIS in one of the following ways:

1. Electronically, using MMS's on-line commenting system at: <http://occonnect.mms.gov/pcs-public/>.

2. In written form, mailed or delivered to MMS Cape Wind Energy Project, TRC Environmental Corporation, Wannalancit Mills, 650 Suffolk Street, Lowell, Massachusetts 01854.

**Public Comment Policy:** Be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Bennett, Minerals Management Service, Environmental Assessment Branch, 381 Elden Street, Mail Stop 4042, Herndon, Virginia 20710, or by phone at (703) 787-1656.

Dated: January 5, 2009.

**Chris C. Oynes,**

*Associate Director for Offshore Energy and Minerals Management.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service (MMS)

#### Geological and Geophysical Exploration (G&G) on the Atlantic Outer Continental Shelf (OCS)

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Intent (NOI) To Prepare a Programmatic Environmental Impact Statement (PEIS) and Call for Interest for Future Industry G&G Activity on the Atlantic OCS.

**SUMMARY:** Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA), MMS is announcing its intent to prepare a PEIS to evaluate potential environmental effects of multiple G&G activities on the Atlantic OCS. This NOI initiates the scoping process for this PEIS and also seeks interest from other Federal agencies,

and State, tribal, and local governments to consider becoming cooperating agencies in the preparation of the EIS. Through the scoping process, Federal, state, and local government agencies and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives for analysis in the PEIS. Comments received in response to the NOI will assist MMS in developing the scope of the PEIS. This early planning and consultation step is important to ensure that all interests and concerns are communicated to MMS as it develops this PEIS and ultimately for future decisions regarding G&G operations under MMS regulatory authority.

In order to assist MMS in developing the scope of G&G activities to be covered within the PEIS, we are also using this NOI to solicit information from industry on any potential interest for future G&G activities on the Atlantic OCS, including seismic surveys (high-resolution surveys as well as various types of seismic exploration and development surveys), side-scan sonar surveys, all types of electromagnetic surveys, geological and geochemical sampling, and remote sensing (including gravity and magnetic surveys) and the geographic areas of these activities. The MMS will specifically use this information to develop the scope of the PEIS scenario and its proposed action area. If details on activities, desired geographic locations, or other relevant information are not provided to MMS through this Call for Interest, then this information may not be included in the PEIS scenario and may require additional NEPA analysis if proposed at a later date.

With this NOI, MMS notes that this PEIS is dependent upon availability of funding. MMS welcomes participation from outside sources consistent with appropriate authorities and mechanisms to award a contract to conduct the essential analyses and prepare the PEIS. The MMS would maintain sole oversight over selection and management of contractors and would maintain full authority over the content of the PEIS, protected resources analyses, and final decisions. Outside sources that are considering participating in this PEIS process should submit an expression of interest, along with the requested information on potential activities and geographic scope, to the MMS, Gulf of Mexico OCS Region's Regional Supervisor for Leasing and Environment (see Comments section for contact information).