

June 4, 2009



# Welcome

Minerals Management Service

Workshop on the Outer Continental Shelf  
Renewable Energy Regulatory Framework

# A Comprehensive Energy Plan for the OCS



# MMS Mission Statement

The Minerals Management Service manages the ocean energy and mineral resources on the Outer Continental Shelf and Federal and Indian mineral revenues to enhance public and trust benefits, promote responsible use, and realize fair value.

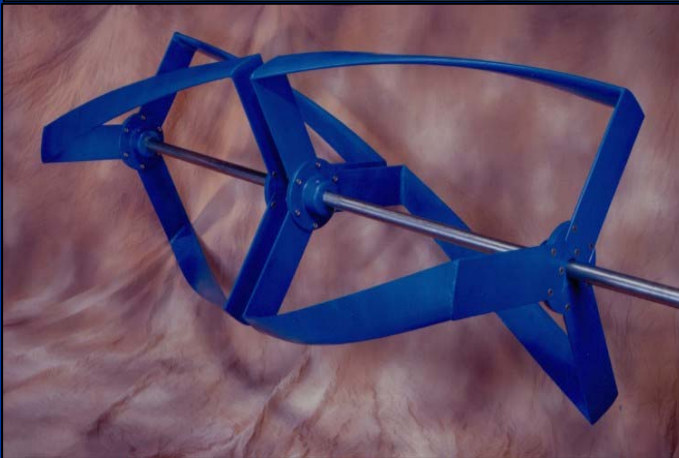


# MMS Authority: EPO Act 2005

- Gave the Secretary of the Interior authority to grant a lease, easement or right-of way for activities on the OCS that produce or support production, transportation, or transmission of energy from sources other than oil or gas
- Called for the promulgation of any necessary regulations to carry out this new authority
- Secretary delegated responsibility for OCS renewable energy activities to MMS

# Key Mandates for the Framework

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



# Regulatory Framework

Cradle-to-grave approach encompassing:

- Coordination
  - Federal/State/Local Task Forces
- Lease and Grant Issuance
  - Competitive & Noncompetitive Leasing
  - Commercial & Limited Leases
- Plans & Operations
  - Site Assessment, Construction & Operations, and General Activities Plans
  - Operations Under Approved Plans
  - Environmental & Safety Monitoring & Inspections
- Payments
  - Bonding & Payments
- Decommissioning

# Workshop Schedule

June 4– Washington, DC

June 8 – Norfolk, VA

June 9 – Boston, MA

June 9 – New Orleans, LA

June 10 – New York City, NY

June 10 – Fort Lauderdale, FL

June 11 – Monmouth, NJ

June 11 – Savannah, GA

June 24 – Seattle, WA

June 25 – Portland, OR

June 26 – San Francisco, CA

- Framework Elements
- Major Changes from Proposed Rule
- Types of Leases, Leasing Processes, & Other Instruments
- Lease Administration
- Inspections
- Decommissioning
- Payments & Revenue Sharing
- MMS Priorities & Workshops
- Questions & Answers Session



Image Courtesy of GE



# Major Framework Elements

- Coordination (throughout rule)
  - Federal/State/Local Task Forces
- Leasing Process and Issuance (Subpart B)
  - Competitive & Noncompetitive Leasing
  - Commercial & Limited Leases
  - Research Activities
- Payments (Subpart E)
  - Bonding, Payments, Revenue Sharing
- Plans (Subpart F)
  - Site Assessment and Construction & Operations
  - General Activities
- Conduct of Approved Plan Activities (Subpart H)
  - Environmental & Safety Monitoring & Inspections
- Decommissioning (Subpart I)

# Major Changes from Proposed Rule

## FERC

- Revisions throughout the rule to reflect FERC responsibilities for licensing hydrokinetic energy activities on the OCS

## Alternate Use

- Added an explicit statement that MMS will not consider applications for aquaculture

# Major Changes from Proposed Rule

## Competition

- Augmented qualification requirements to discourage nuisance indications of competitive interest (§285.106)
- Added new section for switching from competitive to noncompetitive process if competitors drop out (§285.212)
- Added multiple factor auction format (§285.220)

## Information

- Stated that confidential business information will be withheld from disclosure under exemption 4 of FOIA and provided timeframes for releasing such information (§285.113)

# Major Changes from Proposed Rule

## Geological and Geophysical Surveys

- Clarified such surveys will be permitted by the U.S. Army Corps of Engineers (subpart F)

## NEPA Analysis

- Clarified explanation of NEPA review with combined and streamlined process (e.g., combined SAP/COP submission/review (subpart F))

## Timing of Operating Fee

- Changed start-up to the date that generation of electricity begins (§285.503)

## Operating Fee Formula

- Replaced retail price with wholesale price (§285.506)

# Major Changes from Proposed Rule

## Financial Assurance

- Separated financial assurance from decommissioning costs (§285.516)
- Added several financial assurance options other than surety bonds (§§285.525-528)

## Decommissioning

- Increased timeframe for decommissioning from 1 year to 2 years (§285.902)

## Sale of Power from Limited Leases

- Revised definition of limited lease to allow minimal sales to offset site assessment and technology testing expenses (§285.112)

# Major Changes from Proposed Rule

## Federal Agency Lessees

- Added federal agencies as entities that may hold OCS renewable energy leases and grants (§285.106)

## Research Activities

- Expanded research provision to include States & other federal agencies in addition to DOE (§285.238)

## Renewals

- Provided for longer term of renewal if negotiated by applicable parties (§285.427)
- Provided that lease or grant will remain in effect while MMS considers renewal application (§§285.427, 432)
- Added criteria for considering renewals (§285.429)

# Two Types of Leases

- **Commercial Leases** for full development and power generation
- **Limited Leases** for resource assessment and technology testing

**Both** leases include a **project easement** for necessary cables or pipelines

# Two Processes

Competitive and noncompetitive processes will:

- Comply with Federal statutes (e.g., NEPA, CZMA, ESA, CAA, MSA, MBTA)
- Seek input from affected States, localities, and stakeholders





# Section 388: Competition

Secretary shall issue a lease, easement, or right-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**

# Competitive Process

**Call for Information** requests information about interest, issues, and concerns associated with specified areas

**Area Identification** describes the specific area, any alternatives to the proposed action, mitigation measures, and issues to be analyzed and considered for leasing

**Lease sale compliance documents** such as an EIS, consistency determination, and other consultation documents (e.g., ESA) are prepared by MMS

# Competitive Process

**Proposed Notice** describes proposed bidding systems, fiscal terms, lease terms and conditions, mitigation, and award criteria

**Final Notice** describes sale procedures and rationale for the final fiscal terms, lease terms and conditions, mitigation, and award criteria

**Award Lease**

# Competitive Lease Terms

**Commercial Leases** for full development and power generation

- 6-month preliminary term
- 5-year site assessment term
- 25-year operations term

**Limited Leases** for resource assessment and technology testing

- 6-month preliminary term
- 5-year operations term

# Competitive Commercial Lease

- Within 6 months, the lessee must submit **Site Assessment Plan (SAP)** describing planned site characterization activities and including relevant site survey results
- MMS conducts required environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance documents
- MMS may approve, approve with conditions, or disapprove SAP

# Competitive Commercial Lease

- Within 5 years of SAP approval, the lessee must submit **Construction & Operations Plan (COP)** describing all activities and facilities to be installed and used to gather, transport, transmit, generate, or distribute energy from the lease
- MMS conducts required environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance
- MMS may approve, approve with conditions, or disapprove COP

# Competitive Commercial Lease

Require two reports before constructing and installing facilities under an approved COP:

- **Facility Design Report** details of the design of facilities, including cables and pipelines, described in approved plans
- **Fabrication & Installation Report** details of how facilities will be built in accordance with plans and FDR

# Competitive Limited Lease

- Within 6 months of lease issuance, the lessee must submit **General Activities Plan (GAP)** describing all activities and operations related to technology testing, including any facilities siting and project easement
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance
- MMS may approve, approve with conditions, or disapprove GAP



# Noncompetitive Process

Receive request for lease or grant

Issue public notice describing proposal and requesting information to determine whether competitive interest exists

Continue with noncompetitive process if no competitive interest exists

# Noncompetitive Commercial Lease

- Applicant submits **SAP**
- Applicant pays for NEPA compliance
- MMS conducts required environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
- MMS determines the lease terms and conditions in consideration of environmental, socioeconomic, and market factors
- Lease issuance is deferred until SAP is approved or approved with conditions
- Within 5 years of SAP approval, the lessee must submit **COP**

# Noncompetitive Limited Lease

- Applicant submits **GAP**
- Applicant pays for NEPA compliance
- MMS conducts required environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
- MMS determines the lease terms and conditions in consideration of environmental, socioeconomic, and market factors
- Lease issuance is deferred until **GAP** is approved or approved with conditions

# Noncompetitive Lease Terms

**Commercial Leases** for full development and power generation

- 5-year site assessment term
- 25-year operations term

**Limited Leases** for resource assessment and technology testing

- 5-year operations term

# Other Types of Instruments

- Right of Use and Easement (**RUE**) requires a GAP
- Right-of-Way (**ROW**) requires a GAP

# Renewable Energy ROW

**ROW** authorizes installation on the OCS of cables, pipelines and associated facilities that involve the transportation or transmission of electricity or other energy product from any renewable energy resource **not** associated with a single OCS renewable energy lease (**not a project easement**)

**Example:** A transmission cable on the OCS that runs parallel to shore in support of multiple offshore projects

# Renewable Energy RUE

**RUE** authorizes installations on the OCS that support the production, transportation or transmission of electricity or other energy product from any renewable energy resource **not** associated with a single OCS renewable energy lease

**Example:** A service facility supporting multiple offshore renewable energy projects

# Compliance with Plans

- Lessee or grantee must comply with all terms and conditions of the MMS-approved plans
- MMS will identify terms and/or conditions requiring certification of compliance
  - Lessee/grantee reports compliance and identifies any measures/monitoring that were not effective and recommends new measures/monitoring



# Lease & Grant Administration

Suspensions, assignments, cancellations, terminations, renewals etc:

- MMS may order or approve suspensions
- Rights may be assigned in whole or in part
- Secretary may cancel a lease or grant
- Leases may be renewed for the same activities
- MMS may issue noncompliance notices and cessation orders for failure to comply with lease or grant or regulatory requirements

# Inspections

- MMS will conduct **scheduled and unscheduled inspections** to:
  - Verify that activities are conducted as provided under OCSLA, regulations, lease or grant, and MMS-approved plans
  - Determine that proper safety equipment has been installed and is operating properly as provided under MMS-approved plans
- Lessee/grantee must develop an annual **self inspection plan**

# Decommissioning

- Decommissioning concept described in the MMS-approved plan is not an approval of actual decommissioning activities
- A decommissioning application must be submitted to MMS for approval no later than 2 years before planned removal activities begin (or immediately with cancellation, relinquishment, or other early termination)

# Decommissioning

- The application must describe:
  - Facilities, lines, and structures to be removed
  - Schedule
  - Removal methods and plan for site clearance
  - Information for NEPA and other Federal requirement compliance
- MMS discretion to allow structures to remain in place for alternate uses

# Financial Assurance

## Commercial Leases

- Require a lease-specific \$100,000 bond before lease issuance
- May require additional bond before SAP approval
- Require COP bond based on project complexity, projected payments, and decommissioning costs before COP approval

## Limited Leases, ROWs, RUEs

- Require a \$300,000 lease or grant-specific bond
- May increase based on projected payments, and abandonment & cleanup costs

# Payments

## Bonus Bids

- Minimum bid established in Final Sale Notice for leases or Auction Notice for grants

## Acquisition Fees

- \$0.25/acre for leases issued noncompetitively
- None for grants

## Rentals

- \$3.00/acre/year for leases
- Greater of \$5.00/acre/year or \$450/year for project easements, ROWs and RUEs (ROWs also cost \$70 per nautical mile)

# Payments

**Operating Fees:** Formula for commercial leases:

**P** (local wholesale power price per MW-hour as set by EIA)

X

**H** (8,760 hours per year)

X

**c** (capacity factor – decimal)

X

**r** (fee rate)

X

**M** (installed capacity in units of production)

# Operating Fee Commercial Leases

Example: 150 megawatt (MW) facility with an anticipated capacity factor of 0.35, operating in a region with an average wholesale power price of \$65 per MW-hr and a fee rate of 2%

$$(\$65/\text{MW-hr})(8760 \text{ hrs/yr})(0.35)(0.02)(150 \text{ MW}) = \$0.6 \text{ million/yr}$$



# Revenue Sharing

- EPAct requires payment to eligible States 27 percent of the revenues from any projects located wholly or partially within the area extending between 3 and 6 miles from shore
- Equitable distribution of shared revenue among coastal states that are within 15 miles of the geographic center of the project

# Program Start-Up on June 29, 2009

## MMS Priorities

- **New Jersey** – State goals to construct wind facilities on the OCS by 2012; developer selected
- **Delaware** – State supported OCS wind initiative; developer has PPA with utility calling for construction to begin in 2012
- **Rhode Island** – State goals to construct wind facilities on the OCS by 2013; developer selected
- **Other**

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# More Information...



**On the Web at:**

**[www.mms.gov/offshore/renewableenergy](http://www.mms.gov/offshore/renewableenergy)**

**By Phone at:**

**703-787-1300**

# Questions?

