

April 21, 2008

## MMS Issues Notice of Proposed Limited Alternative Energy Leases on the OCS

The Minerals Management Service (“MMS”) on Friday, April 18, issued a [notice](#) (“the Notice”) regarding proposed limited leases for alternative energy activities on the Outer Continental Shelf (“OCS”). The proposed limited leases were selected from over 40 nominations received by MMS in response to its November 6, 2007 interim policy and request for nominations of areas for leases authorizing alternative energy resources assessment and technology testing activities. The Notice confirms that the interim policy will remain in place as originally proposed until the MMS promulgates regulations governing such activities.

MMS selected the following nominations to process as a priority and to inquire as to competitive interest:

- 9 nominations comprising 10 OCS blocks off of New Jersey, Delaware, and Georgia for wind power resource assessment;
- 5 nominations comprising 30 OCS blocks off of Florida for ocean current resource assessment and technology testing; and
- 2 nominations comprising 38 OCS blocks off of California for ocean wave resource assessment and technology testing.

MMS selected the proposed limited lease areas based on multiple considerations, including technological complexity, timing, competing use issues and relationships to existing state-supported renewable energy programs, as well as MMS’ resource and budget limitations. These 16 proposed limited leases are now open for competitive nominations for the specific resource assessment and technology testing activities identified in the Notice for that nomination area. All such competitive nominations must be filed with the MMS by May 19, 2008.

MMS expressly rejected certain comments filed in response to its November 6 request that advocated that the leases for resource assessment and technology testing also should include a right to commercial development for the lessees. The agency found that any conveyance of commercial rights would require a “lengthier and [more] complicated process than MMS is willing to undertake at this time under the interim policy” and will be deferred until final regulations are in place. Thus, the acquisition of a limited lease will not grant the lessee any rights with respect to the future acquisition of commercial development of that lease area.

With regard to those nominations it received that were not selected for priority processing, MMS stated in its Notice that those nominations, as well as any nominations received in the future, “may be processed by MMS at a later date.” Specifically, the Notice confirmed that some of the nominations that were not chosen for priority processing involved “complex technology” or environmental or conflicting use concerns “that would make processing them more difficult and time consuming.”

MMS’ new regulations governing alternative energy activities on the OCS are expected to be issued before the end of 2008.



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