

OCS Alternative Energy Program

Environmental Law Institute
2008 Ocean Seminar Series
Ocean Energy: Tide, Current and Wave
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Regulatory Authority: EPLA 2005



- Section 388 amended Section 8 of OCSLA
- MMS granted authority to regulate a broad spectrum of activities:
 - **Alternative energy** (wind, ocean wave, ocean current, solar, hydrogen production)
 - **Alternate use of existing facilities** (research and offshore support stations, recreation opportunities)

Statutory Mandates

- Coordinate with affected State & local governments and Federal agencies
- Ensure safe operations
- Protect the environment
- Issue leases competitively
- Ensure fair return for use of OCS lands
- Share revenue with affected States




Key Program Initiatives

- I. Regulations (NPR in FR, July 9th)
 
- II. Interim Policy for Resource Data Collection and Technology Testing (Nov. 2007)
 

NOPR – Major Elements

- Coordination**
 - State/Federal/Local Coordination
- Lease Issuance**
 - Competitive & Noncompetitive Leasing
 - Commercial & Limited Leases
- Lease Administration**
 - Payments (bonus bidding, rentals, operating fees)
 - Financial Assurance (bonding)
- Plan Reviews**
 - Site Assessment
 - Construction and Operations
- Conduct of Approved Plan Activities**
 - Environmental and Safety Monitoring
 - Inspections
- Decommissioning**
- Alternate Use**



Rule Workshops

- MMS will be holding workshops throughout the country to discuss the Proposed Rule (West Coast, East Coast, Gulf of Mexico)
- First workshop in Washington DC, August 7th

NOPR: Treatment of Wave and Current Energy

- Regulations are not resource specific.
- A “Limited Lease” proposed for those interested only in technology testing; *confers no right for subsequent commercial build-out.*
 - Smaller fees (rental only; no operating fee)
 - Reduced paperwork burden.
 - Wave and current energy developers should carefully weigh pros and cons of Limited vs. Commercial Lease

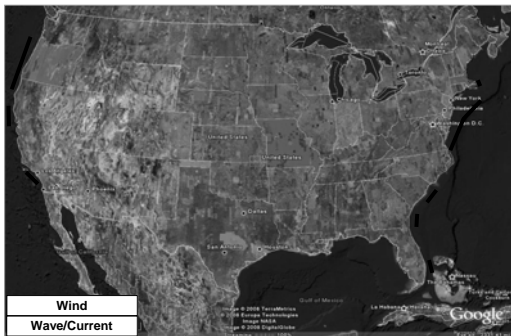
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Interim Policy: Limited Leasing

- “Interim policy” for limited leasing before final regulations (*announced in FR November 2007*)
 - Resource data collection and technology testing activities
 - Limited 5-year term
 - No option, preference or priority right for subsequent commercial development
 - No transmission cable to shore
- Received over 40 nominations in response to initial notice in FR November 7th

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Interim Policy Nominations



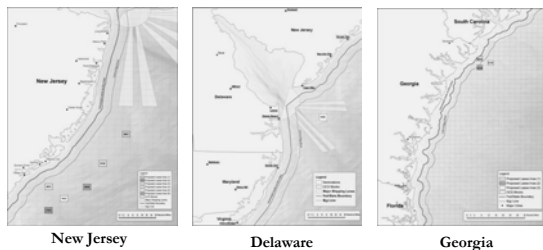
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Interim Policy – Proposed Lease Areas

- 16 proposed lease areas identified (*April FR Notice*)
 - 6 areas off New Jersey (met towers)
 - 3 areas off Georgia (met towers)
 - 1 area off Delaware (met tower)
 - 4 areas off Florida (ocean current)
 - 2 areas off California (ocean wave)
- Competitive interest expressed in three lease areas off Florida and one lease area off California (Humboldt)
 - MMS will not conduct competitive auction under Interim Policy; competing nominators must agree to collaborate.
- MMS proceeding in its NEPA and application review of other lease areas in which there was no expression of competing interest.

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Interim Policy: Lease Areas in NJ, DE and GA



New Jersey

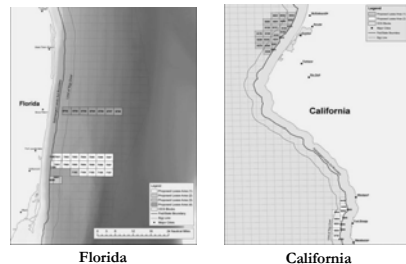
Delaware

Georgia

All wind met towers

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Interim Policy: Lease areas in CA and FL



Florida

California

Ocean current and wave

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IP Limited Lease vs. NOPR Limited Lease??

- Proposed Rules do not apply to “Interim Policy”
 - Limited Lease under “Interim Policy” is not subject to requirements of Limited Lease in NOPR
- OMB-Approved MMS Lease Form for Resource Data Collection and Technology Testing
 - Applies to Limited Lease under Interim Policy
 - Available on MMS website:
www.mms.gov/offshore/AlternativeEnergy/Assets/PDFs/FR04-21-08.pdf

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On the Horizon

- National Workshops on Proposed Rule (August 2008)
- Completion of final rulemaking (December 2008)
 - Comments due September 8th
- Initiating environmental studies
- Issuing “Interim Policy” leases and reviewing lease plans (Fall 08)



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More Information...

On the Web at:

www.mms.gov/offshore/alternativeenergy

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