

**STATEMENT FOR THE
RECORD
BUREAU OF OCEAN ENERGY MANAGEMENT,
REGULATION AND ENFORCEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR**

**SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES
COMMITTEE ON NATURAL RESOURCES
HOUSE OF REPRESENTATIVES**

June 23, 2011

Mr. Chairman, and Members of the Committee, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) submits the following statement for the record to discuss its renewable energy program, efforts to facilitate and expedite the development of the Nation's offshore wind energy resources, and comments on two bills before the committee, H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, and H.R. 2173, the Advancing Offshore Wind Production Act.

These bills were introduced little more than one week ago, so the Department of the Interior has not had time to conduct an in-depth analysis of them, but we appreciate the opportunity to outline our general views at this time. The bills exempt certain federal actions from compliance with the National Environmental Policy Act (NEPA) – the cornerstone law guiding environmental protection and public involvement in federal actions. The Department opposes these two bills.

Outer Continental Shelf (OCS) Wind Resources and Energy Development Goals

BOEMRE manages the energy and mineral resources of the OCS, which comprises some 1.7 billion acres of submerged lands generally located between three and 200 nautical miles off the continental U.S., Alaska, and Hawaii. The U.S. Department of Energy (DOE) estimates that the total offshore wind potential is over 4,000 gigawatts (GW) for areas up to 50 miles from shore with average wind speeds of seven meters per second or greater at 90-meter elevation. This estimate includes the resources of the Great Lakes and the coastal submerged lands under state jurisdiction, which are not managed by BOEMRE. However, OCS lands constitute the vast majority of what DOE considers "offshore" in its wind energy estimate.

According to a report prepared and issued jointly by DOE's Office of Energy Efficiency and Renewable Energy and BOEMRE earlier this year, each average GW of wind power capacity can generate 3.4 million megawatt-hours of electricity annually.¹

¹ *A National Offshore Wind Strategy, Creating an Offshore Wind Energy Industry in the United States*, February 7, 2011

This amount of power would replace the use of 1.7 million tons of coal or 27.6 billion cubic feet of natural gas and reduce the carbon emissions associated with those fossil fuels by 2.7 million metric tons. The Nation's vast offshore wind resources are located close to our largest electricity demand centers, allowing offshore wind to compete directly with fossil fuel-based electricity generation. Northeastern and Mid-Atlantic coastal states especially can benefit from OCS wind resources to meet ambitious renewable energy portfolio standards and related policy goals calling for the use of a stable and clean supply of energy resources for electrical generation.

In addition to these energy and environmental benefits, offshore wind energy development would have considerable direct and indirect economic benefits. The National Offshore Wind Strategy suggests that offshore wind development would create approximately 20.7 direct jobs per annual megawatt installed in U.S. waters. Many of these jobs would be located in economically depressed port areas that could become important fabrication and staging areas for the manufacture, installation, and maintenance of offshore wind turbines.

The National Offshore Wind Strategy addresses these goals and discusses three focus areas that are central to achieving them—(1) technology development, (2) market barrier removal, and (3) advanced technology demonstration. BOEMRE is working closely with DOE and with other federal agencies, state, local, and tribal governments, and other stakeholders to establish an effective process for siting and permitting offshore renewable energy projects.

OCS Renewable Energy Regulatory Framework

The Energy Policy Act of 2005 provided the Secretary of the Interior with the authority to administer an OCS renewable energy program. This authority, including the mandate to promulgate necessary regulations, was delegated to BOEMRE (then the Minerals Management Service) in March 2006. In early 2009, at the start of the Obama Administration, a draft rule had been issued, but a final regulatory framework was not yet promulgated. On taking office, Secretary Salazar addressed the remaining issues, leading to the publication of BOEMRE's final OCS renewable energy regulatory framework on April 29, 2009.

The regulatory framework is a comprehensive approach to managing the full life cycle of OCS renewable energy activities, from initial study and leasing, through site characterization and assessment and project construction and operation, ultimately to cessation and decommissioning. The regulatory framework reflects a renewable energy program which embraces a "life cycle" approach that encompasses:

- Coordination through task forces established with state, local and tribal governments;
- Lease and grant issuance including competitive and non-competitive leasing as well as commercial and limited leases;
- Plans and operations oversight, including site assessment, construction and operations, and general activities plans, plan approval, and environmental and safety monitoring and inspections;

- Payments to cover bonding activities; and
- Decommissioning at the end of a project's life span.

Additionally, key mandates for the Renewable Energy Program include:

- Safety;
- Protection of the environment;
- Coordination with affected State and local governments and Federal agencies;
- Collecting a fair return for the use of Federally-owned resources ; and
- Equitable sharing of revenue with States.

With over 20 existing laws and Executive Orders that apply to the OCS, consultation and coordination is critical to a successful renewable energy program. As BOEMRE strives to facilitate sustained development of a domestic offshore wind industry, we are working with a wide array of stakeholders to find ways for offshore wind projects to proceed with minimal adverse effects on other uses and resources. Our most valuable consultation and coordination tools have proved to be the state-by-state intergovernmental task forces that we have established. These bodies bring together all interested and affected government parties to facilitate information sharing and foster informed and efficient decision-making with the goal of advancing environmentally responsible offshore renewable energy development. To date, we have nine task forces on the Atlantic coast that are helping BOEMRE to proceed with commercial wind energy leasing, as well as one on the Pacific coast that may focus on marine hydrokinetic energy development.

Since the OCS renewable energy regulatory framework was established in 2009, Secretary Salazar and BOEMRE have sought to outline, refine, and streamline our siting and permitting processes for wind leasing and development. BOEMRE has launched several initiatives to support our efforts as summarized briefly below.

Atlantic Offshore Wind Energy Consortium

In early 2010 Secretary Salazar invited the governors of the Atlantic coast states to join with the Department of the Interior in an Atlantic Offshore Wind Energy Consortium (AOWEC) for the purpose of facilitating federal-state cooperation and coordination for the efficient, expeditious, orderly, and responsible development of wind resources along the Atlantic coast. On June 8, 2010, the Secretary and 11 governors signed a Memorandum of Understanding (MOU) outlining the scope and objectives of the Consortium and establishing working groups charged with formulating an action plan addressing issues relating to: (1) siting and permitting, (2) data and science, and (3) investment in infrastructure. DOE is serving an advisory role to BOEMRE by assessing national infrastructure investment requirements as described in the National Offshore Wind Strategy. The action plan was completed in February of this year, and BOEMRE is considering its recommendations, which relate to improving coordination, implementing pilot projects, revising existing statutory and regulatory authorities to streamline permitting, and improving data acquisition and sharing.

Smart from the Start Atlantic Wind Initiative

On November 23, 2010, Secretary Salazar announced *Smart from the Start*, a

program to expedite commercial wind lease issuance on the Atlantic OCS. This initiative has three main elements:

- Streamlined processes, including more efficient National Environmental Policy Act (NEPA) compliance review, for renewable energy lease issuance;
- Identification of Wind Energy Areas (WEAs) followed by information gathering to stimulate investment in Atlantic OCS wind leasing and development; and
- Processing of OCS energy transmission line proposals on a parallel but separate track from generation projects.

Work has begun to identify as WEAs those areas of the OCS that have high wind energy resource potential and relatively low potential use conflicts. BOEMRE will then conduct an environmental assessment (EA) to analyze potential impacts associated with issuing leases and conducting site characterization and assessment activities. If the EA leads to a finding of no significant impact, we will be able to issue leases and will not have to prepare an environmental impact statement (EIS). This will allow developers to acquire leases on an expedited basis and enable them to acquire necessary financing of their projects. BOEMRE will conduct a full EIS when the lessee submits a construction and operations plan for review.

Smart from the Start also calls for enhanced coordination on offshore wind within the federal government. The Department of the Interior has led the formation of the Atlantic Offshore Wind Interagency Working Group—which includes executive level officials of DOE, Commerce, Defense, Homeland Security, the Environmental Protection Agency, the Council on Environmental Quality and other federal agencies—to facilitate the sharing of relevant data. In response to our January 2011 data call to the Working Group, we received 180 entries from our federal partners. BOEMRE will use these data sets when conducting environmental analysis and during the identification and modification of WEAs, and when possible, we will share this data publicly through the Multipurpose Marine Cadastre.

Smart from the Start has been well received by federal and state stakeholders and the offshore renewable energy industry.

Additional Cooperation with Other Federal Agencies

BOEMRE is also working with interested federal agencies to establish agreements to facilitate coordination on OCS renewable energy development. For example, we have in place an MOU with DOE to facilitate and expedite OCS wind and hydrokinetic development. Consistent with this MOU, DOE is making available up to \$50.5 million over 5 years to develop offshore wind technology and to reduce specific market barriers to its deployment. We also have an established MOU with the National Oceanic and Atmospheric Administration (NOAA) on OCS energy development and environmental stewardship, a MOU with the U.S. Fish and Wildlife Service concerning the Migratory Bird Treaty Act and a MOU with the Federal Energy Regulatory Commission regarding the leasing and licensing of marine hydrokinetic projects. Other MOUs in development are with the Department of Defense (Secretary), the Army Corps of Engineers, and the U.S. Coast Guard. We are confident that these inter-agency groups will ultimately improve permitting processes and promote efficient and effective decision-making.

BOEMRE Research and Studies

BOEMRE has two main scientific research programs. The Environmental Studies Program (ESP) has completed numerous research projects and has several more that are planned or ongoing to determine and evaluate the effects of OCS activities on natural, historical, and human resources and the appropriate monitoring and mitigation of those effects. For example, the ESP has completed or is conducting a number of scientific studies that explore the potential effects of offshore wind projects on birds, marine species, and other aspects of the environment. BOEMRE and DOE co-fund a number of studies within ESP and also partner on research efforts led by the International Energy Agency. Pursuant to the MOU mentioned above, DOI and DOE have also formed an interagency working group with other federal agencies including NOAA, Department of Defense, Army Corps of Engineers, and the Department of the Navy which will facilitate an integrated national network for characterization of offshore wind resources and design conditions. BOEMRE's Technology Assessment and Research (TA&R) Program also conducts research associated with operational safety, engineering standards, and pollution prevention.

One noteworthy research project just completed under our TA&R program is on Offshore Wind Energy Turbine Structural and Operating Safety. BOEMRE asked the National Research Council's Marine Board to conduct a study relating to the structural safety of offshore wind turbines. The study addresses three specific areas: (1) standards and guidelines for design, fabrication and installation of offshore wind turbines; (2) expected roles of third-party entities, called Certified Verification Agents (CVA), in overseeing the design and construction of offshore wind turbines and identifying standards for monitoring, inspection and compliance verification; and (3) expected qualifications to be considered a recognized CVA. BOEMRE received the final report on April 28, 2011, and is in the process of analyzing the recommendations to determine whether to modify the relevant offshore renewable energy regulations.

The National Ocean Policy's Coastal and Marine Spatial Planning

BOEMRE is implementing the OCS renewable energy program in accordance with Executive Order 13547, which President Obama issued in 2010 to establish a comprehensive and integrated national policy for stewardship of the oceans, our coasts and the Great Lakes, including a framework for coastal and marine spatial planning (CMSP). We fully understand and support the need to work together with all OCS users and regulators, and we look forward to coordinating with the National Ocean Council and leading and participating in regional planning bodies undertaking CMSP. We believe our intergovernmental task forces are a valuable vehicle for informing these efforts. We will use an integrated interagency marine information system, developed in collaboration with the National Ocean Council, to implement Executive Order 13547. Part of this system will be the Multipurpose Marine Cadastre, which provides legal, physical, ecological, and cultural information in a common geographic information system framework. This tool was created in partnership with NOAA to comply with a mandate in section 388 of the Energy Policy Act of 2005.

Outreach to Non-governmental Stakeholders

BOEMRE has repeatedly engaged non-governmental organizations (NGOs) to obtain feedback on its regulatory framework and associated processes. During promulgation of our renewable energy regulatory framework rule, we conducted several stakeholder information gathering sessions, as well as workshops on the draft and final regulations. Since the final framework was issued, we have continued meeting with NGOs and stakeholders, including The Nature Conservancy, the National Wildlife Federation, and the Mariners Advisory Committee and have had valuable information exchanges. We have also communicated with representatives of fishing interests through the special working groups established by Massachusetts and Rhode Island, as well as the regional Fisheries Management Councils. BOEMRE also has continued its dialogue with industry representatives, primarily through the Offshore Wind Development Coalition. Based on all of our conversations with stakeholders, we have identified regulatory revisions that we will pursue to bring more clarity and efficiency to our processes. Our first such revision—designed to simplify the leasing process for offshore wind in situations where there is only one qualified and interested developer by eliminating a redundant and therefore unnecessary step — became effective on June 15.

Status of OCS Wind Development

All of the initiatives discussed to this point are helping BOEMRE to identify areas where there are relatively few impediments to offshore wind development and move forward quickly and efficiently to promote the establishment of an offshore renewable energy industry.

BOEMRE's efforts have already resulted in significant accomplishments in offshore wind development:

- The Bureau has issued 4 short-term leases that permit the installation of data collection facilities to inform planned commercial wind development activities (three off New Jersey and one off Delaware). These leases were issued in 2009 under an interim policy initiated while the OCS renewable energy regulatory framework was being developed.
- Interior issued the first ever U.S. offshore commercial wind energy lease in October 2010 for the Cape Wind Energy Project in Nantucket Sound off Massachusetts. Shortly thereafter, the lessee submitted a construction and operations plan, which BOEMRE approved on April 18, 2011. The lessee hopes to begin construction later this year. The Cape Wind Energy Project proposal contemplates building 130 wind turbine generators, 3.6 megawatts each, with the maximum capacity to produce about 468 megawatts. The average expected production from the wind facility could provide about 75 percent of the electricity demand for Cape Cod and the islands of Martha's Vineyard and Nantucket. At average expected production, Cape Wind could produce enough energy to power more than 200,000 homes in Massachusetts.
- BOEMRE announced the first four WEAs — off the coasts of New Jersey,

- Delaware, Maryland, and Virginia—established under *Smart from the Start* on February 9, 2011, in a Notice of Intent to Prepare an Environmental Assessment for Mid-Atlantic Wind Energy Areas. We have determined that there is no competitive interest in leasing the area made available off Delaware and we will complete the noncompetitive leasing process in response to NRG Bluewater Wind’s commercial wind lease request. We hope to make a final decision on lease issuance by the end of this year. By contrast, we have determined that there is competitive interest off Maryland, and we believe there will also be competitive interest off New Jersey and Virginia. BOEMRE plans to complete competitive processes for these three states by early 2012. We will continue to consult with our intergovernmental task forces on all of these leasing processes.
- BOEMRE intends to designate a second set of WEAs — potentially including areas offshore Massachusetts, Rhode Island, New York, and North Carolina — by the end of this year. We have already received numerous expressions of interest off the coast of Massachusetts, and we will be soliciting nominations and other relevant information in the other three areas in the coming months. We will continue to consult with the intergovernmental task forces in these states.
 - BOEMRE will consult with the established Maine intergovernmental task force concerning possible future deepwater wind leasing and development and anticipates establishing new task forces in Georgia, South Carolina and Hawaii later this year. The University of Maine’s DeepC wind program, funded in part by DOE, is working on developing new technologies, including floating wind turbines for use in deep waters. BOEMRE will work with Maine in the event that we receive an unsolicited application for a commercial wind lease offshore Maine. We also have received an application for a short-term lease for data collection off Georgia under the interim policy, and are currently processing that application.
 - BOEMRE also received a request for a right-of-way for a 750-mile backbone transmission line running about 10 miles offshore from New York to Virginia. The developer has ambitious plans for this transmission line, believing that it can link future Atlantic OCS wind energy installations in a manner that can facilitate efficient interconnection to the onshore electrical grid. We held initial meetings on the proposed project with members of our New York, New Jersey, Delaware, Maryland, and Virginia Task Forces in early June, and will continue to consult and coordinate with our Task Forces and other stakeholders in processing this request.

H.R. 2170 and H.R. 2173

H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, and H.R. 2173, the Advancing Offshore Wind Production Act, were introduced only a week ago, and the Department has not had sufficient time to conduct a comprehensive analysis of the bills or their potential effects on BOEMRE’s offshore renewable energy program. The Department appreciates the committee’s efforts to accelerate the development of renewable energy projects on federal lands and waters. However, these bills make sweeping changes to environmental review of renewable energy projects both onshore and offshore. Since the final regulations for the OCS Renewable Energy Program were announced in 2009, BOEMRE has been working extensively with other federal agencies, Atlantic coastal state Governors, and other stakeholders to seek ways to improve the leasing and permitting

process for developing this vital component of our nation's comprehensive energy policy without cutting corners on safety or environmental protection. The Department opposes these bills.

While HR 2170 and HR 2173 limit or exempt NEPA review of offshore renewable energy projects and offshore meteorological site testing and monitoring projects, the projects would not be exempt from consultations mandated by several other laws including the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), National Historic Preservation Act (NHPA), National Marine Sanctuaries Act (NMSA), Marine Mammal Protection Act (MMPA), and Coastal Zone Management Act (CZMA). Depending on the location, government-to-government consultations may also be required with affected tribal governments. The important consultation BOEMRE performs in conformance with these laws is often informed by the NEPA analysis customarily undertaken by BOEMRE, and we are concerned that the elimination or limitation of NEPA analysis contemplated by this legislation would deprive those consultations of valuable information and analyses.

H.R. 2170, the Cutting Federal Red Tape to Facilitate Renewable Energy Act, limits Federal NEPA reviews for all renewable energy projects to the "proposed action" and "no action alternative", eliminating the consideration of alternative locations and other project modifications. By limiting the federal agency to a "Take It or Leave It" option, the bill constrains the federal agency's ability to consider reasonable alternatives to a proposed renewable energy project that could ultimately generate a comparable amount of energy but with less environmental impact. Limiting consideration of a reasonable range of alternatives prevents BOEMRE's ability to work with applicants to explore different technologies, siting, and project plans that would advance responsible renewable energy development.

H.R. 2173, the Advancing Offshore Wind Production Act, would completely eliminate NEPA review and analysis of meteorological site testing and monitoring projects on the OCS. This bill may conflict with section 8(p) of the OCS Lands Act (OCSLA), because it may eliminate the Secretary's ability to consider all impacts of meteorological testing and monitoring projects and to consider environmental impacts of renewable energy projects on the OCS.

Section 8(p) requires BOEMRE to issue a renewable lease, easement or right of way for these types of activities, and to determine if competitive interest exists for such a grant. The bill appears to allow permits for meteorological site testing and monitoring activities while remaining silent on the need for a lease, easement or right of way.

H.R. 2173 also sets up a permitting process – which could be read as an additional step in addition to the leasing process – by describing "permit timeline conditions." This section includes a public and interagency comment period during the permitting process while at the same time establishing a 30 day deadline for the Secretary to act on permit applications – thus inherently constraining opportunities for comment.

BOEMRE's comment and consultation process, currently established as part of the leasing process, is extensive. BOEMRE works closely with federal agencies, such as the U.S. Coast Guard (USCG), the Department of Defense, NOAA, and the Federal Aviation Administration (FAA), during the renewable energy leasing process. These agencies have provided invaluable input, assisting us with the acquisition of useful data and information, resolution of multiple use challenges, and identification of key nongovernmental stakeholders. For example, in deciding what areas to offer for lease, consultation and discussions with the Coast Guard resulted in the Coast Guard withdrawing its objection to a significant portion of an area that it initially had objected to, and allowed a larger area to be included in further considerations for leasing.

Several federal laws mandate BOEMRE consult with other federal agencies and tribes, such as the ESA, MSFCMA, CZMA, MMPA, NMSA, and NHPA. The ESA and MSFCMA consultations are generally completed within time periods greater than 30 days. The NHPA allows up to 30 days for an affected tribe to submit a response to BOEMRE's request to initiate a consultation, and the consultation itself can take much longer. The NHPA also requires consultation with State Historic Preservation Officers. The CZMA allows affected states up to 60 days to respond to a BOEMRE-prepared consistency determination (under Subpart C) and six months to respond to a lessee's consistency certification (under Subparts D and E). The NMSA requires notification with a description and potential impacts of actions that are likely to destroy, cause the loss of, or injure any sanctuary resource no less than 45 days before final approval of the action. Consultation may take an additional 45 days longer, and reasonable and prudent alternatives may be recommended. In addition to these mandated consultations, BOEMRE also consults with the Department of Defense to resolve possible multiple use conflicts; FAA regarding conflicts with air navigation, and USCG regarding conflicts with marine navigation. The time to complete these consultations, as well as any others that may be required, varies depending on a variety of factors, including previous activity in the area and, most importantly, with the complexity and controversy of the many safety, environmental, and operational issues to be addressed.

Finally, since only governmental entities may take part in Task Force meetings, BOEMRE frequently participates in stakeholder outreach efforts with entities such as maritime navigation organizations and commercial fishing groups that may be affected by offshore renewable energy activities. BOEMRE believes that continuing this effort will be crucial in order to avoid or minimize user conflicts and diffuse potential litigation challenges, and that 30 days will likely be insufficient time to meaningfully engage with these groups.

Both bills are inconsistent with sound and long-standing NEPA environmental reviews and with BOEMRE's technical and engineering reviews necessary to promote safe operations and environmental protection for responsible renewable energy activities on the OCS.

Conclusion

BOEMRE has set ambitious but achievable goals to help the U.S. make development of domestic sources of clean, renewable energy a reality. The combination of streamlined processes along with the increased involvement of state and federal partners is helping BOEMRE make good strides in reaching those goals. BOEMRE is excited to have a prominent role in the nation's renewable energy future, and looks forward to working with stakeholders to develop a thriving domestic offshore wind industry that is coordinated and supports Executive Order 13547 and the national policy for stewardship of the oceans.

Mr. Chairman this concludes BOEMRE's statement for the record.