

UNITED STATES OF AMERICA
Before the
MINERALS MANAGEMENT SERVICE

Notice of Availability of the Draft)
Programmatic Environmental) Alternative Energy and Alternate Use Program
Impact Statement and Public)
Hearings)

COMMENTS OF THE NATIONAL HYDROPOWER ASSOCIATION
ON THE MARCH 21, 2007, NOTICE OF AVAILABILITY OF THE DRAFT
ENVIRONMENTAL IMPACT STATEMENT AND PUBLIC HEARINGS

I. BACKGROUND AND INTRODUCTION

On March 21, 2007, the Minerals Management Service (“MMS” or the “Service”) issued a “Notice of Availability (“NOA”) of the Draft Programmatic Environmental Impact Statement (“EIS”) in support of the proposed Alternative Energy and Alternate Use Program (“AEAU”) and associated rulemaking authorized under Section 388 of the Energy Policy Act of 2005.¹ The primary objectives of the programmatic EIS were to analyze and document the potential environmental, social-cultural, and economic considerations associated with the establishment of an Outer Continental Shelf (“OCS”) AEAU program and rules, including all foreseeable, potential monitoring, testing, construction, commercial development, operations, and decommissioning activities on the OCS.

The National Hydropower Association (“NHA”) appreciates this opportunity to comment on the programmatic draft EIS on the AEAU program for the development of alternate energy technologies on the OCS. New technologies offer the promise of expanding the nation’s base of

¹ 72 Fed. Reg. 13307 (Mar. 21, 2007).

clean, renewable energy. Ensuring that the regulatory process for these technologies is clear, flexible, and practical is a top concern for the association and its members.

NHA is a non-profit national association dedicated exclusively to advancing the interests of the U.S. hydropower industry, including the new water power technologies – ocean, tidal and instream hydrokinetic power. It seeks to secure hydropower's place as an emissions-free, renewable and reliable energy source that serves national environmental and energy policy objectives. Its membership consists of more than 140 organizations including; public utilities, investor owned utilities, independent power producers, equipment manufacturers, environmental and engineering consultants and attorneys.

Recently, NHA created a new council to address the emerging needs of the new water power technologies. NHA's Ocean, Tidal and New Technologies Council has nearly 30 member companies (developers, manufacturers, public and private utilities, and consulting/engineering firms). Many of these members have filed preliminary permits on proposed sites or are currently working on projects under development.

There remains great potential right here in the United States for these new forms of water power and NHA is working to support this nascent industry. As such, the Association has a particular interest in the outcome of the regulatory program implementing Section 388 of the Energy Policy Act of 2005 and the draft programmatic EIS.

II. COMMENTS

NHA and its members have been closely following the work of the MMS on its AEAU program, including participating in several of the Service's regional forums. As such, NHA submits the following comments on the draft programmatic EIS in support of the AEAU program:

1. Support for the Programmatic EIS Approach – The association supports and commends the Service for utilizing a programmatic EIS approach, which directs the process and provides guidance to developers with limited resources in the nascent ocean and tidal industries.

2. Data Quality Control – The draft programmatic EIS highlights and describes many data sets and issues with regard to the development of offshore energy resources. NHA applauds MMS for the scope and breadth of its data collection efforts, compiling a large amount of information in a single document. With so much information contained in the EIS, NHA believes that future supplementation of the document may be appropriate to ensure data usefulness and applicability. For example, the results of some of the general studies reported in the EIS may not prove applicable once analyzed in conjunction with specific technologies, which may have widely varying characteristics and effects, and with specific project locations, where local site conditions vary.²

3. Program Flexibility – The ocean and tidal industries utilize many different forms of technology with varied profiles and effects. Regulatory flexibility will be needed to accommodate the unique attributes of a particular technology as deployed at any particular site. Additionally, as the ocean and tidal technologies are so new, and the industries continue to advance and move forward, sufficient flexibility will be needed in the AEAU program to accommodate this innovation.

4. Program Coordination – The MMS regulatory program should provide a streamlined, coordinated process that minimizes duplication of effort by other federal agencies and the states. A process that provides clarity and certainty is needed, particularly for new industries such as ocean and tidal energy development, which are only now establishing a foothold in the U.S. NHA supports MMS' efforts to work cooperatively with the Federal Energy Regulatory Commission toward a Memorandum of Understanding that will clarify jurisdiction and provide certainty for developers to achieve timely regulatory approvals.

5. Beneficial Impacts – NHA supports the comment by the Ocean Renewable Energy Coalition (“OREC”) in its filing that beneficial effects of offshore energy development, such as potential increases in tourism, revitalization of economically depressed coastal communities, and also reduction of greenhouse gas emissions, should be recognized as part of the analysis of these projects as well.

6. Continued Industry Outreach – NHA encourages the MMS to continue its robust outreach efforts to all stakeholders in this process. The association and its members appreciate the opportunities the Service has provided thus far to give input and will continue to provide comment on the issues affecting developers of ocean and tidal energy in any future forums that are held.

² As a specific example of this, at page 5-151 the draft EIS describes a potential OCS commercial facility stating, “The facility would require 2500 mooring lines and anchors.” The number of mooring lines is likely to vary by technology and this may be a high number for certain applications and for smaller sized projects.

III. CONCLUSION

NHA again commends the Service for its work in preparing this draft programmatic EIS in support of its AEAU program. New technologies, such as ocean and tidal power, have an important role to play if the U.S. is to meet its goal of promoting new, clean, climate-friendly energy resources. A recent report by the Electric Power Research Institute (EPRI) concludes that there are as many as 10,000 MW of power available from ocean energy technologies by 2025.³ Ensuring that an appropriate regulatory process is in place for these technologies is critical to seeing that potential realized.

Again, NHA appreciates this opportunity to present its comments on the draft EIS and would be pleased to provide further review and input into the EIS process. NHA's membership has much to contribute to the advancement of the collective knowledge of OCS renewable energy development and the design of practicable regulatory processes. We look forward to participating in any further MMS efforts to ensure the success of ocean and tidal technologies as an integral part of the Nation's energy policy.

Respectfully submitted,

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³ Assessment of Waterpower Potential and Development Needs (EPRI 2007).