

ALTERNATIVE ENERGY AND ALTERNATIVE USE (AEAU) PROGRAM
U.S. Department of the Interior: Minerals Management Service (MMS)

AUTHORITY

Section 388 of the Energy Policy Act of 2005 (EPA) amended section 8(p) of the Outer Continental Shelf Lands Act (OCSLA), codified at 43 U.S.C. 1337(p), to authorize the Secretary of the Interior to issue a lease, easement, or right-of-way on the Outer Continental Shelf (OCS) for alternative energy purposes or for alternative use of existing facilities. Pursuant to this authority, the Minerals Management Service (MMS) of the U.S. Department of the Interior established an Alternative Energy and Alternative Use (AEAU) program.

FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

In November 2007, MMS issued its “Final Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf” (Final Programmatic EIS). This document, developed in accordance with the National Environmental Policy Act (NEPA), analyzes the environmental impacts of the new AEAU program over the next 5-7 years. The Final Programmatic EIS focuses on wind, wave, and ocean current energy projects, describing the state of the art for these technologies, the environment in which they might be implemented, and the resulting environmental impact. It is important to note that a site-specific EIS will still be required for each proposed project.

AEAU PROGRAM OVERVIEW

The AEAU program incorporates a hybrid approach to managing America’s first offshore alternative energy projects. The program, known as the “Preferred Alternative” in the Final Programmatic EIS, is comprised of two stages.

First, during an interim period between the Final Programmatic EIS and the promulgation of a Final Rule governing AEAU projects, MMS will issue leases, easements, and rights-of-way on a case-by-case basis. In its Record of Decision, MMS outlines an Interim Policy that provides for coordination with other federal and state agencies; additionally, MMS describes a number of Best Management Practices (BMPs) that may be used as initial mitigation measures. In January 2008, after a public comment period, MMS adopted an Interim Policy that allows limited alternative energy leases for data collection facilities to assess offshore energy resources or for the purpose of testing alternative energy technology.

Second, after a Final Rule is promulgated, MMS will issue leases, easements, and rights-of-way in accordance with a set of comprehensive regulations. In February 2008, MMS issued a Federal Register notice that it intends to prepare an Environmental Assessment (EA) for the Proposed Rule.