

## 8 CONSULTATION AND COORDINATION

### 8.1 PUBLIC SCOPING

A Notice of Intent (NOI) to prepare the *Outer Continental Shelf Alternative Energy and Alternate Use Programmatic EIS* was published in the *Federal Register* on May 5, 2006. This NOI invited interested members of the public to provide comments on the scope of the programmatic EIS, including identification of issues, alternatives, and mitigation measures that should be considered in the programmatic EIS analyses. The Minerals Management Service (MMS) conducted scoping for the programmatic EIS from May 5, 2006, through July 5, 2006.

The public was provided with three methods for submitting scoping comments or suggestions on the *Outer Continental Shelf Alternative Energy and Alternate Use Programmatic EIS*:

- Via the online comment form on the project website,
- By mail, and
- In person at public scoping meetings.

Public scoping meetings were held at 10 locations in May and June 2006: Herndon, Virginia (May 18); Trenton, New Jersey (May 23); Austin, Texas (May 23); Melville (Long Island), New York (May 24); Dedham, Massachusetts (May 25); Long Beach, California (May 25); Atlanta, Georgia (June 6); Portland, Oregon (June 6); Orlando, Florida (June 8); and San Francisco, California (June 8) (Figure 8.1-1). At each meeting, the MMS presented background information about the *Outer Continental Shelf Alternative Energy and Alternate Use Programmatic EIS*, and representatives from the Department of Energy (USDOE) National Renewable Energy Laboratory presented information about various technologies. The presentation materials from these meetings, including slides, maps depicting the various planning area boundaries, and white papers for the technologies being considered, are available on the project website (<http://ocsenergy.anl.gov/index.cfm>). The Public Scoping Comment Summary Report is also available at that website.

Nearly 235 individuals, organizations, and government agencies provided comments on the scope of the programmatic EIS by testifying at public scoping meetings, submitting comments via the project website, or submitting comments by mail. Some people used more than one method to submit comments. Nearly 100 comment documents were received from individuals. In addition, comments were received from four Federal agencies, 16 State agencies, three local government organizations, and more than 70 other organizations, including environmental groups, interest groups, and industry.

More than 270 people registered their attendance at the public scoping meetings held during May and June 2006. The Dedham, Massachusetts, meeting drew the most people (98), followed by Long Island, New York (76). One hundred eight individuals provided oral



**FIGURE 8.1-1 Locations of the 10 Cities Where Public Scoping Meetings Were Held for This Programmatic EIS**

comments at one or more of the public meetings. Nearly 125 comment documents were received via the project online comment form; 19 were received by mail.

Comment documents were received from 26 States, the District of Columbia, and Canada. Approximately 75% of these comments originated from States within the study area. States providing the most comments were Massachusetts (49) and New York (23).

Federal agencies that provided comments were:

- National Park Service (NPS)
- U.S. Coast Guard (USCG)
- U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA)
- U.S. Department of the Interior, U.S. Fish and Wildlife Service (USFWS), New England Field Office

State agencies that provided comments were:

- Delaware Department of Natural Resources & Environmental Control
- Florida Department of Environmental Protection
- Hawaii Department of Business, Economic Development, and Tourism
- Massachusetts Division of Marine Fisheries
- Massachusetts Attorney General (Sec. of Environmental Affairs) representing Governor Romney
- New Jersey Department of Environmental Protection
- New York Department of Environmental Conservation
- New York Department of State
- Virginia Department of Environmental Quality
- Washington State Department of Fish and Wildlife
- Washington State Department of Community, Trade, and Economic Development, Energy Policy Division

- Washington State Department of Ecology, Coastal Zone Management Program
- Washington State Department of Ecology, Hydropower, Water Quality Program
- Washington State Department of Fish and Wildlife
- Washington State Department of Natural Resources
- Washington State Governor's Office of Regulatory Assistance

Local agencies that provided comments were:

- Barnstable County Assembly of Delegates
- Lincoln County, Oregon
- Woods Hole, Martha's Vineyard, Nantucket Steamship Authority

## **8.2 GOVERNMENT-TO-GOVERNMENT CONSULTATION**

Along with the NOI published on May 5, 2006, letters were sent to tribal leaders in compliance with Executive Order 13175, dated November 6, 2000, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments. Our current administration, on April 30, 2004, reaffirmed its commitment to Government-to-Government relations in Executive Order 13336, entitled American Indian and Alaska Native Education. The MMS recognizes the right of Indian tribes to self-government, supports tribal sovereignty and self-determination, and strives to work with federally recognized tribes whenever any of its proposed activities may potentially affect a tribe, its treaty rights, sovereignty, or its members.

The MMS offers consultation with tribes as an ongoing process in a culturally sensitive manner that is respectful of tribal sovereignty. To date, the MMS has not been contacted by any tribe regarding this programmatic EIS.

## **8.3 AGENCY COOPERATION, CONSULTATION, AND COORDINATION**

The MMS invited other Federal agencies and State, tribal, and local governments to consider becoming cooperating agencies in the preparation of the programmatic EIS through the NOI of May 5, 2006. Only the USCG requested to be a cooperating agency. The MMS opened dialogues with many Federal agencies, including USFWS, NOAA, Federal Aviation Administration (FAA), Environmental Protection Agency (USEPA), U.S. Department of

Defense (USDOD), NPS, and Department of Homeland Security (DHS) and continued to work with these agencies throughout the process of preparation of this EIS.

### **8.3.1 Endangered Species Act (ESA) Section 7 Consultation**

Section 7(a)(2) of the ESA [16 USC §1536(a)(12)] requires every Federal agency, in consultation with and with the assistance of the Secretaries of the Interior and/or Commerce, to ensure that any action it authorizes, funds, or carries out in the United States or upon the high seas is not likely to jeopardize the continued existence of any species listed as endangered or threatened, or result in destruction or adverse modification of critical habitats for listed species. This final programmatic EIS focuses on describing a framework for the steps involved in granting of a lease, easement, or right-of-way for the production of renewable energy on the OCS as well as advising on the alternate use of existing oil and gas facilities on the OCS. It does not approve any actual granting of leases, easements, or rights-of-way. Such approvals will occur later at a region-, site-, project- or activity-specific level. It is at this point that the MMS will conduct further environmental review, including consultation under Section 7(a)(2) of the ESA.

### **8.3.2 Essential Fish Habitat Consultation**

The Magnuson-Stevens Fishery Conservation and Management Act requires Federal agencies to consult with the Secretary of Commerce, through the National Marine Fisheries Service (NMFS), with respect to “any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any Essential Fish Habitat (EFH) identified under this Act” (16 USC § 1855(b)(2)). When a Federal action agency determines that an action may adversely affect EFH, the agency must initiate consultation with NMFS (16 USC §1855(b)(2)). To carry out this EFH consultation, NMFS regulations at 50 CFR § 600.920(e)(3) call for the Federal action agency to submit to NMFS an EFH assessment containing “a description of the action; an analysis of the potential adverse effects of the action on EFH and the managed species; the Federal agency’s conclusions regarding the effects of the action on EFH; and proposed mitigation, if applicable.” NMFS may request that the Federal action agency include additional information in the EFH assessment such as results of on-site inspections, views of recognized experts, a review of pertinent literature, an analysis of alternatives, and any other relevant information (50 CFR § 600.920(e)(4)). Depending on the degree and type of habitat impact, compensatory mitigation may be necessary to offset permanent and temporary effects of the project. Should the project result in substantial adverse impacts to EFH, an expanded EFH consultation may be necessary (50 CFR § 600.920(i)).

The promulgation of regulations and implementation of an Alternative Energy and Alternate Use program may result in future, site-specific project applications that, if authorized by the MMS, could have impacts on EFH and thereby trigger the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The MMS is using the programmatic EIS to generally describe impacts that may be associated with future, site-specific proposals authorized, or proposed to be authorized, by the MMS. The analysis provided in the programmatic EIS will be used to guide the development of any required EFH assessments for

future EFH consultations on site-specific proposals. For any future, site-specific proposal requiring an authorization from the MMS, the MMS will make a determination on whether the proposal may adversely affect any EFH in the project area. If adverse affects are possible, the MMS will initiate an EFH consultation by providing an EFH assessment to the appropriate NMFS regional office.

The primary NMFS regional contacts for EFH consultations are:

**Northeast Region**

Lou Chiarella  
F/NER4  
NMFS Northeast Regional Habitat Conservation Division  
One Blackburn Drive  
Gloucester, MA 01930-2298  
Phone: (978) 281-9277

**Northwest Region**

John Stadler  
F/NWR4  
NMFS Washington State Habitat Branch  
510 Desmond Drive SE, Suite 103  
Lacey, WA 98503  
(360) 753-9576

**Southwest Region**

Bryant Chesney  
F/SWR4  
NMFS Southwest Regional Habitat Conservation Division  
501 W. Ocean Blvd., Suite 4200  
Long Beach, CA 90802-4213  
Phone: (562) 980-4037

**Southeast Region**

Ric Ruebsamen  
NMFS Panama City Habitat  
3500 Delwood Beach Road  
Panama City, FL 32408  
Phone: (850)-234-5061

**8.3.3 National Historic Preservation Act Section 106 Consultation**

Section 106 of the National Historic Preservation Act (NHPA) requires the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking to take into account the effect of the undertaking on any district, site, building,

structure, or object that is included in or eligible for inclusion in the National Register of Historic Places.

The Advisory Council on Historic Preservation (ACHP) Regulations at 36 CFR Part 800 set forth the procedures for Federal agency compliance with Section 106 of the NHPA. The Section 106 compliance process is undertaken in consultation with the State Historic Preservation Office (SHPO), Tribal Historic Preservation Office(s) (THPO), and other interested parties to identify historic properties that may be affected by the project, to assess the potential for adverse effects to those properties, and, if the potential for an adverse effect is found, to seek ways to avoid, minimize or mitigate the adverse effects.

The MMS has direct permitting authority over only those aspects of a project that occur on the Federal OCS. Therefore, the potential for adverse effects to historic properties within a coastal State's jurisdiction from MMS-permitted activities is limited to indirect, visual effects to coastal historic properties that may result from the project.

Section 36 CFR 800.8 of the ACHP regulations outlines the procedures for coordinating Section 106 compliance with the National Environmental Policy Act (NEPA) process. In this process, consulting parties provide information on historic properties that may be affected by the proposed project during the NEPA scoping phase. The NEPA document then provides an assessment of the potential for adverse effects to these properties, and proposed measures to mitigate the potential adverse effects are identified. Prior to, or within the time allowed for public comment on the NEPA document, the SHPO, THPO, ACHP, or other consulting party may object that preparation of the NEPA document has not met the standards set forth in the ACHP regulations, or that the substantive resolution of the effects on historic properties proposed in the NEPA document is inadequate. If such an objection is received, the matter is referred to the ACHP, which has 30 days to provide an opinion on the objection.

The MMS must take into account the opinion of the ACHP in reaching a final decision on the issue of the objection and must prepare a summary of the decision that contains the rationale for the decision and evidence of consideration of the ACHP opinion.

## **8.4 DISTRIBUTION OF THE DRAFT PROGRAMMATIC EIS**

Copies of the draft programmatic EIS were distributed by the MMS Headquarters Office as paper copies, CDs, and through a website prior to the official notification to Federal, State, and local agencies, and interested groups and individuals in the *Federal Register*. Approximately 2,000 e-mail notifications were sent to interested individuals and organizations.

Between the publication of the draft EIS in March 2007 and publication of the final EIS, the program website received more than 18,000 visitors. More than 1,100 copies of the EIS executive summary were downloaded during this period, and an additional 70 copies of the draft EIS on CD were requested through the website by interested organizations and individuals.

The following recipients were included in the notice of availability distribution:

**CONGRESS**

House of Representatives—Committee on Resources  
United States Senate—Committee on Energy and Natural Resources

**FEDERAL AGENCY NATIONAL ENVIRONMENTAL POLICY ACT CONTACTS**

Department of Commerce and National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Department of Defense  
Department of the Air Force  
Department of Army  
Department of Navy  
Department of Energy, Office of Environment, Safety and Health  
Department of Homeland Security  
U.S. Coast Guard  
Department of the Interior, Bureau of Land Management  
Department of the Interior, National Park Service  
Department of the Interior, U.S. Fish and Wildlife Service  
Department of the Interior, U.S. Geological Survey  
Department of State, Bureau of Oceans and International Environmental and Scientific Affairs  
Federal Aviation Administration  
Maritime Administration  
Federal Energy Regulatory Commission  
Marine Mammal Commission  
National Aeronautics and Space Administration

**USEPA REGIONAL OFFICES**

Region 1, Boston, MA  
Region 2, New York, NY  
Region 3, Philadelphia, PA  
Region 4, Atlanta, GA  
Region 6, Dallas, TX  
Region 9, San Francisco, CA  
Region 10, Seattle, WA

**GOVERNORS OF COASTAL STATES**

The Honorable Bob Riley, Governor of Alabama  
The Honorable Arnold Schwarzenegger, Governor of California  
The Honorable M. Jodi Rell, Governor of Connecticut  
The Honorable Ruth Ann Minner, Governor of Delaware  
The Honorable Charlie Crist, Governor of Florida  
The Honorable Sonny Perdue, Governor of Georgia  
The Honorable Kathleen Babineaux Blanco, Governor of Louisiana  
The Honorable John E. Baldacci, Governor of Maine



The Honorable Martin O'Malley, Governor of Maryland  
The Honorable Deval Patrick, Governor of Massachusetts  
The Honorable Haley Barbour, Governor of Mississippi  
The Honorable John Lynch, Governor of New Hampshire  
The Honorable John Corzine, Governor of New Jersey  
The Honorable Eliot Spitzer, Governor of New York  
The Honorable Mike F. Easley, Governor of North Carolina  
The Honorable Ted Kulongoski, Governor of Oregon  
The Honorable Donald L. Carcieri, Governor of Rhode Island  
The Honorable Mark Sanford, Governor of South Carolina  
The Honorable Rick Perry, Governor of Texas  
The Honorable Timothy M. Kaine, Governor of Virginia  
The Honorable Chris Gregoire, Governor of Washington

### **TRIBAL LEADERS**

Big Lagoon Rancheria, Trinidad, CA  
Elk Valley Rancheria, Crescent City, CA  
Juaneno Band of Mission Indians, Acjachemen Nation, San Juan Capistrano, CA  
Manchester - Point Arena Rancheria, Point Arena, CA  
Resighini Rancheria, Klamath, CA  
Smith River Rancheria, Smith River, CA  
Stewarts Point Rancheria, Santa Rosa, CA  
Trinidad Rancheria, Trinidad, CA  
Wiyot Tribe, Loleta, CA  
Yurok Tribe, Klamath, CA  
Mohegan Indian Tribe, Uncasville, CT  
Schaghticoke Tribal Nation, Derby, CT  
Miccosukee Indian Tribe of Florida, Miami, FL  
Seminole Indian Tribe of Florida, Hollywood, FL  
Chitimacha Tribe of Louisiana, Charenton, LA  
Wampanoag Tribe of Gay Head (Aquinnah), Aquinnah, MA  
Mashpee Wampanoag Tribe, Mashpee, MA  
Passamaquoddy Tribe - Pleasant Point Reservation, Pleasant Point, ME  
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Coos Bay, OR  
Coquille Indian Tribe, North Bend, OR  
Narragansett Indian Tribe, Charlestown, RI  
Chinook Indian Tribe, Chinook, WA  
Hoh Tribe, Forks, WA  
Jamestown S'Klallam Tribe, Sequim, WA  
Lummi Indian Business Council, Bellingham, WA  
Makah Indian Tribal Council, Neah Bay, WA  
Port Gamble S'Klallam Tribe, Kingston, WA  
Quileute Tribe, LaPush, WA  
Quinault Indian Nation, Taholah, WA  
Samish Indian Nation, Anacortes, WA  
Shoalwater Bay Tribe, Tokeland, WA

Suquamish Tribe, Suquamish, WA  
Swinomish Indian Tribal Community, LaConner, WA  
Tulalip Tribes of Washington, Marysville, WA

## **OTHER ORGANIZATIONS**

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Mr. Berry H. Tew, Jr.—State Geologist and Oil & Gas Supervisor, Alabama Geological Survey  
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Mr. Crawford M. Tuttle—Deputy Secretary for External Affairs, Resources Agency of California  
Mr. John H. Talley—Director and State Geologist, Delaware Geological Survey  
Ms. Jennifer L. Fitzwater—Director, Office of Legislative and Governmental Affairs, Florida DEP  
Mr. Scott A. Angelle—Secretary, Louisiana Department of Natural Resources  
Mr. Deerin Babb-Brott—Executive Office of Environmental Affairs, Boston Massachusetts  
Mr. William W. Walker—Executive Director, Department of Marine Resources, Biloxi, Mississippi  
Mr. Karl W. Muessig—New Jersey Department of Environmental Protection  
Mr. Robert H. Boyles, Jr.—South Carolina Department of Natural Resources  
Mr. Victor G. Carrillo—Chairman, Railroad Commission of Texas  
Mr. Mark S. Davis—Executive Director, Coalition to Restore Coastal Louisiana  
Mr. James E. Carlton, III—Land Manager, Conoco Phillips Company  
Mr. Bruce Thompson—Government Relations Consultant, Forest Oil Corporation  
Ms. Melody B. Meyer—Vice President, Chevron Texaco North America Upstream  
Mr. Galen L. Cobb—Vice President, Industry Relations, Halliburton  
Mr. George M. Banino—Vice President & Senior Consultant, Earth Tech, Inc.  
Mr. George N. Ahmaogak, Sr.—Former Mayor of North Slope Borough  
Mr. Ganesier Ramachandran—Councilman, St. Charles Parish  
Mr. Paul N. Cicio—Executive Director, Industrial Energy Consumers of America  
Ms. Carla C. Sullivan—Senior Policy Advisor, Office of the Under Secretary, NOAA  
Mr. Donald R. Schregardus—Deputy Assistant Secretary of the Navy for Environment  
Mr. Mitchell T. Baer—Office of Policy and International Affairs, Department of Energy  
Mr. Robert W. Smith—Geographer, Oceans Affairs, Department of State  
Mr. Thomas H. Gilmour—Assistant Commandant for Marine Safety, Security & Env. Protection  
Ms. Anne N. Miller—Director, Office of Federal Activities, USEPA  
Acting Assistant Secretary—USDOJ, Land and Minerals Management  
Mr. H. Craig Manson—Assistant Secretary, Fish and Wildlife and Parks  
Ms. Rejane “Johnnie” M. Burton—Director, Minerals Management Service  
Associate Director—Minerals Management Service

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