

THE FEDERAL ENERGY REGULATORY COMMISSION AND THE MINERALS MANAGEMENT SERVICE

The guest editors of this special issue of *Oceanography* magazine on marine renewable energy asked the US Department of the Interior's Minerals Management Service (MMS) and the Federal Energy Regulatory Commission (FERC or Commission) to submit articles addressing their marine renewable energy activities (see following two articles). Each agency has an important role in authorizing marine renewable energy projects, including offshore wind and hydrokinetic power.

The Federal Power Act (FPA) gives FERC jurisdiction over hydropower projects located on navigable waters and public lands or reservations of the United States. The Energy Policy Act of 2005 amended the Outer Continental Shelf Lands Act to give MMS the authority to grant leases, easements, or rights-of-way for alternative energy projects located on the Outer Continental Shelf (OCS).

Questions arose as to how these two authorities interrelate regarding "hydrokinetic" projects on the OCS that harness the powers of free-flowing waters such as waves, tides, and ocean currents to generate electricity. On April 9, 2009, Department of the Interior Secretary Ken Salazar and Commission Chairman Jon Wellinghoff signed a Memorandum of Understanding (MOU) clarifying the respective jurisdictions of FERC and MMS in authorizing hydrokinetic projects on the OCS.

The purpose of the MOU is to provide a cohesive and streamlined process between the two agencies. The MOU recognizes that MMS has sole jurisdiction over nonhydrokinetic renewable energy projects on the OCS. For hydrokinetic projects there, the MOU recognizes the authority of MMS to issue leases, easements, and rights-of-way, and the authority of the Commission to issue licenses. The MOU also clarifies that the Commission will not exercise its discretionary authority under the FPA to issue preliminary permits for hydrokinetic projects located on the OCS. On August 4, 2009, the Commission and MMS issued a collaboratively developed guidance document to supplement the MOU, providing information to applicants and stakeholders about the respective responsibilities of each agency and describing how leases and licenses for hydrokinetic projects on the OCS may be obtained.

— Timothy Konnert, FERC, and Wright J. Frank, MMS