

DRAFT

**Summary of February 20, 2009, Meeting
Ocean Energy Task Force
Regulatory Subcommittee**

Attendees:

Members: Kathleen Leyden (subcommittee chair, SPO), Commr. Pat McGowan (DOC), Rep. Stacy Fitts, and Gov. Angus King

State staff: Todd Burrowes (SPO), Dan Prichard (BPL), Catherine Carroll (LURC), Matthew Nixon (SPO), Marcia Spencer-Famous (LURC), Jim Cassida (DEP)

Others: Des Fitzgerald, Richard Podolosky, Tom Federle, Emily Walsh, Vivian Newman, Peter Browne, Mark Dittrick, and Cole Paquette; and (by phone) Jeff Thaler, Sarah Verville, Vivian Newman, Jay Clement, Alex Hoar, and Mike Johnson

I. Introductions. Subcommittee chair Kathleen Leyden welcomed those in attendance, who introduced themselves.

II. Minutes of meeting. The subcommittee approved the minutes of its February 6, 2009, meeting for posting on the Ocean Energy Task Force's website.

III. Updates on Progress Since Last Meeting; Discussion

Ms. Leyden provided an update on the dates of the next meeting of both the full Ocean Energy Task Force (March 11th, 2009) and Subcommittee 2 (February 27, 2009).

The subcommittee discussed the nature and scope of its role in relation to the work of other subcommittees and the task force as a whole. There was general agreement that subcommittee 7 provides a vehicle for facilitating communication and coordinating the work of the subcommittees whose tasks are inherently overlapping.

IV. Presentation and Discussion: Straw Proposal – Todd Burrowes (SPO)

Todd Burrowes provided an overview of a straw proposal regarding siting of one or more test projects in state waters to facilitate the testing of emerging deep-water wind energy technology.

The subcommittee's discussion of the straw proposal focused on the following:

- the desirability of expedited permitting with DEP as the lead agency, potentially through use of performance standards;
- potential merits of providing for a general permit in statute, as opposed to rulemaking, to help facilitate siting of offshore demonstration projects;
- potential approaches for performance standards and monitoring requirements;
- nature and scope of test project eligible for treatment as under an expedited, general permit approach; and
- relative merits of identifying places within which the general permit would apply by statute as opposed to a subsequent process using criteria developed through the task force process.

Following discussion, the subcommittee agreed to consider at its next meeting a revised and expanded straw proposal that provides for an expedited review and approval for an offshore wind energy demonstration project that addresses the following:

- Specification of test areas using the best available information;
- Performance standards or comparable approval criteria;
- Issuance of a submerged lands lease for a qualified project for an appropriate fee;
- Thorough monitoring and assessment of impacts associated with construction and operation of the test project and alteration or removal of the project in the event of significant adverse effects;
- Assurance that municipal review, if applicable, results in consistent and timely local requirements;
- Potential effect on significant scenic resources; and
- Allowance for public-private partnership

V. Consultation with federal agencies

Todd Burrowes summarized pre-meeting conversations with Jay Clement US Army Corps of Engineers (ACOE), Alex Hoar, US Fish and Wildlife Service (USFWS), and Mike Johnson and colleagues, National Marine Fisheries Service (NMFS), regarding a hypothetical test project scenario (single experimental turbine/platform in state waters) and related questions regarding federal permitting requirements and related information needs and opportunities for federal-state collaboration. Mr. Clement, Mr. Hoar, and Mr. Johnson participated in this part of the meeting by phone and concurred that the following are among the key points to consider regarding the federal role in review and approval of an offshore wind energy test project:

- Consultation with federal agencies in planning regarding location of test areas and prior to submission of permit applications for test projects would facilitate identification of issues and siting decisions and ACOE, NMFS, and USFWS are interested to working collaboratively on such efforts;
- Federal review and approval is required for projects located in state waters and pertinent federal authorities have no special or streamlined provisions regarding offshore wind test projects;
- A wind energy test project may be eligible for approval under the ACOE's programmatic general permit for Maine, although information needed for federal review to determine its eligibility and that required for an individual Section 10 permit be comparable in many cases;
- Site-specific, baseline information regarding benthic community, temporal and spatial use of the site by avian life and listed species, among other issues, would be needed for federal review;

- Inclusion of a submerged utility line, particularly one capable of transmission of power in excess of the test project's capacity, may complicate approval due to increased potential for adverse effects and the heightened prospect of subsequent, expanded development in the area; and
- In some circumstances, post-construction monitoring may be tool to avoid adverse impacts and address certain issues under pertinent federal authorities. USFWS cautioned against this approach as applied to commercial as opposed to research-oriented projects.

The subcommittee discussed these and related points with the above-noted federal agency representatives. Mr. Hoar provided a brief summary and answered questions regarding the applicability of the federal Migratory Bird Treaty Act as it may apply to an offshore wind energy test project.

VI. Other

There being no other business, Ms. Leyden adjourned the meeting.