

## **Outer Continental Shelf Hydrokinetic Energy Project Guidance**

**August 4, 2009**

Today, the Federal Energy Regulatory Commission (FERC) and the Minerals Management Service (MMS) jointly issued a guidance document addressing many issues relating to the development and implementation of hydrokinetic and hybrid energy projects located on the Outer Continental Shelf (OCS). The issuance of the guidance document serves as an outline for entities seeking to develop hydrokinetic projects on the OCS, building on the Memorandum of Understanding issued by FERC and MMS on April 9, 2009.

The guidance document provides a succinct roadmap for nonfederal entities seeking to develop and implement hydrokinetic energy projects on the OCS. Such entities must obtain a lease from MMS authorizing access to the potential project site. After receiving a lease from MMS, entities are then required to obtain a license from FERC authorizing the construction and operation of the proposed project. As described by the guidance document, hydrokinetic projects are projects that generate electricity from the motion of waves or the unimpounded flow of tides, ocean currents, or inland waterways. The OCS encompasses all submerged lands, subsoil, and seabed lying between approximately three nautical miles and 200 nautical miles from a state shore.

The guidance document also addresses the actions that an entity should take if it seeks to develop and implement hybrid projects or straddle projects. Hybrid projects are those projects that include technologies that generate electricity from hydrokinetic energy and at least one other form of renewable energy. Entities seeking to develop hybrid projects are required to obtain a lease from MMS that covers both technologies and a license from FERC that covers the hydrokinetic component of the project. A straddle project is one that straddles the boundary dividing state waters and the OCS. Straddle projects require a lease from MMS for the OCS portion of the project and a FERC license for both portions.

In addition, the guidance document addresses specific issues that could be of interest to certain entities, depending on the parameters of the proposed project. For example, the guidance document addresses testing of hydrokinetic projects under limited leases, the conversion of a limited lease into a commercial lease, and pilot projects. Further, the guidance document addresses lease and license terms, financial assurance requirements, and fee structures.

FERC and MMS explain that the guidance document is not intended to serve as a rulemaking, or to otherwise supersede any applicable statutes or regulations. In that regard, the guidance document encourages interested entities seeking to develop and implement hydrokinetic projects on the OCS to consult the applicable regulations governing an entity's particular concern.

Additional information, including the guidance document, may be obtained on FERC's website at <http://www.ferc.gov> or on the MMS website at <http://www.mms.gov/>.

For further information about the topics discussed in this LawFlash, please contact either of the following Morgan Lewis attorneys:

**Washington, D.C.**

John. D. McGrane	202.739.5621	<a href="mailto:jmcgrane@morganlewis.com">jmcgrane@morganlewis.com</a>
Michael Keegan	202.739.5043	<a href="mailto:mkeegan@morganlewis.com">mkeegan@morganlewis.com</a>

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