

Environmental Alert

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Offshore Wind Energy Development in Mid-Atlantic Moving Forward

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On February 2, 2012, the Bureau of Ocean Energy Management (“BOEM”) issued a long-awaited final **environmental assessment** of offshore wind energy development off the coasts of New Jersey, Delaware, Maryland and Virginia. The study, which was conducted pursuant to the National Environmental Policy Act (“NEPA”), concluded that there would be no significant environmental impact to these areas if BOEM issues leases and approves site assessment plans for offshore wind energy development in **these areas**. The study was undertaken as part of Secretary of the Interior Ken Salazar’s “Smart from the Start” initiative to spur wind energy development on the outer continental shelf of the Atlantic Ocean.

Coinciding with the publication of the environmental assessment, BOEM announced that it is soliciting statements of interest from wind energy developers considering the potential lease areas off the **coast of Virginia**. Based on the level of interest, BOEM will determine whether to proceed with a competitive or non-competitive lease process. BOEM has already determined that there is sufficient interest in development off **Maryland’s coast** to hold a competitive lease process. It is seeking public comments about the potential lease areas off both states.

Being awarded a lease is the first step in constructing a wind energy conversion system, but it does not automatically permit a developer to begin construction. It gives the developer the exclusive right to conduct site assessment studies and to apply for BOEM approval to begin construction. Once awarded a lease, developers must first submit a site assessment plan to BOEM. The plan covers planned activities such as the construction of a meteorological tower and meteorological buoys at the site. If the plan is approved, site assessment activities may begin. In addition to the wind resource evaluation, site assessments must include a shallow hazards survey, geological survey, geotechnical survey and archeological survey. Following the site assessment, developers can formulate and submit construction and operation plans to BOEM for approval.

There is no guarantee that a lessee’s construction and operation plan will be approved. Each developer’s construction and operation plan must be subjected to NEPA’s environmental impacts review, which entails a lengthy environmental and socioeconomic review process with public participation. Approvals, permits, and input will have to be obtained from a number of agencies, including the National Oceanic and Atmospheric Administration, Coast Guard, Fish and Wildlife Service, Federal Energy Regulatory Commission, and relevant state agencies. Even under the streamlined program envisioned by the Smart from the Start initiative, individual projects are likely to undergo a prolonged period of review and permitting prior to construction.

Concurrently with the assessment, BOEM also issued commercial **lease forms** for the wind energy areas. These forms were developed through a process involving public, industry and governmental entities. The forms should facilitate the issuance and approval of leases.

These important announcements are significant steps towards utility-scale wind development of approximately 800 square nautical miles of the mid-Atlantic. They are, however, only the first step in the long process of review and permitting before construction can begin. If you are interested in taking advantage of this offshore wind energy development opportunity, contact Venable LLP’s team of **Environmental Law** professionals for advice.