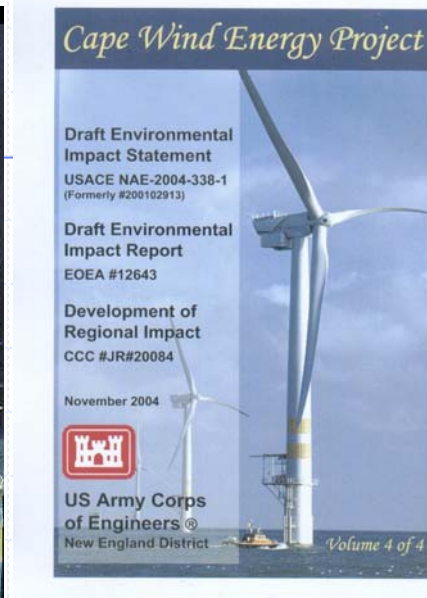


Cape Wind DEIS/DEIR Public Information Meeting

Massachusetts Environmental Policy Act Office
Executive Office of Environmental Affairs



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What is MEPA ?

- ◆ Massachusetts Environmental Policy Act, 1972
- ◆ Statute - M.G.L. c.30, ss. 61-62H
- ◆ Regulations - 301 CMR 11.00, revised in 1998
- ◆ Informal administrative process providing opportunity for public review of environmental impacts of projects for which a state agency action is needed

Multiple-tiered review for large projects

- ◆ 1st stage : Environmental Notification Form (ENF), filed November 2001
- ◆ Scope issued April 2002
- ◆ 2nd stage: EIR review, pending (further broken into Draft and Final EIR review)
- ◆ 3rd Stage: project permitting (incorporates EIR through Section 61 mechanism)

Review processes are coordinated

- ◆ MEPA review occurring jointly with USCOE and CCC
- ◆ Joint EIS/EIR/DRI document, but each agency renders independent decisions on adequacy subject to its own regulations and jurisdiction

Cape Wind MEPA scope

- ◆ Includes analysis of impacts from whole project (including federal waters), for informational purposes
- ◆ Includes requirement to disaggregate impacts specific to state waters/land
- ◆ Determination of adequacy based on analysis of that portion of the project within state jurisdiction
- ◆ Secretary may offer advisory comments to USACOE on portions in federal waters

Scope Topics

- ◆ Alternatives (onshore and offshore)
- ◆ Permitting Consistency
- ◆ Visual
- ◆ Noise
- ◆ Avian
- ◆ Fisheries
- ◆ Wetlands/ Benthic
- ◆ Water Quality

Scope Topics (continued)

- ◆ Public Trust/Chapter 91
- ◆ Rare Species
- ◆ Land Alteration
- ◆ Historic/Archaeological
- ◆ Construction Period
- ◆ Decommissioning Plans
- ◆ Monitoring Programs
- ◆ Response to Comments
- ◆ Miscellaneous

Publication

- ◆ Draft EIR noticed in the November 23, 2004 Environmental Monitor
- ◆ Proponent extended comment period to run concurrently with ACOE process
- ◆ Comments due on February 24, 2005

Review of Draft EIR

- ◆ Leads to determination of adequacy
- ◆ If found adequate, project proceeds to Final EIR
- ◆ If found inadequate, proponent prepares supplemental Draft EIR
- ◆ In either case, Secretary specifies what issues remain for next stage of review

Standard for Determination

- ◆ Two key interrelated tests established in 301 CMR 11.08(8)(b)
- ◆ Secretary must find DEIR adequate if Secretary determines that the DEIR is “generally responsive” to
 - 1) the April 2002 scope, and ;
 - 2) 301 CMR 11.07 (provisions for outline and content of EIRs) as modified by scope
- ◆ Otherwise may be found inadequate

State Permits/Actions Needed

- ◆ Chapter 91 License (DEP)
- ◆ 401 Water Quality Certificate (DEP)
- ◆ Superseding Order of Conditions (DEP, only on appeal)
- ◆ Energy Facility Siting Board Approval (EFSB)
- ◆ Consistency Review (CZM)

Chapter 91 Variance

- ◆ DEP determined that cable requires a Variance under C.91
- ◆ High standards to receive variance, including analysis of:
 - 1) Alternatives analysis, alternatives without variance;
 - 2) Detriments to public interests in waterways, minimization of impacts and mitigation;
 - 3) Overriding public interest served by the project

CZM Federal Consistency

- ◆ CZM jurisdiction extends to federal activities that may effect resources of MA coastal zone
- ◆ Review based on enforceable policies developed by CZM and approved by NOAA
- ◆ Enforceable policies include Energy, Ocean Resources, Ports, Habitat, Coastal Hazards, and Public Access
- ◆ Determination is made toward end of the process, following MEPA and state permitting, but before final federal permit