

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

May 28, 2008

OFFICE OF THE
REGIONAL ADMINISTRATOR

Mr. Glenn G. Wattley
President & CEO
Alliance to Protect Nantucket Sound
4 Barnstable Road
Hyannis, MA 02601

Re: Need for a Preconstruction General Conformity Determination and a Preconstruction Outer Continental Shelf (OCS) Air Permit for Cape Wind; Request for Public Review.

Dear Mr. Wattley:

Thank you for your May 7, 2008, letter which you sent jointly to Mineral Management Service (MMS) and EPA New England. Both federal agencies have responsibilities under the National Environmental Policy Act and the Clean Air Act to ensure that the construction, operation and decommissioning of Cape Wind Associates' proposed wind-powered generating facility in Nantucket Sound is environmentally acceptable and complies with all applicable federal and state laws.

On April 21, 2008, EPA New England submitted our comments on the Cape Wind Energy Project Draft Environmental Impact Statement to MMS. (A copy is available at: www.epa.gov/region01/nepa/recent.html.) In our comments, EPA requested additional information be provided for MMS's general conformity determination and EPA's future Offshore Continental Shelf (OCS) source air permit. EPA New England will be coordinating carefully with MMS to help assure that the MMS general conformity determination is consistent with the Clean Air Act. EPA has a vested interest in coordinating with MMS, because it is the Agency's hope to adopt MMS's determination when making our own conformity determination associated with the issuance of an OCS air permit. See 40 CFR 93.154.

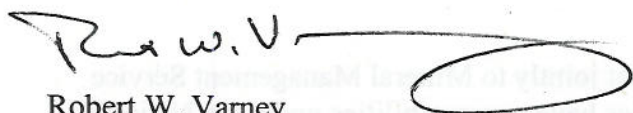
As you correctly point out in your letter, the general conformity regulations at 40 CFR 93.156 require a federal agency to make public its draft conformity determination by placing a notice by prominent advertisement and by providing 30 days for written public comment prior to taking any formal action on the draft determination. We also acknowledge Alliance to Protect Nantucket Sound's (APNS) interest in any future general conformity determination associated with the Cape Wind Project. EPA will notify APNS of any future public review process associated with a draft conformity determination for EPA's OCS air permit, and will work with MMS to ensure that its conformity determination meets the procedural requirements of 40 CFR 93.156.

Help us serve you better. If you need to call us regarding this correspondence in the future, please reference R1-08-000-6248.

Your letter also inquired about public participation in any permitting processes under Section 328 of the Clean Air Act and its implementing regulations at 40 CFR part 55 (Outer Continental Shelf Air Regulations). Part 55 requires EPA to follow the applicable procedures of 40 CFR part 124 (Procedures for Decisionmaking) in processing permit applications for Outer Continental Shelf sources. Part 124, in turn, includes detailed provisions regarding public participation, including procedures for public notice of permit actions, a public comment period, and an opportunity to request a public hearing. Furthermore, with respect to the proposed Cape Wind project, EPA will include the Alliance to Protect Nantucket Sound on a mailing list of interested parties that will receive notice of any permit actions directly, in addition to the more general forms of public notice required by part 124.

If you have any further questions, you may contact Ida McDonnell of the Air Permits, Toxic, Indoor Air Unit at (617) 918-1653 (regarding EPA's air permit responsibilities), or Donald Cooke of the Air Quality Planning Unit at (617) 918-1668 (regarding EPA's general conformity responsibilities).

Sincerely,



Robert W. Varney
Regional Administrator

cc: Dr. Rodney E. Cluck, Minerals Management Service

bcc: Ira Leighton
David Conroy
Tim Williamson
Ronald Fein
Elizabeth Higgins
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