

OCS Renewable Energy Program Framework

General Themes

Coordination and Consultation. The MMS will coordinate and consult with relevant Federal agencies, with the Governor of any state, and the executive of any local government that may be affected by a renewable energy lease. The MMS encourages companies planning to pursue renewable energy activities on the OCS to conduct preliminary outreach, as early in the process as possible, by contacting appropriate state and local parties.

This final framework will be applied in conjunction with interagency-led planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS. These activities will include multifaceted spatial planning efforts that will incorporate ecosystem based science and stewardship along with socioeconomics, research, and modeling in the context of demands for other ocean uses.

Environmental Information, Management, and Compliance. Compliance with the National Environmental Policy Act, the Coastal Zone Management Act, and other relevant laws will be required throughout the life of an OCS renewable energy project—from lease issuance to site assessment, construction, and operation to decommissioning of facilities. Appropriate mitigation measures will be developed through the leasing and plan approval processes.

Understanding the need to be flexible while overseeing the emerging offshore renewable energy industry, MMS will use adaptive management practices as we launch our Renewable Energy Program. We will apply what we and the industry are able to learn by monitoring offshore activities, and adjust our mitigation and other requirements on a case-by-case basis.

Types of Leases and the Lease Issuance Process

Leases. There will be two types of leases issued:

- (1) commercial leases authorizing full build-out and commercial production of energy over a long term (approximately 25 years); and
- (2) limited leases authorizing data collection and technology testing activities over a short term (approximately 5 years).

All leases will include the right to a project easement without further competition for the purpose of installing necessary gathering, transmission, and distribution lines or pipelines or substations.

Lease Issuance Process. Renewable energy leases must be issued on a competitive basis unless it is determined that there is no competitive interest. The Program framework outlines both competitive and noncompetitive lease issuance processes.

The competitive leasing process includes the following steps:

- Issuance of the Call for Information seeking information from all parties interested in and affected by the potential lease sale
- Publication of the Area Identification identifying specific areas for leasing consideration and any alternatives to the proposed sale action, mitigation measures, and issues to be analyzed and considered for leasing
- Preparation of necessary environmental compliance documentation (e.g., NEPA, CZMA, and ESA)
- Publication of the Proposed Sale Notice requesting comments on the proposed bidding systems, fiscal terms, lease terms and conditions, mitigation, and award criteria
- Publication of the Final Sale Notice
- Conduct of lease auction and evaluation of bids
- Issuance of leases

The noncompetitive leasing process includes the following steps:

- MMS receives proposal for OCS renewable energy project
- Publication of notice describing proposal and requesting information to use in determining whether competitive interest exists
- If no competitive interest exists, MMS can proceed to issue a noncompetitive lease. If competitive interest exists, then MMS will proceed with the lease sale process (whenever competitive interest is determined, the competitive process must be followed).
- Applicant submission of SAP
- MMS review of lease and SAP together and preparation of necessary environmental compliance documentation (e.g., NEPA, CZMA, and ESA)
- MMS determination of lease terms and conditions in consideration of environmental, socioeconomic, and market factors
- Issuance of leases

Site Assessment, Construction & Operation, Payments, Decommissioning, and Associated Requirements for MMS-Issued Leases

Required Plans. There are two types of plans for commercial development: (1) Site Assessment Plan (SAP) and (2) Construction and Operations Plan (COP).

Both the SAP and the COP will be required for commercial leases. The SAP describes the site assessment phase, in which a lessee may install a meteorological or marine data collection facility to assess renewable energy resources. The COP describes the construction and operations (generation of power) phase, as well as general plans for decommissioning facilities after termination of the lease. The lessee may submit one plan covering both SAP and COP activities when there is sufficient information to support environmental and technical review.

A General Activities Plan (GAP) will be required for technology testing and resource assessment activities on a limited lease. The GAP describes all site assessment and development activities. A GAP also is the type of plan required to describe activities on a renewable energy right-of-way or right-of-use and easement.

The rule outlines timelines and processes for submission, review and approval or disapproval of SAPs, COPs, and GAPS. For hydrokinetic construction and operations activities that will be authorized by FERC license the rule refers to the license application in lieu of a COP.

Design, Fabrication, and Installation Requirements. MMS will require lessees to submit reports describing the renewable energy project's final design, fabrication, and installation of facilities after MMS approves the SAP, COP, or GAP, as applicable.

- The Facility Design Report contains detailed description of the proposed facility or facilities and locations on the OCS.
- The Fabrication and Installation Report describes the plans for both the facility's fabrication and installation process, and will include a schedule for fabrication and installation as well as detailed engineering and environmental information.

In addition to the technical reports, a third party verification process may be required that calls for a certified verification agent (CVA) to verify and certify that projects are designed, fabricated, and installed in conformance with accepted engineering practices and with the submitted reports.

Safety Management, Inspections, and Facility Assessments. The regulatory framework includes requirements to prevent or minimize the likelihood of harm or damage to the marine and coastal environments and to promote safe operations, including their physical, atmospheric, and biological components.

Bonuses, Rentals, Royalties, and Other Fees to Ensure Fair Return.

Commercial Leases:

- Competitive issuance
 - Bonus bid. Minimum bid level set in sale notice
- Noncompetitive issuance
 - \$0.25 per acre acquisition fee
- All commercial leases
 - \$3.00 per acre annual rental until commencement of production; \$5.00 per acre annual rental for project easement
 - Operating fee based on installed capacity =
installed capacity x hrs. per yr. x capacity factor x power price x fee rate
(except for hydrokinetic generation, which will have fees set on a case-by-case basis)

Limited Leases:

- Competitive issuance
 - Bonus bid. Minimum bid level set in sale notice
- Noncompetitive issuance
 - \$0.25 per acre acquisition fee
- All limited leases
 - \$3.00 per acre annual rental; \$5.00 per acre annual rental for project easement

Financial Assurance. These requirements are designed to minimize the risk of financial loss to the Federal Government if lessees and operators default in fulfilling their obligations under this rule and other applicable laws or regulations. The MMS will require lessees provide sufficient financial collateral to assure obligations can be fulfilled by a third party in the event of default.

Revenue Sharing with States. EPOA requires the Federal Government to share 27 percent of the revenues received from any project located wholly or partially within the area extending three nautical miles seaward of the state's submerged lands, with any state that has a coastline that is located within 15 miles of the geographic center of the project.

Decommissioning Obligations and Requirements. The rule provides that all facilities, including pipelines, cables, and other structures and obstructions, should be removed when they are no longer used for operations but no later than two years after the termination of the lease.

Other MMS Authorizations for Renewable Energy Activity on the OCS

Rights-of-Way (ROW) and Rights of Use and Easements (RUE). A ROW or RUE grant will be issued to authorize OCS renewable energy activities that are not associated with an MMS-issued renewable energy lease. A ROW will apply to energy transmitted across the OCS from renewable energy resources onshore or in state waters. Similarly, a RUE grant will be issued to authorize a facility on the OCS that supports a renewable energy project located on state submerged lands. A rent of \$5.00 per acre will be charged for ROWs and RUEs, and a fee of \$70.00 per statute mile will be charged for ROWs.

ROWs and RUEs will follow the same issuance processes as leases.