

Competitive Solar and Wind Energy Leasing Regulations

**43 CFR Part 2800 and 2880
- Proposed Rule -**

December 2014



Proposed Rule Milestones

Action	Dates
ANPR Published –	12/29/11
Proposed Rule Published –	9/30/14 (60-day comment period)
Comment Period Extended –	11/21/14 (15-day extension of comment period)
Comment Period Ends –	12/16/14
Publish Final Rule* –	Target October 2015

*Rule Effective 30 days after publication in Federal Register



Comment Period

Comment period ends December 16, 2014

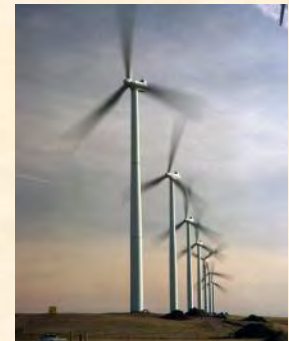
- Comments must be received on or before this day to be addressed under the rulemaking process.

Comments may be submitted by:

- Mail: Director (630)
Bureau of Land management
U.S. Department of the Interior
1849 C Street. NW., Room 2134LM
Washington, DC 20240
Attention: 1004-AE24



- Personal or Messenger delivery:
U.S. Department of the Interior
Bureau of Land Management
20 M Street, SE., Room 2134LM
Washington, DC 20003
Attention: Regulatory Affairs



- Federal eRulemaking Portal:
<http://www.regulations.gov>

General Components of the Proposed Rule

New Terminology

- Designated Leasing Areas (DLAs) – Competitive solar and wind leasing areas

Cost Recovery

- Allow Collection for other Federal agencies (i.e., FWS)

Applications (outside DLA only)

- Required Pre-application Meetings (solar/wind/t-line/pipeline)
- Filing Fee – Solar and Wind applications and assignments
- Prioritize Applications

Competitive Process Established

- Competing Applications or BLM's Initiative (outside DLA)
- Parcels Selected from Applications/Nominations/Expressions of interest
- Variety of Competitive Procedures (i.e., sealed/oral/electronic)
- Notice of Competitive Offer (FR Notice 30-days prior)
- Bidding – 2 components
 - Minimum Bid (includes administrative costs and an amount determined by BLM)
 - Bonus Bid (any amount above Minimum Bid, determined by bidder)

Terms and Conditions

- Diligent Development and Operations
- Bonding Requirements



General Components of the Proposed Rule

Rents and Fees

- Acreage Rent (varies by County)
 - Solar - 100% encumbrance
 - Wind - 10% encumbrance
- Megawatt Capacity Fee (based on approved MW capacity)
 - Solar - \$3,548 per MW PV, \$4,435 CSP, \$5,322 CSP with Storage
 - Wind - \$6,209 per MW
- Outside DLAs - 3-Year MW capacity fee Phase-in
- Inside DLAs - 10-Year MW capacity fee Phase-in
- Acreage and MW capacity fee schedules will update with Market and Inflation
 - Acreage Rent schedules would be adjusted every 5 years (next in 2020)
 - MW Capacity Fee schedule updated every 5 years



Comparing Inside and Outside DLAs

	Outside DLA	Designated Leasing Area
Authorization	ROW grant	Competitive ROW lease
Application	Pre-application meetings	No pre-application meetings (BLM call for nominations)
	Application Fee (\$15/acre)	Nomination Fee (\$5/acre)
Processing	ROW Application EIS – Applicant Public Meetings Full Cost Recovery	Leasing - BLM POD Application EA for POD – Holder No Public Meeting POD Cost Recovery
Term and Cond.	30-year Adjustable Subject to Renewal	30-year Fixed Extend w/ Operations

Comparing Inside and Outside DLAs

	Outside DLA	Designated Leasing Area
FMV/Rent	No Variable Offsets Acreage Rent Adjusted (Annual) MW Fee (3-year Phase) MW Schedule Adjusted (5 yr)	Upfront Bonus Bid w/Offset Acreage Rent Adjusted (10 year) MW Fee (50% 1 st 10 yr) MW Fee Adjusted After yr 20
Bonding	Bond based on RCE Minimum Bond	Standard Bond(\$10,000/ac) (\$20,000/turbine)
Due Diligence	POD w/application Construction within 2-years	POD 2-years after lease Construction within 5-years Generation within 7-years Extensions with good cause
Competition	Competitive to determine Preferred Applicant where appropriate	Variable Offsets (qualified bidders)

Competitive Bid Variable Offset (Designated Leasing Areas)

- Variable Offset Factors – Announced in Competitive Auction Notice
 - Power Purchase Agreement/Interconnect Agreement
 - Prior Site Testing
 - Submission of Nomination
 - Pending Applicant
 - Adjacent Lease (mixed ownership)
 - Storage Technology
 - PV/Dry Cooling CSP
- Variable Offsets – Pre-Qualified Bidders only
- Sample Offer Bids with a 20% Offset
 - Bidder #1 (pre-qualified) \$ 80,000 bonus bid
 - Bidder #2 (pre-qualified) \$100,000 bonus bid – **Winner**
(pay \$ 80,000)
 - Bidder #3 \$ 70,000 bonus bid
 - Bidder #4 \$ 85,000 bonus bid

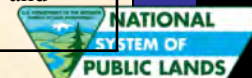
Proposed Rule (43 CFR 2880)

- Structure of the FLPMA right-of-way regulations (43 CFR 2800) are similar to MLA right-of-way regulations (43 CFR 2880)
- Proposed adjustments to FLPMA regulations are reflected under the MLA 2880 regulations where possible
 - Definitions
 - Pre-application procedures
 - Pre-application cost recovery
 - POD requirements
 - Collect cost recovery for Other federal agencies
 - Required Reclamation Cost Estimate (RCE)
 - Acceptable Bond instruments
 - Assignment Requirements
- No Designated Leasing Area language



Solar and Wind Differences in ROW Grants and Leases

	ROW Grants (Outside Designated Leasing Areas)	ROW Leases (Inside Designated Leasing Areas)	Applicable Regulations
All applications			
Pre-application meetings	Mandatory for all applications.	Does not apply.	43 CFR 2804.10
Screening Criteria	Applies to all applications.	Does not apply.	43 CFR 2804.25 and 2804.35
Competitive Process			
BLM would identify parcels for competitive offer	When there are 2 or more competing applications, or on the BLM's initiative.	After issuing a call for nominations, or on the BLM's initiative.	43 CFR 2804.30 and subpart 2809
Variable offset	Does not apply.	Each offset (and percent) described in Auction Notice; total offset cannot exceed 20 percent of total bid.	43 CFR 2809.16
The successful bidder:	Becomes the preferred applicant and may apply for a ROW grant.	Would be offered a ROW lease if requirements are met.	43 CFR 2804.30(f) and 2809.15
Terms and Conditions			
Assignment rights	Yes.	Yes.	43 CFR 2807.21 and 2809.18(f)
Due Diligence	2 years to begin construction, 24 months to complete construction.	2 years to submit POD, 7 years to complete construction.	43 CFR 2805.12(c)(3) and 2809.18(g)
Bonding	Minimum bond of \$10,000 per acre for solar/ \$ 20,000 per authorized turbine for wind	Standard bond of \$10,000 per acre for solar/ \$ 20,000 per authorized turbine for wind.	43 CFR 2805.20
Acreage Rent	Adjusted annually.	Adjusted every 10 years.	43 CFR 2806.50 and 2806.60
MW Fee Phase-ins	3 years at 25%/50%/100%.	10 years at 50%, then 100% for subsequent years.	43 CFR 2806.50 and 2806.60
Term Length of Grants and Leases	Up to 30 years.	30 years.	43 CFR 2805.11 and 2809.18(a)



QUESTIONS ?



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