

March 2009

Proposed Regulations Meeting



# Welcome

## Minerals Management Service

# Examples of Alternative Energy



Wind Energy

Wave Energy

Ocean Current Energy

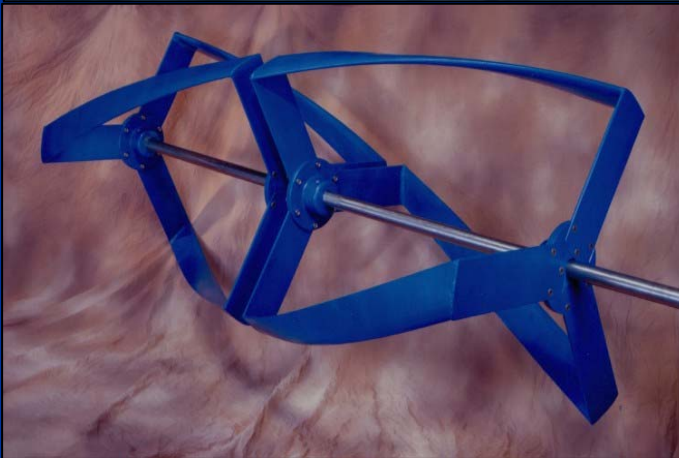
Solar Energy

Hydrogen



# Key Mandates for Regulations

- Safety
- Protection of the environment
- Coordination with affected State & local governments and Federal agencies
- Fair return for use of OCS lands
- Equitable sharing of revenue with States



# Program Considerations

Regulating a **broad spectrum**  
of activities:

- Alternative energy (e.g., wind, ocean wave, ocean current, solar, and hydrogen)
- Alternate use of existing facilities (e.g., research and offshore support stations, recreation opportunities)



# Program Considerations

Regulating an **emerging** offshore industry

- Pioneering and **entrepreneurial**
- Relatively **under-capitalized**
- Deploying **prototype technology** with uncertain environmental and engineering implications



# Program Considerations

## Partnering with *new stakeholders*

- “New” States and local governments (ME, OR, WA, MA, NY, NJ, DE, VA, GA, SC)
- “New” NGOs: Ocean Renewable Energy Coalition, Clean Energy States Alliance
- “New” Federal Entities: National Renewable Energy Labs

# What does MMS hope to accomplish today?

- Present an overview of the proposed regulations
- Respond to questions about proposed regulatory provisions
- Help you better understand the basis of our proposal

# The Regulations



# Major Rule Elements

- Coordination (throughout rule)
  - State/Federal Task Forces
- Leasing Process and Issuance (Subpart B)
  - Competitive & Noncompetitive Leasing
  - Commercial & Limited Leases
- Plans (Subpart F)
  - Site Assessment & Construction & Operations
  - General Activities
- Conduct of Approved Plan Activities (Subpart H)
  - Environmental & Safety Monitoring & Inspections
- Payments (Subpart E)
  - Bonding & Payments
- Decommissioning (Subpart I)
- Alternate Use (Subpart J)

# Two Types of Leases

- **Commercial Leases** for full development and power generation
- **Limited Leases** for resource assessment and technology testing

Both leases include a **project easement** for necessary cables or pipelines

# Two Processes

**Competitive** and **noncompetitive** processes will:

- Comply with Federal statutes (e.g., NEPA, CZMA, ESA, CAA, MSA, MBTA)
- Seek input from affected States, localities, and stakeholders

# Competition

Section 388: *Secretary shall issue a lease, easement, or right-of-way on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest*

Proposed Rule: Competition occurs if more than one qualified applicant is interested in leasing the same or overlapping geographic areas

# Competitive Process

**Call for Information** requests information about interest, issues, and concerns associated with specified areas

**Area Identification** describes the specific area, any alternatives to the proposed action, mitigation measures, and issues to be analyzed and considered for leasing

**Lease sale compliance documents** such as an EIS, consistency determination, and other consultation documents (e.g., ESA) are prepared by MMS

# Competitive Process

**Proposed Notice** describes proposed bidding systems, fiscal terms, lease terms and conditions, mitigation, and award criteria

**Final Notice** describes sale procedures and rationale for the final fiscal terms, lease terms and conditions, mitigation, and award criteria

**Award Lease**

# Competitive Lease Terms

**Commercial Leases** for full development and power generation

- 6-month preliminary term
- 5-year site assessment term
- 25-year operations term

**Limited Leases** for resource assessment and technology testing

- 6-month preliminary term
- 5-year operations term

# Competitive Commercial Lease

- Within 6 months, the lessee must submit **Site Assessment Plan (SAP)** describing assessment and survey activities needed to characterize the site for a commercial lease
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance documents
- MMS may approve, approve with conditions, or disapprove SAP

# Competitive Commercial Lease

- The lessee must submit **Construction & Operations Plan (COP)** within 5 years of SAP approval
- COP describes all activities and facilities to be installed and used to gather, transport, transmit, generate, or distribute energy from the lease
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance documents
- MMS may approve, approve with conditions, or disapprove COP

# Competitive Commercial Lease

Require two reports before constructing and installing facilities under an approved COP:

- **Facility Design Report** details of the design of facilities, including cables and pipelines, described in approved plans
- **Fabrication & Installation Report** details of how facilities will be built in accordance with plans and FDR

# Competitive Limited Lease

- Within 6 months of lease issuance, the lessee must submit **General Activities Plan (GAP)**
- GAP describes all activities and operations related to technology testing, including any facilities siting and project easement
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
  - Applicant pays for NEPA compliance documents
- MMS may approve, approve with conditions, or disapprove GAP

# Noncompetitive Process

Receive request for lease or grant

Issue public notice describing proposal and requesting information to determine whether competitive interest exists

Continue with noncompetitive process if no competitive interest exists

# Noncompetitive Commercial Lease

- Applicant submits SAP
- Applicant pays for NEPA compliance
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
- MMS determines the lease terms and conditions in consideration of environmental, socioeconomic, and market factors
- Lease issuance is deferred until the SAP is approved or approved with conditions

# Noncompetitive Limited Lease

- Applicant submits GAP
- Applicant pays for NEPA compliance
- MMS conducts required Federal environmental compliance (e.g., NEPA, MSA, ESA) and technical reviews
- MMS determines the lease terms and conditions in consideration of environmental, socioeconomic, and market factors
- Lease issuance is deferred until the GAP is approved or approved with conditions

# Noncompetitive Lease Terms

**Commercial Leases** for full development and power generation

- 5-year site assessment term
- 25-year operations term

**Limited Leases** for resource assessment and technology testing

- 5-year operations term

# Other Types of Instruments

- Right of Use and Easement (**RUE**) requires a GAP
- Right-of-Way (**ROW**) requires a GAP
- Alternate Use RUE (**AU RUE**) requires an application

# Alternative Energy ROW

**ROW** authorizes installation on the OCS of cables, pipelines and associated facilities that involve the transportation or transmission of electricity or other energy product from any alternative energy resource **not** associated with an OCS alternative energy lease (**not a project easement**)

# Alternative Energy RUE

RUE authorizes installations on the OCS that support the production, transportation or transmission of electricity or other energy product from any alternative energy resource **not** associated with an OCS alternative energy lease (e.g., supporting a project in state waters)

# Compliance with Plans

- Lessee or grantee **must comply** with **all** terms and conditions of the MMS-approved plans
- MMS will identify terms and/or conditions requiring certification of compliance
  - Lessee/grantee reports compliance and identifies any measures/monitoring that were not effective and recommends new measures/monitoring

# Lease & Grant Administration

Covers suspensions, assignments, cancellations, terminations, renewals etc:

- MMS may order or approve suspensions
- Rights may be assigned in whole or in part
- **Secretary** may cancel a lease or grant
- Leases may be renewed for the same activities
- MMS may issue noncompliance notices and cessation orders for failure to comply with lease or grant or regulatory requirements

# Inspections

- MMS will conduct **scheduled and unscheduled inspections** to:
  - Verify that activities are conducted as provided under OCSLA, regulations, lease or grant, and MMS-approved plans
  - Determine that proper safety equipment has been installed and is operating properly as provided under MMS-approved plans
- Lessee/grantee must develop an annual **self inspection plan**

# Decommissioning

- Decommissioning concept described in the MMS-approved plan is not an approval of actual decommissioning activities
- A **decommissioning application** must be submitted to MMS for approval no later than 2 years before planned removal activities begin (or immediately with cancellation, relinquishment, or other early termination)

# Decommissioning

- The application must describe:
  - Facilities, lines, and structures to be removed
  - Schedule
  - Removal methods and plan for site clearance
  - Information for NEPA and other Federal requirement compliance
- MMS discretion to allow structures to remain in place for alternate uses

# Financial Assurance

## Commercial Leases

- Require a lease-specific \$100,000 bond before lease issuance
- May require **additional bond** before **SAP** approval
- **Require COP bond** based on project complexity, projected payments, and decommissioning costs before COP approval

## Limited Leases, ROWs, RUEs

- Require a \$300,000 lease or grant-specific bond
- May increase based on projected payments, and abandonment & cleanup costs

# Payments

## Bonus Bids

- Minimum bid established in Final Sale Notice for leases or Auction Notice for grants

## Acquisition Fees

- \$0.25/acre for leases issued noncompetitively
- None for grants

## Rentals

- \$3.00/acre/year for leases
- \$5.00/acre/year for project easements, ROWs and RUEs
- Case-by-case for AU RUEs

# Payments

**Operating Fees:** Formula for commercial leases:

Regional retail power price per MW/hour

X

8,760 hours per year

X

a capacity factor

X

a fee rate (0.01 or 0.02)

X

MW of installed capacity (annual)

# Operating Fee Commercial Leases

Example: **150 megawatt (MW)** facility with an anticipated capacity factor of **0.35**, operating in a region with an average retail power price of **\$65** per MW-hr and a fee rate of 2%

$$(\$65/\text{MW-hr})(8760 \text{ hrs/yr})(0.35)(0.02)(150 \text{ MW}) = \mathbf{\$0.6 \text{ million/yr}}$$

# Revenue Sharing

- EPAct requires payment to eligible States **27 percent of the revenues** from any projects located wholly or partially within the area extending between 3 and 6 miles from shore
- Equitable distribution of shared revenue among coastal states that are within 15 miles of the geographic center of the project

# Alternate Use

- Describes the process for considering use of an existing OCS facility for energy or marine-related activities that are not otherwise authorized under the OCSLA or other Federal statutes
- Provides for issuing a Right-of-Use and Easement (**RUE**) for such activities
- Will work with Federal “SMEs” on alternate use applications

# Alternate Use

- Issued on a **competitive basis** unless there is no competitive interest
- **AU RUE holder** is responsible for decommissioning **obligations** accruing **after** issuance of RUE and pertaining to RUE
- **Original lessee retains** responsibility for decommissioning **obligations** associated with **prior** and continuing activities under its mineral lease

# More Information...



On the Web at:

[www.mms.gov/offshore/alternativeenergy](http://www.mms.gov/offshore/alternativeenergy)

By Phone at:

703-787-1300

Questions?