

# Renewable Energy Programs at MMS and CZMA

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**Minerals Management Service**  
Branch of Environmental Assessment &  
Office of Alternative Energy Programs



# Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf; Final Rule

(30 CFR Parts 250, 285, and 290)

*Federal Register* Vol. 74, No. 81, April 29, 2009

<http://edocket.access.gpo.gov/2009/pdf/E9-9462.pdf>

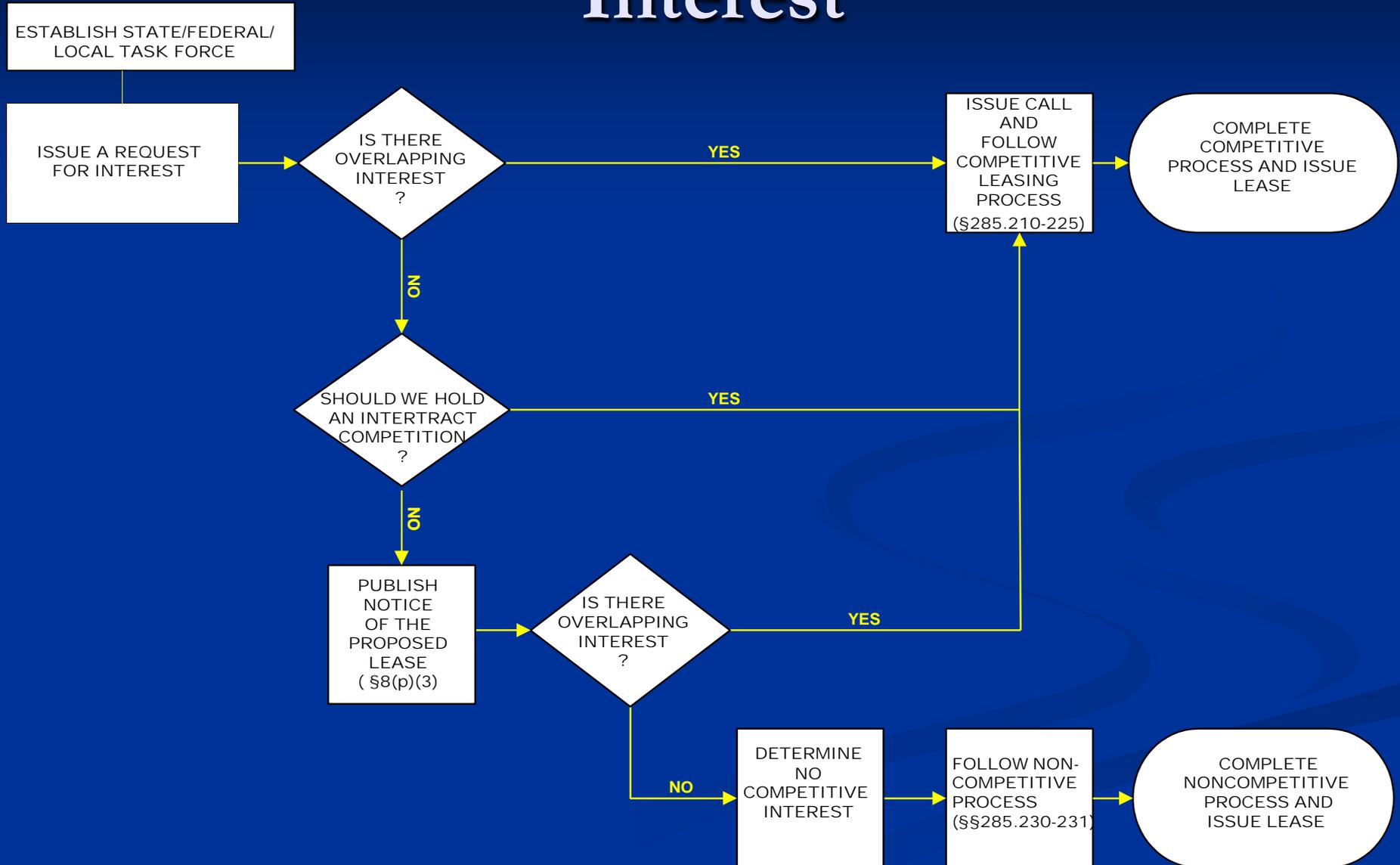
# Two Types of Leases

- Commercial leases allow for full scale development and power generation, long term
- Limited leases allow resource assessments and technology testing, short term

# Two Leasing Processes

- Competitive leasing process is used when multiple companies have interest in the same area
  - Geographic overlap
  - Inter-tract
- Noncompetitive process is used when there is only one company interested in an area (Secretarial determination)

# Determination of Competitive Interest



# Site Assessment Plan (SAP)

- A SAP describes the activities (e.g., installation of meteorological towers, meteorological buoys) the applicant plans to perform for the characterization of their commercial lease.
- Must include data from:
  - Physical characterization surveys (e.g., geological and geophysical surveys or hazards surveys); and
  - Baseline environmental surveys (e.g., biological or archaeological surveys).

# Site Assessment Plan (SAP)

- The SAP must include detailed information to assist MMS in complying with NEPA and other relevant laws, as appropriate.
- For competitive leases MMS will have prepared a NEPA document and Consistency Determination for the lease sale and expected site assessment activities. MMS may require information on impacts if the SAP shows changes in impacts from those identified in the NEPA document or consistency determination.
- For noncompetitive leases the applicant must submit the information on impacts along with the SAP.

# Construction & Operation Plan (COP)

- The COP must describe all planned facilities that applicant will construct and use for the project, including onshore and support facilities and all anticipated project easements.
- The COP must describe all proposed activities including the proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.
- MMS can not approve plan unless State concurs with Consistency Certification (or NOAA over-ride).

# General Activities Plan (GAP)

- Describes proposed construction, activities, and conceptual decommissioning plans for all planned facilities, including testing of technology devices and onshore and support facilities for the project, including any project easements, for the assessment and development of a limited lease or grant.

# Other Types of Instruments

- Right of Use and Easement (RUE) requires a GAP – An easement to use of a designated portion of the OCS to support activities on a lease or other use authorization for renewable energy activities
- Right-of-Way (ROW) requires a GAP – An authorization to use part of the OCS for the construction and use of a cable or pipeline for the purpose of gathering, transmitting, distributing, or otherwise transporting electricity or other energy product generated or produced from renewable energy

# What is Federal Consistency under NOAA's Regulations (15 CFR 930) for the Coastal Zone Management Act?

- Federal consistency is the provision that Federal actions that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone (also referred to as coastal uses or resources, or coastal effects) should be consistent with the enforceable policies of a coastal state's federally approved Coastal Management Program.

## 15 CFR part 930 Subpart C : Federal Agency Activities

- If there are coastal effects then MMS prepares a Consistency Determination (CD) stating that its activity is consistent to the “Maximum Extent Practicable”.
- State Concurrs with or Objects to the CD. If Objection, MMS can still proceed if it describes legal impediments to being fully consistent or is fully consistent with the State’s enforceable policies.

## 15 CFR part 930 Subpart D: Consistency for Activities Requiring a Federal License or Permit

- Private Activities Requiring Federal Licenses or Permits
- “Applicant” prepares Consistency Certification (CC) stating that its licensed/permitted activity is fully consistent with the State’s CMP.
- State Concurrs with or Objects to the CC. If Objection, MMS can NOT issue the license or permit unless overturned by NOAA thru appeals process.

## 15 CFR part 930 Subpart E : Consistency for Outer Continental Shelf (OCS) Activities

- OCS Energy Exploration, Development and Production Activities Requiring Federal Licenses or Permits
- “Person” prepares Consistency Certification (CC) stating that its licensed/permitted activity is fully consistent with the State’s CMP.
- State Concurrs with or Objects to the CC. If Objection, MMS can NOT issue the license or permit unless overturned by NOAA thru appeals process.

# What are Examples of Different Federal Renewable Energy Actions Subject to Federal Consistency?

- **Subpart C:** Federal Agency Activities, (e.g. OCS lease sales, competitive renewable energy Rights Of Way, Rights of Use (ROW/RUE) grants).
- **Subpart D:** Federal Permits and Licenses not already described in OCS plans, (e.g. geological & geophysical permits, pipeline and renewable energy noncompetitive ROW/RUE grants, renewable energy noncompetitive Site Assessment, General Activity, or Construction and Operations Plans).
- **Subpart E:** OCS plan activities, (e.g. exploration, development & production activities, renewable energy competitive Site Assessment, General Activity, or Construction and Operations Plans).

# Frequency of NEPA/CZMA Reviews

Instrument Held	MMS Process	NEPA Documentation and CZMA Review
Competitive Commercial Lease	Conduct lease sale and issue decision on plans	<ol style="list-style-type: none"> <li>1. Lease sale and SAP activities EIS</li> <li>2. COP</li> </ol>
Non Competitive Commercial Lease	Negotiate and issue lease	<ol style="list-style-type: none"> <li>1. Lease Issuance and SAP</li> <li>2. COP</li> </ol>
Competitive Limited Lease	Conduct lease sale and issue decision on plan	<ol style="list-style-type: none"> <li>1. Lease Sale</li> <li>2. GAP</li> </ol>
Noncompetitive Limited Lease	Negotiate and issue lease	<ol style="list-style-type: none"> <li>1. Lease sale issuance and GAP</li> </ol>
Competitive ROW, RUE Grant	Conduct ROW, RUE sale and issue decision on plan	<ol style="list-style-type: none"> <li>1. ROW, RUE sale</li> <li>2. GAP</li> </ol>
Noncompetitive ROW, RUE Grant	Negotiate and issue ROW, RUE grant	<ol style="list-style-type: none"> <li>1. ROW, RUE issuance and GAP</li> </ol>

Table 2: Federal Register Vol. 74, No. 81 Page 19691

# 30 CFR Part 285.612

<b>If your commercial lease was issued...</b>	<b>Your SAP will be handled as follows:</b>
(a) Competitively	The MMS will prepare a consistency determination that will cover the lease sale and site assessment activities. However, if you submit a SAP that shows changes in impacts from those identified in the lease sale consistency determination, you may be subject to a new consistency review. In that case, MMS will notify you of the determination and we will forward to the State CZM agency 1 copy and 1 electronic copy of your SAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after MMS has determined that all information requirements for the SAP are met and MMS prepares its NEPA compliance document.
(b) Noncompetitively	You will furnish a copy of your SAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the State's CZM agency and MMS at the same time.

# Subpart Use Examples

Competitive Status	Type of Project	ReN Lease Type	MMS Plan Type	CZMA Subpart	Deciding Authority
Competitive	Technology testing, including low-level power generation <5 mW, power transmission	Limited		Subpart C (Lease Sale)	MMS
Non-competitive			GAP	Subpart E (Plan)	Affected State(s)
Competitive	Multiple users electrical substation, off-lease transmission line(s)	RUE Grant ROW Grant		Subpart C (Lease Sale)	MMS
Non-competitive			GAP	Subpart E (Plan)	Affected State(s)
Competitive	Wind Park	Commercial		Subpart C (Lease Sale) + SA Activities	MMS
Non-competitive			SAP* & COP	Subpart E (Plan)	Affected State(s)
Competitive	Hydrokinetic Project, full build-out	Commercial		Subpart C (Lease Sale) + SA Activities	MMS
Non-competitive			SAP	Subpart E (Plan)	Affected State(s)
Competitive	Hydrokinetic "Pilot Project," including low level power generation ≥5 mW	Commercial		Subpart C (Lease Sale) + SA Activities	MMS
Non-competitive			SAP	Subpart E (Plan)	Affected State(s)

\*Subpart E if notified by the MMS

## How MMS will handle Federal Consistency under the Coastal Zone Management Act (CZMA) and NOAA's Regulations found at 15 C.F.R. part 930:

### Competitive Commercial Lease & Site Assessment Activities:

- **MMS will prepare a Consistency Determination (CD) pursuant to NOAA's CZMA regulations at 15 C.F.R. part 930, subpart C for the combination of the lease and the projected Site Assessment Activities (SAA) as determined by MMS. (This is analogous to MMS preparing a CD for offshore oil and gas lease sales and pre-exploration plan activities.) If an applicant's Site Assessment Plan (SAP) (that MMS must approve) does not show changes in coastal effects from those described in the lease sale/SAA CD, the SAP would not be subject to further CZMA review. If a SAP is submitted that shows changes in coastal effects from those identified in the lease sale/SAA CD, the SAP may be subject to a new consistency review pursuant to NOAA's CZMA regulations in accordance with the "listing" and "geographic location description" requirements in 15 C.F.R. § 930.53; *see also* 15 C.F.R. § 930.74. If a CZMA Consistency Certification is required pursuant to NOAA's regulations, MMS will inform the applicant that further consistency review will be needed and the applicant will need to provide MMS (in both paper and electronic copy) with their SAP, CZMA Consistency Certification (CC) and necessary data, information and analysis pursuant to 15 C.F.R. part 930, subpart E. MMS will forward a copy of each to the applicable State(s) CZMA agency(ies) for processing under subpart E rules and timeframes. *See* 30 C.F.R. part 285.612.**
- **Copies Requested: 1 paper copy and 1 electronic copy each for SAP, Consistency Certification and necessary data, information and analysis for applicable State(s) and MMS.**

**How MMS will handle Federal Consistency under the Coastal Zone Management Act (CZMA) and NOAA's Regulations found at 15 C.F.R. part 930:**

**Competitive Commercial Lease: COP:**

- **The COP will usually be provided after a lease has been issued. Under this condition, the COP will be processed under 15 CFR part 930 subpart E. The applicant will need to provide MMS with their COP as well as their Consistency Certification (CC) and necessary data, information and analysis per subpart E. (30 CFR part 285.627(9)(ii)). MMS will forward a copy of each to the affected State(s) CZM agency(ies) for processing per subpart E rules and timeframes.**
- **Copies Requested: 1 paper copy and 1 electronic copy each for COP, Consistency Certification and necessary data, information and analysis per affected State and MMS.**

**Competitive Commercial Lease: SAP+ COP:**

- **If the applicant desires to submit a combined SAP and COP, Federal Consistency will be handled per 15 CFR part 930 subpart E. The applicant will need to provide MMS with their SAP+ COP as well as their Consistency Certification (CC) and necessary data, information and analysis per subpart E. MMS will forward a copy of each to the affected State(s) CZM agency(ies) for processing per subpart E rules and timeframes. (30 CFR part 285.627(9)(ii))**
- **Copies Requested: 1 paper copy and 1 electronic copy each for SAP+ COP, Consistency Certification and necessary data, information and analysis per affected State and MMS.**

**How MMS will handle Federal Consistency under the Coastal Zone Management Act (CZMA) and NOAA's Regulations found at 15 C.F.R. part 930:**

## **Noncompetitive Commercial Lease: SAP or COP or SAP+COP**

- **Federal Consistency will be handled per 15 CFR part 930 subpart D. The applicant will need to provide the affected State(s) CZM agency(ies) and MMS concurrently with their Consistency Certification (CC) and necessary data, information and analysis per subpart D. MMS will await State concurrence before authorizing the plan. (30 CFR part 285.612(b) and 30 CFR part 285.627(9)(i))**
- **Copies Requested: 1 paper copy and 1 electronic copy each for the Plan, Consistency Certification and necessary data, information and analysis per affected State.**

**How MMS will handle Federal Consistency under the Coastal Zone Management Act (CZMA) and NOAA's Regulations found at 15 C.F.R. part 930:**

**Competitive Limited Lease, ROW Grant, RUE Grant: GAP**

- **Federal Consistency will be handled per 15 CFR part 930 subpart E. The applicant will need to provide MMS with their GAP, Consistency Certification (CC) and necessary data, information and analysis per subpart E. MMS will forward a copy of each to the affected State(s) CZM agency(ies) for processing per subpart E rules and timeframes. (30 CFR part 285.647(a))**
- **Copies Requested: 1 paper copy and 1 electronic copy each for GAP, Consistency Certification and necessary data, information and analysis per affected State and MMS.**

**Noncompetitive Limited Lease, ROW Grant, RUE Grant: GAP**

- **Federal Consistency will be handled per 15 CFR part 930 subpart D. The applicant will need to provide the affected State(s) CZM agency(ies) and MMS concurrently with their GAP, Consistency Certification (CC) and necessary data, information and analysis per subpart D. MMS will then await State concurrence before approving the plan. (30 CFR part 285.647(b))**
- **Copies Requested: 1 paper copy and 1 electronic copy each for GAP, Consistency Certification and necessary data, information and analysis per affected State.**

# Questions?



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