

§ 285.201

30 CFR Ch. II (7–1–10 Edition)

§ 285.201 How will MMS issue leases?

The MMS will issue leases on a competitive basis, as provided under §§ 285.210 through 285.225. However, if we determine after public notice of a proposed lease that there is no competitive interest, we will issue leases non-competitively, as provided under §§ 285.230 and 285.232. We will issue leases on forms approved by MMS and will include terms, conditions, and stipulations identified and developed through the process set forth in §§ 285.211 and 285.231.

§ 285.202 What types of leases will MMS issue?

The MMS may issue leases on the OCS for the assessment and production of renewable energy and may authorize a combination of specific activities. We may issue commercial leases or limited leases.

§ 285.203 With whom will MMS consult before issuance of a lease?

For leases issued under this part, through either the competitive or non-competitive process, MMS prior to issuing the lease, will coordinate and consult with relevant Federal agencies (including, in particular, those agencies involved in planning activities that are undertaken to avoid conflicts among users and maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts), the Governor of any affected State, the executive of any affected local government, and any affected Indian tribe, as directed by subsections 8(p)(4) and (7) of the OCS Lands Act or other relevant Federal laws. Federal statutes that require us to consult with or respond to findings include the Endangered Species Act (ESA), and the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

§ 285.204 What areas are available for leasing consideration?

The MMS may offer any appropriately platted area of the OCS, as provided in § 285.205, for a renewable energy lease, except any area within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, National Marine

Sanctuary System, or any National Monument.

§ 285.205 How will leases be mapped?

The MMS will prepare leasing maps and official protraction diagrams of areas of the OCS. The areas included in each lease will be in accordance with the appropriate leasing map or official protraction diagram.

§ 285.206 What is the lease size?

(a) The MMS will determine the size for each lease based on the area required to accommodate the anticipated activities. The processes leading to both competitive and noncompetitive issuance of leases will provide public notice of the lease size adopted. We will delineate leases by using mapped OCS blocks or portions, or aggregations of blocks.

(b) The lease size includes the minimum area that will allow the lessee sufficient space to develop the project and manage activities in a manner that is consistent with the provisions of this part. The lease may include whole lease blocks or portions of a lease block.

§§ 285.207–285.209 [Reserved]

COMPETITIVE LEASE PROCESS

§ 285.210 How does MMS initiate the competitive leasing process?

The MMS may publish in the FEDERAL REGISTER a public notice of Request for Interest to assess interest in leasing all or part of the OCS for activities authorized in this part. The MMS will consider information received in response to a Request for Interest to determine whether there is competitive interest for scheduling sales and issuing leases. We may prepare and issue a national, regional, or more specific schedule of lease sales pertaining to one or more types of renewable energy.

§ 285.211 What is the process for competitive issuance of leases?

The MMS will use auctions to award leases on a competitive basis. We will publish details of the process to be employed for each lease sale auction in the FEDERAL REGISTER. For each lease

sale, we will publish a Proposed Sale Notice and a Final Sale Notice. Individual lease sales will include steps such as:

(a) *Call for Information and Nominations (Call)*. The MMS will publish in the FEDERAL REGISTER Calls for Information and Nominations for leasing in specified areas. The comment period following issuance of a Call will be 45 days. In this document, we may:

(1) Request comments on areas which should receive special consideration and analysis;

(2) Request comments concerning geological conditions (including bottom hazards); archaeological sites on the seabed or nearshore; multiple uses of the proposed leasing area (including navigation, recreation, and fisheries); and other socioeconomic, biological, and environmental information; and

(3) Suggest areas to be considered by the respondents for leasing.

(b) *Area Identification*. The MMS will identify areas for environmental analysis and consideration for leasing. We will do this in consultation with appropriate Federal agencies, States, local governments, affected Indian tribes, and other interested parties.

(1) We may consider for lease those areas nominated in response to the Call for Information and Nominations, together with other areas that MMS determines are appropriate for leasing.

(2) We will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.

(3) We will consult to develop measures, including lease stipulations and conditions, to mitigate adverse impacts on the environment; and

(4) We may hold public hearings on the environmental analysis after appropriate notice.

(c) *Proposed Sale Notice*. The MMS will publish the Proposed Sale Notice in the FEDERAL REGISTER and send it to the Governor of any affected State and the executive of any local government that might be affected. The comment period following issuance of a Proposed Sale Notice will be 60 days.

(d) *Final Sale Notice*. The MMS will publish the Final Sale Notice in the

FEDERAL REGISTER at least 30 days before the date of the sale.

§ 285.212 What is the process MMS will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?

The MMS may decide to end the competitive process before the Final Sale Notice if we have reason to believe that competitors have withdrawn and competition no longer exists. We will issue a second public notice of Request for Interest and consider comments received to confirm that there is no competitive interest.

(a) If, after reviewing comments in response to the notice of Request for Interest, MMS determines that there is no competitive interest in the lease area, and one party wishes to acquire a lease, we will discontinue the competitive process and will proceed with the noncompetitive process set forth in § 285.231(d) through (i). Under the noncompetitive process, the acquisition fee specified in § 285.502(a) must be submitted with the Site Assessment Plan (SAP) or GAP.

(b) If, after reviewing comments in response to the notice of Request for Interest, MMS determines that competitive interest in the lease area continues to exist, we will continue with the competitive process set forth in § 285.211 through 285.225.

§ 285.213 What must I submit in response to a Request for Interest or a Call for Information and Nominations?

If you are a potential lessee, when you respond to a Request for Interest or a Call, your response must include the following items:

(a) The area of interest for a possible lease.

(b) A general description of your objectives and the facilities that you would use to achieve those objectives.

(c) A general schedule of proposed activities, including those leading to commercial operations.

(d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. The