



4310-MR-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management.

30 CFR Parts 585 and 590

[Docket ID: BOEM-2012-0077]

RIN 1010-AD77

Timing Requirements for the Submission of a Site Assessment Plan (SAP) or General Activities Plan (GAP) for a Renewable Energy Project on the Outer Continental Shelf (OCS).

AGENCIES: Bureau of Ocean Energy Management (BOEM); Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the timing requirements for submitting a Site Assessment Plan (SAP) or General Activities Plan (GAP) pursuant to the regulations governing renewable energy and alternate uses of existing facilities on the Outer Continental Shelf (OCS). Under this proposed rule, all OCS renewable energy leases and grants will have a preliminary term of 12 months in which a lessee or grantee must submit a SAP or a GAP. BOEM is taking this action because the current regulations provide timing requirements for submission of SAPs and GAPs that have proven to be impractical.

EFFECTIVE DATE: Submit comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. BOEM may not fully consider comments received after this date.

INSTRUCTIONS: Direct your comments to Docket ID No. BOEM-2012-0077.

BOEM's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or by email. The www.regulations.gov website is an "anonymous access" system, which means BOEM will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to BOEM without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, BOEM recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM you submit. If BOEM cannot read your comment due to technical difficulties and cannot contact you for clarification, BOEM may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses.

ADDRESSES: Please use the Regulation Identifier Number (RIN) 1010-AD77 for comments directed to BOEM.

You may submit comments on the rulemaking by any of the following methods. See also Public Availability of Comments under Procedural Matters.

- Federal eRulemaking Portal: <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter BOEM-2012-0077, then click search. Follow the instructions to

submit public comments and view supporting and related materials available for this rulemaking. We will post all comments.

- Mail or hand-carry BOEM comments to the Department of the Interior; Bureau of Ocean Energy Management; Attention: Office of Policy, Regulations and Analysis (OPRA); 381 Elden Street, MS-4001, Herndon, Virginia 20170-4817. Please reference “Timing Requirements for the Submission of a Site Assessment Plan (SAP) or a General Activities Plan (GAP) for a Renewable Energy Project on the Outer Continental Shelf (OCS)” in your comments and include your name and return address.

- If you believe that this rule imposes any new information collection requirement(s), send your comments on the information collection in this rule to: Interior Desk Officer 1010–AD77, Office of Management and Budget; 202-395-5806 (fax); email:

oira_docket@omb.eop.gov. Please also send a copy of these comments to BOEM.

DOCKET: All documents in the docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Office of Policy, Regulations and Analysis, Bureau of Ocean Energy Management, U.S.

Department of the Interior, 381 Elden Street, Herndon, Virginia 20170.

FOR FURTHER INFORMATION CONTACT: Jennifer Golladay, Office of Renewable Energy Programs, at jennifer.golladay@boem.gov or 703-787-1688; or Peter Meffert, BOEM, Office of Policy, Regulations and Analysis, at Peter.Meffert@boem.gov

or 703-787-1610.

SUPPLEMENTARY INFORMATION:

This rule is designed to increase efficiency and reduce the burden of regulations, since it extends the timeframes for lessees and operators to submit plans and makes it possible for a Right-of-Use and Easement (RUE) to be approved while a GAP is still pending.

Summary of Proposed Changes:

30 CFR part 585.

This proposed rule would amend the timing requirements for submitting a Site Assessment Plan (SAP) or General Activities Plan (GAP) pursuant to the regulations governing renewable energy and alternate uses of existing facilities on the Outer Continental Shelf in 30 CFR part 585. Under the proposed rule, all OCS renewable energy leases and grants would have a preliminary term of 12 months in which the lessee or grantee must submit a SAP or a GAP. BOEM is proposing these changes because the current regulations specify timing requirements for submission of SAPs and GAPs that have proven to be impractical.

The current regulations require a lessee to submit a SAP or a GAP, and a grantee to submit a GAP, within six months of lease or grant issuance in cases where the lease or grant is issued following completion of a competitive process. In cases where a lease or grant is issued noncompetitively, the current regulations require the requestor to submit a SAP or GAP within 60 days after BOEM issues a determination of no competitive interest and before the issuance of either a grant or a lease. In communications with BOEM, prospective OCS renewable energy lessees and grantees have indicated that these timeframes—especially the 60-day requirement—are too short, and that most developers

intend to request departures from the regulatory requirements pertaining to the timing of SAP and GAP submission. Moreover, seasonal weather conditions may exacerbate time constraints associated with the preparation of a SAP or GAP.

The proposed rule would create additional flexibility for the program by amending pertinent sections of the regulations at 30 CFR part 585 as follows:

(1) Deleting the requirement for submission of a SAP within 60 days of a notice of a determination of no competitive interest and removing related references (§§ 585.212 and 585.231) to that requirement;

(2) Changing the preliminary lease term from six months to 12 months and deleting the statements that leases issued noncompetitively do not have a preliminary term (§§ 585.235 and 585.236); removing the current (a)(2) in § 585.235 and redesignating (a)(3) as (a)(2).

(3) Providing a preliminary grant term of 12 months (§ 585.303);

(4) Deleting the requirement for submission of a GAP within 60 days of a notice of determination of no competitive interest (§ 585.306);

(5) Deleting the requirement for approving a GAP before issuing a grant (§ 585.309);

(6) Replacing references to the six-month preliminary lease term with references to the 12-month preliminary term in the sections pertaining to payment of rent (§§ 585.500, 585.503, and 585.505); and

(7) Changing the deadline for SAP and GAP submission for leases and grants.

Currently, for commercial leases issued competitively, there is a six months deadline after lease issuance to submit a SAP or a GAP. For a non-competitive lease, the current requirement is that a SAP or GAP be submitted 60 days after the determination of no

competitive interest (DNCI). Both of these timeframes would be changed under this rule, which would provide that any lease or grant have a preliminary term of 12 months for submitting the required plan. In addition, some minor revisions or deletions of related references are made in §§ 585.601, 585.611, 585.612, 585.640, 585.646, and 585.647. Related provisions and references concerning compliance with Coastal Zone Management Act (CZMA) federal consistency requirements would be revised in these sections, as well as in §§ 585.230 and 585.305.

The original timing requirements were designed to encourage diligent development and to enable efficient review and approval processes for lease issuance and plan approval. The original timeframes and approaches still may be achieved under the amended regulations. Since lessees or grantees would have up to 12 months to submit a SAP or a GAP, any person who wishes to do so within the original timeframes may still do so. Likewise, if a prospective lessee or grantee desires and is able to take advantage of the efficiency associated with coupling review and approval of a lease or grant request with a SAP or GAP, by submitting the plan soon after a DNCI, in the case of a non-competitive lease, or upon lease execution, in the case of a competitive lease, it still may do so. The new timing requirements in this proposed rule are intended to strike a proper balance between promoting diligent activity on OCS renewable energy leases and grants and aligning with the needs and expectations of OCS renewable energy developers in planning and implementing their projects. Comments are requested as to whether the proposed amendments would provide adequate time for project planning and implementation, and, if not, how much time should be provided.

The proposed amendment to part 585, to provide a preliminary term of 12 months for

all OCS renewable energy leases and grants, would affect many sections. Provisions in §§ 585.212, 585.230, 585.231, 585.235, and 585.236 would be changed to implement the universal 12-month preliminary lease term and to revise the related lease issuance process accordingly. Sections 585.303, 585.305, 585.306, and 585.309 would be changed to implement the universal 12-month preliminary grant term and revise the related grant issuance process accordingly. Sections 585.500, 585.503, and 585.505 would be changed to provide for the submission of rent payments in accordance with the new 12-month term. Sections 585.601, 585.611, 585.612, 585.640, 585.646, and 585.647 would be changed to reflect the effects of providing the universal 12-month preliminary term and to revise the related plan review and approval processes accordingly.

In addition to the changes described above, the proposed rule would make conforming changes to part 585 that would incorporate the Coastal Zone Management Act (CZMA) terminology included in part 500 to assure that BOEM coordinates with the appropriate State CZMA agencies. Sections affected would include: §§ 585.102, 585.203, 585.211, 585.238, 585.306, and 585.902.

Section 585.112. “CZMA State” definition.

The proposed rule would add a new definition of the term “CZMA State” to delineate more accurately which States can review an OCS activity for consistency with a State’s approved coastal zone management program under the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* The proposed rule would provide that a “CZMA State” means any State in which a particular activity on the OCS would have a reasonably foreseeable direct or indirect effect on any coastal use or resource of that State. The definition would contain a cross reference to the National Oceanic and Atmospheric Administration

(NOAA) regulation, 15 CFR 930.11(g), defining the term “effect on any coastal use or resource.”

The Federal consistency concept under the CZMA is different from the “Affected State” concept under the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.* The CZMA does not use the term “Affected State;” the phrase in the CZMA is “affects any land or water use or natural resource of the coastal zone,” 16 U.S.C. 1456(c). The proposed rule is based on CZMA regulations that use the phrase “effects on any coastal use or resource,” 15 CFR 930.11 and 930.33. Under the CZMA, only a State that demonstrates a reasonably foreseeable coastal effect from a particular activity can review an activity for consistency with its approved coastal management program (CMP) (this is the “effects test”). As NOAA stated in the preamble to its 2006 regulations, “[t]here are no geographical boundaries to the application of the effects test.” (71 FR 788 (2006)).

OCSLA, however, uses the term “Affected State” to identify which States are entitled to participate in BOEM’s leasing program. OCSLA defines “Affected State” to include any State for which an activity would be within the State “if its boundaries were extended seaward to the outer margin of the outer Continental Shelf,” 43 U.S.C. 1331 and 1333(a)(2)(A). OCSLA uses the words “Affected State” whenever it intends to invoke that definition. But significantly, when OCSLA refers to compliance with the CZMA, it does not use the term “Affected State;” instead, it uses the language of the CZMA. *See* 43 U.S.C. 1351(d).

BOEM’s current regulations do not make clear the distinction between CZMA and OCSLA requirements. When the current BOEM regulations implement the sections of OCSLA that mention the CZMA, they use the term “Affected State” instead of the

CZMA concept “affecting any land use or water use in the coastal zone of a State.” The dual usage of this term is seen, for example, in § 585.611 or § 585.628, because these sections attempt to implement 43 U.S.C. 1351(a)(3) – concerning sending a SAP or COP to an “affected State” under the OCSLA – and 43 U.S.C. 1351(d) – concerning sending consistency certifications to States when their land use or water use in the coastal zone is affected under the CZMA. Although BOEM is already required by statute to comply with the terms of the CZMA, adding conforming terminology in these regulations is intended to provide clarity and avoid confusion.

In addition to proposing a new definition, we propose to substitute the newly defined term “CZMA State” for the term “Affected State” in a number of regulatory sections in part 585 that are intended to implement the CZMA requirements rather than OCSLA requirements.

The proposed rule would also revise the definition of the terms *You* and *your* to include contractors and subcontractors of the listed entities.

Section 585.500(a). The proposed rule would revise § 585.500(a) by providing the correct website to the BOEM *Fees for Services* page (application fees) for electronic payments.

Section 590.4(b)(1). The proposed rule would provide the correct website to the BOEM *Fees for Services* page (application fees) for electronic payments.

Legal Authority:

The authority for this rulemaking is the broad rulemaking provision of OCSLA, as set forth in 43 U.S.C. 1334(a), that authorizes the Secretary of the Interior to prescribe and amend such rules and regulations as may be necessary to administer a leasing program, or

necessary and proper in order to provide for the prevention of waste and conservation of natural resources of the OCS.

The authority for the portion of this rulemaking dealing with the production, transportation, or transmission of energy from sources other than oil and gas, and alternate uses of the OCS, is Section 8(p)(8) of OCSLA (43 U.S.C. 1337(p)(8)), which authorizes the Secretary to issue any necessary regulations to carry out Subsection 8(p) of OCSLA.

Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. BOEM has developed this rule in a manner consistent with these requirements.

This proposed rule is not a significant rule as determined by the Office of

Management and Budget (OMB) and is not subject to review under E.O. 12866. For the most part, this rule proposes administrative corrections and clarifications to the existing regulations. Other changes consist of the reorganization of selected renewable energy regulations.

Because this proposed rule otherwise does not propose to alter or change requirements for leasing, compliance, or enforcement from those set forth in existing regulations, no costs are estimated for this rulemaking. We welcome comments on any unidentified new compliance costs or benefits expected to be realized by this proposed rule.

(1) This proposed rule would not have an annual effect of \$100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking would affect large and small

entities through the clarification of the existing regulatory requirements under the reorganized regulations of part 585.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and ten Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of BOEM, call 1-888-734-3247. You may comment to the Small Business Administration without fear of retaliation. Allegations of discrimination/retaliation filed with the Small Business Administration will be investigated for appropriate action.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*). This proposed rule:

- (a) Would not have an annual effect on the economy of \$100 million or more.
- (b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions.
- (c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The requirements apply to all entities operating to develop renewable resources on the OCS.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate on state, local, or tribal governments, or the private sector, of more than \$100 million per year. This proposed

rule would not have a significant or unique effect on state, local, or tribal governments, or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would not be a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule would not have federalism implications. This proposed rule would not substantially affect the relationship between the Federal and state governments. To the extent that state and local governments have a role in OCS activities, this proposed rule would not affect that role. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule would comply with the requirements of E.O. 12988. Specifically, this rule:

(a) Would meet the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Would meet the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, BOEM has evaluated this proposed rule and

determined that it would have no substantial effects on federally recognized Indian tribes.

Paperwork Reduction Act (PRA) of 1995

This proposed rule does not contain new information collection requirements, and a submission under the PRA is not required. Therefore, an information collection request is not being submitted to the Office of Management and Budget (OMB) for review and approval under 44 U.S.C. 3501 *et seq.* The rule refers to, but does not change, the information collection requirements in 30 CFR 585. The OMB has approved the referenced information collection under OMB Control Number 1010-0176 (31,124 hours and \$3,816,000 non-hour cost burden).

National Environmental Policy Act of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. BOEM evaluated this rule under the criteria of the National Environmental Policy Act, 43 CFR Part 46 and 516 Departmental Manual 15. This rule would meet the criteria for categorical exclusion set forth in 43 CFR 46.210(i) in that this proposed rule is “... of an administrative, financial, legal, technical, or procedural nature...” Furthermore, we have evaluated this proposed rule to determine if it involves any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215. We concluded that this rule does not meet any of the criteria for extraordinary circumstances as set forth in 516 Departmental Manual 2 (Appendix 2).

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554, app. C § 515, 114

Stat. 2763, 2763A-153-154).

Effects of the Nation's Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

Clarity of this Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever such lists or tables would be more helpful.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the "ADDRESSES" section. To better help BOEM revise this rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at

any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we would be able to do so.

List of Subjects

30 CFR Part 585

Bonding, Coastal zone, Continental shelf, Electric power, Energy, Environmental impact statements, Environmental protection, Incorporation by Reference, Marine resources, Natural resources, Payments, Public lands, Public lands--rights-of-way, Reporting and recordkeeping requirements, Revenue sharing, Solar energy.

30 CFR Part 590

Administrative practice and procedure.

February 14, 2013
Date

Tommy P. Beaudreau
Principal Deputy Assistant Secretary
Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Ocean Energy Management (BOEM) proposes to amend Chapter V as follows:

PART 585—RENEWABLE ENERGY AND ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF

1. The authority citation for part 585 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*; 43 U.S.C. 1337.

2. Revise § 585.102 paragraph (e) to read as follows:

§ 585.102 What are BOEM's responsibilities under this part?

* * * * *

(e) BOEM will provide for coordination and consultation with the Governor of any State, the State CZMA agency of any CZMA State, or the executive of any local government or Indian Tribe that may be affected by a lease, easement, or ROW under this subsection. BOEM may invite any affected State Governor, a State CZMA agency, an affected Indian Tribe, and/or an affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

3. Amend § 585.112 by adding the definitions of CZMA State and State CZMA Agency in alphabetical order and by revising the definition of *You* and *your* to read as follows:

§ 585.112 Definitions.

* * * * *

CZMA State means any State in which an activity on the OCS would have a reasonably foreseeable direct or indirect effect on any coastal use or resource of that

State. See 15 CFR 930.11(g).

* * * * *

State CZMA Agency means the agency within a CZMA State responsible for making Federal consistency decisions under the State Coastal Management Program (CMP) approved under the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*

* * * * *

You and *your* refer to an applicant, lessee, the operator, a designated agent of the lessee(s) or designated operator, ROW grant holder, RUE grant holder, or Alternate Use RUE grant holder under this part, or the possessive of each, depending on the context. The terms *You* and *your* also includes contractors and subcontractors of the entities specified in the preceding sentence.

* * * * *

4. Revise § 585.203 to read as follows:

§ 585.203 With whom will BOEM consult before issuance of a lease?

For leases issued under this part, through either the competitive or noncompetitive process, BOEM, 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 or minimize conflicts among users and maximize the economic and ecological benefits of the OCS, including multifaceted spatial planning efforts), the Governor of any CZMA State or of any affected State, the State CZMA agency, 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 BOEM to consult with interested parties or Federal

agencies or to respond to findings of those agencies, include the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA). BOEM also engages in consultation with state and tribal historic preservation officers pursuant to the National Historic Preservation Act (NHPA).

5. Revise § 585.211 paragraph (c) to read as follows:

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

* * * * *

(c) Proposed Sale Notice. BOEM will publish the Proposed Sale Notice in the *Federal Register*, and send it to the Governor of any CZMA State or of any affected State, the State CZMA agency, an affected Indian Tribe, 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.

* * * * *

6. Revise § 585.212 paragraph (a) to read as follows:

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

* * * * *

(a) If, after reviewing comments in response to the notice of Request for Interest, BOEM 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 § 585.231(d) through (i) following receipt of the acquisition fee specified in § 585.502(a).

* * * * *

7. In § 585.230 redesignate paragraphs (e) through (g) as paragraphs (f) through (h)

and add new paragraph (e) to read as follows:

§ 585.230 May I request a lease if there is no Call?

* * * * *

(e) A copy of your consistency certification and necessary data and information as submitted to the State CZMA agency pursuant to 15 CFR part 930, subpart D.

* * * * *

8. Revise § 585.231 paragraphs (d), (e), (f) and (g)(2) to read as follows:

§ 585.231 How will BOEM process my unsolicited request for a noncompetitive lease?

* * * * *

(d) If BOEM determines that there is no competitive interest in a lease, we will publish in the *Federal Register* a notice of Determination of No Competitive Interest.

(e) BOEM will coordinate and consult with affected Federal agencies, CZMA states, and any affected state and local governments, and affected Indian tribes in the review of noncompetitive lease requests.

(f) After completing the review of your lease request, BOEM may offer you a noncompetitive lease.

(g) * * *

(2) Within 45 days after you receive the lease copies, you must pay the first 12-months rent, as required in § 585.503.

* * * * *

9. Revise § 585.235 paragraph (a) to read as follows:

§ 585.235 If I have a commercial lease, how long will my lease remain in effect?

(a) For commercial leases, the lease terms and applicable automatic extensions are as shown in the following table:

Lease Term	Automatic Extensions	Requirements
<p>(1) Each commercial lease will have a preliminary term of 12 months, within which must be submitted:</p> <p>(i) a SAP; or</p> <p>(ii) a combined SAP and Construction and Operations Plan (COP).</p> <p>The preliminary term begins on the effective date of the lease.</p>	<p>If BOEM receives a SAP that satisfies the requirements of §§ 585.605 through 585.613 or a SAP/COP that satisfies the requirements of §§ 585.605 through 585.613 and §§ 585.620 through 585.629, the preliminary term will be extended for the time necessary for us to conduct technical and environmental reviews of the SAP or SAP/COP.</p>	<p>The SAP must meet the requirements of §§ 585.605 through 585.613. The SAP/COP must meet the requirements of §§ 585.605 through 585.613 and §§ 585.620 through 585.629.</p>
<p>(2) A commercial lease will have a site assessment term of five years to conduct site assessment activities and to submit a COP, if a SAP/COP has not been submitted. Your site assessment term begins when BOEM approves your SAP or SAP/COP.</p>	<p>If we receive a COP that satisfies the requirements of §§ 585.620 through 585.629, the site assessment term will be automatically extended for the period of time necessary for us to conduct technical and environmental reviews of the COP.</p>	<p>The COP must meet the requirements of §§ 585.620 through 585.629 of this part.</p>
<p>(3) A commercial lease will have an operations term of 25 years, unless a longer term is negotiated by the parties. A request for lease renewal must be submitted two years before the end of the operations term. If you submit a COP, your operations term begins on the date that BOEM approves the COP. If you submit a SAP/COP, your operations term begins five years after the earliest of the following dates: when BOEM approves the SAP/COP; when fabrication begins; or, when installation commences.</p>		<p>The lease renewal request must meet the requirements, as provided in §§ 585.425 through 585.429.</p>
<p>(4) A commercial lease may have additional time added to the operations term through a lease renewal. The term of the lease renewal will not exceed the original term of the lease, unless a longer term is negotiated by the parties. The lease renewal term begins upon expiration of the original operations term.</p>	<p>NOTE: BOEM may order or grant a suspension of the operations term, as provided in §§ 585.415 through 585.421 thereby effectively extending the term of the lease.</p>	

* * * * *

10. Revise § 585.236 paragraph (a) to read as follows:

§ 585.236 If I have a limited lease, how long will my lease remain in effect?

(a) For limited leases, the lease terms are as shown in the following table:

Lease Term	Extension or Suspension	Requirements
(1) Each limited lease has a preliminary term of 12 months to submit a GAP. The preliminary term begins on the effective date of the lease.	If we receive a GAP that satisfies the requirements of §§ 585.640 through 585.648 of this part, the preliminary term will be automatically extended for the period of time necessary for us to conduct a technical and environmental review of the plans.	The GAP must meet the requirements of §§ 585.640 through 585.648.
(2) Each limited lease has an operations term of five years for conducting site assessment, technology testing, or other activities. The operations term begins on the date that we approve your GAP.	We may order or grant a suspension of the operations term as provided in §§ 585.415 through 585.421.	

* * * * *

11. Revise § 585.238 paragraph (b) to read as follows:

§ 585.238 Are there any other renewable energy research activities that will be allowed on the OCS?

* * * * *

(b) In issuing leases, ROW grants, or RUE grants to a Federal agency or a State on the OCS for renewable energy research activities under this provision, BOEM will coordinate and consult with other relevant Federal agencies, the State CZMA agency of each CZMA state, any other affected State(s), affected local government executives, and affected Indian Tribes.

* * * * *

12. Amend § 585.303 by:
- a. Redesignating the existing text as paragraph (b); and
 - b. Adding new paragraph (a) to read as follows:

§ 585.303 How long will my ROW grant or RUE grant remain in effect?

(a) Each ROW or RUE grant will have a preliminary term of 12 months from the date of issuance of the ROW or RUE grant within which to submit a GAP. The preliminary term begins on the effective date of the grant. You must submit a GAP no later than the end of the preliminary term to continue your grant in effect. However you may submit a GAP prior to the issuance of your ROW or RUE grant.

* * * * *

13. Amend § 585.305 by adding a new paragraph (e) to read as follows:

§ 585.305 How do I request an ROW grant or RUE grant?

* * * * *

(e) A copy of your consistency certification and necessary data and information as submitted to the State CZMA agency pursuant to 15 CFR part 930, subpart D.

14. Amend § 585.306 by revising the introductory text, paragraph (b) and by removing paragraph (c) to read as follows:

§ 585.306 What action will BOEM take on my request?

BOEM will consider requests for ROW grants and RUE grants on a case-by-case basis and may issue a grant competitively, as provided in §585.308, or noncompetitively if BOEM determines, after public notice, that there is no competitive interest. BOEM will coordinate and consult with relevant Federal agencies, with the State CZMA agency in any CZMA State, the Governor of any affected State, and the executive of any affected

local government.

* * * * *

(b) If BOEM determines that there is no competitive interest in a ROW grant or RUE grant, we will publish a notice in the *Federal Register* of such determination. We will establish terms and conditions for the grant in consultation with you.

15. In § 585.309 revise the introductory paragraph to read as follows:

§ 585.309 When will BOEM issue a noncompetitive ROW grant or RUE grant?

After completing the review of your grant request, BOEM may offer you a noncompetitive grant.

* * * * *

16. Revise § 585.500 paragraphs (a) and (b) to read as follows:

§ 585.500 How do I make payments under this part?

(a) For acquisition fees or the initial 12-months rent paid for the preliminary term of your lease, you must make your electronic payments through the *Fees for Services* page on the BOEM website at <http://www.boem.gov>, and you must include one copy of the *Pay.gov* confirmation receipt page with your unsolicited request or signed lease instrument.

(b) For rent during the preliminary term or for any period subsequent to the first 12-months rent or the site assessment term; or operating fees during the operations term, you must make your payments as required in 30 CFR 1218.51.

* * * * *

17. Revise § 585.503 paragraph (a)(1) to read as follows:

§ 585.503 What are the rent and operating fee requirements for a commercial lease?

(a) * * *

(1) You must pay ONRR the first 12-months' rent, as provided in § 585.500, 45 days after BOEM issues your lease, in accordance with the payment methodology outlined in ONRR regulations at 30 CFR §§ 1218.301 and 1218.302, excluding any requirements not applicable to renewable energy.

* * * * *

18. Revise § 585.505 paragraph (b) to read as follows:

§ 585.505 What are the rent and operating fee requirements for a limited lease?

* * * * *

(b) You must pay ONRR, in accordance with the payment methodology outlined in ONRR regulations at 30 CFR §§ 1218.301 and 1218.302, the first 12-months' rent when BOEM issues your limited lease, as provided in § 585.500, excluding any requirements not applicable to renewable energy.

* * * * *

19. Amend § 585.601 by:

- a. Revising both the introductory paragraph and paragraph (a);
- b. Removing paragraph (b);
- c. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c), to read as follows:

§ 585.601 When am I required to submit my plans to BOEM?

You must submit your plans as follows:

(a) You may submit your SAP or GAP prior to lease or grant issuance but must

submit your SAP or your GAP no later than 12 months from the date of the lease or grant issuance.

* * * * *

20. Revise § 585.611 to read as follows:

§ 585.611 What information and certifications must I submit with my SAP to assist BOEM in complying with NEPA and other relevant laws?

You must submit, with your SAP, detailed information to assist BOEM in complying with NEPA and other relevant laws as appropriate.

(a) A SAP submitted for an area in which site assessment activities have not previously been reviewed under NEPA or other applicable Federal laws by BOEM, must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your SAP.

(b) For a SAP submitted for an area in which site assessment activities have previously been considered by BOEM under applicable Federal law (*e.g.*, a NEPA analysis and CZMA consistency determination for site assessment activities), BOEM will review the SAP to determine if its impacts are consistent with those previously considered. If the anticipated impacts of your SAP are substantially inconsistent with those previously anticipated, we may determine that new NEPA and other relevant Federal reviews are required. In that case, BOEM will notify you of such determination and you must submit a SAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your SAP, including:

Type of information	Including:
(1) Hazard information.	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.
(2) Water quality.	Turbidity and total suspended solids from construction.
(3) Biological resources.	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, sea grasses, and other plant life.
(4) Threatened or endangered species.	As required by the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 <i>et seq.</i>).
(5) Sensitive biological resources or habitats.	Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands.
(6) Archaeological resources.	As required by the NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(7) Social and economic conditions.	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed.
(8) Coastal and marine uses.	Military activities, vessel traffic, and energy and nonenergy mineral exploration or development.
(9) Consistency Certification.	If required by CZMA, as appropriate: (i) 15 CFR part 930, subpart D, if the SAP is submitted prior to lease issuance; (ii) 15 CFR part 930, subpart E, if the SAP is submitted after lease issuance.
(10) Other resources, conditions, and activities.	As identified by BOEM.

21. Revise § 585.612 to read as follows:

§ 585.612 How will my SAP be processed for Federal consistency under the Coastal Zone Management Act?

Your SAP will be processed based on whether it is submitted before or after your lease is issued:

If your SAP is submitted	Your SAP will be handled as follows:
(a) Before lease issuance,	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 CZMA agency and BOEM at the same time.
(b) After lease issuance,	You will submit a copy of your SAP, consistency certification, and necessary data and information pursuant to 15 CFR 93, subpart E to BOEM. BOEM will forward to the State CZMA agency one paper copy and one electronic copy of your SAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the SAP are met.

22. Revise § 585.640 paragraph (b) to read as follows:

§ 585.640 What is a General Activities Plan (GAP)?

* * * * *

(b) You must receive BOEM approval of your GAP before you can begin any of the approved activities on your lease or grant. You must submit your GAP no later than 12 months from the date of the lease or grant issuance.

23. Revise § 585.646 to read as follows:

§ 585.646 What information and certifications must I submit with my GAP to assist BOEM in complying with NEPA and other relevant laws?

You must submit, with your GAP, detailed information to assist BOEM in complying with NEPA and other relevant laws as appropriate.

(a) A GAP submitted for an area in which GAP activities have not previously been reviewed by BOEM under NEPA/CZMA or other applicable Federal laws must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your GAP.

(b) For a GAP submitted for an area in which GAP activities have previously been

considered by BOEM under applicable Federal law (*e.g.*, a NEPA analysis and CZMA consistency determination for the GAP activities), BOEM will review the GAP to determine if its impacts are consistent with those previously considered. If the anticipated impacts of your GAP are substantially inconsistent with those previously anticipated, we may determine that new NEPA/CZMA and other relevant Federal reviews are required. In that case, BOEM will notify you of such determination, and you must submit a GAP that describes those resources, conditions, and activities listed in the following table that could be affected by your proposed activities or that could affect the activities proposed in your GAP, including:

Type of information:	Including:
(1) Hazard information.	Meteorology, oceanography, sediment transport, geology, and shallow geological or manmade hazards.
(2) Water quality.	Turbidity and total suspended solids from construction.
(3) Biological resources.	Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish, plankton, sea grasses, and other plant life.
(4) Threatened or endangered species.	As required by the ESA (16 U.S.C. 1531 <i>et seq.</i>).
(5) Sensitive biological resources or habitats.	Essential fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands
(6) Archaeological resources.	As required by NHPA (16 U.S.C. 470 <i>et seq.</i>), as amended.
(7) Social and economic conditions.	Employment, existing offshore and coastal infrastructure (including major sources of supplies, services, energy, and water), land use, subsistence resources and harvest practices, recreation, recreational and commercial fishing (including typical fishing seasons, location, and type), minority and lower income groups, coastal zone management programs, and viewshed.
(8) Coastal and marine uses.	Military activities, vessel traffic, and energy and nonenergy mineral exploration or development.
(9) Consistency Certification	If required by CZMA, as appropriate: (A) 15 CFR part 930, subpart D, if the GAP is submitted prior to lease or grant issuance; (B) 15 CFR part 930, subpart E, if the GAP is submitted after lease or grant issuance.
(10) Other resources, conditions, and activities.	As required by BOEM.

24. Revise § 585.647 to read as follows:

§ 585.647 How will my GAP be processed for Federal consistency under the Coastal Zone Management Act?

Your GAP will be processed based on whether it is submitted before or after your lease or grant is issued:

If your GAP is submitted. .	Your GAP will be handled as follows:
(a) Before lease or grant issuance	You will furnish a copy of your GAP, consistency certification, and necessary data and information pursuant to 15 CFR part 930, subpart D, to the State's CZM agency and BOEM at the same time.
(b) After lease or grant issuance	You will submit a copy of your GAP, consistency certification, and necessary data and information pursuant to 15 CFR 93, subpart E to BOEM. BOEM will forward to the State CZMA agency one paper copy and one electronic copy of your GAP, consistency certification, and necessary data and information required under 15 CFR part 930, subpart E, after BOEM has determined that all information requirements for the GAP are met.

25. Revise § 585.902 paragraph (f) to read as follows:

§ 585.902 What are the general requirements for decommissioning facilities authorized under my SAP, COP, or GAP?

* * * * *

(f) Provide BOEM with documentation of any coordination efforts you have made with the State CZMA agencies, and any affected States, local, and Tribal governments.

PART 590—APPEAL PROCEDURES

26. The authority citation for part 590 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1334.

27. Revise § 590.4 paragraph (b)(1) to read as follows:

§ 590.4 How do I file an appeal?

* * * * *

(b) * * *

(1) You must pay electronically through the *Fees for Services* page on the BOEM website at <http://www.boem.gov>, and you must include a copy of the *Pay.gov* confirmation receipt page with your Notice of Appeal.

* * * * *

[FR Doc. 2013-03992 Filed 02/22/2013 at 8:45 am; Publication Date: 02/25/2013]