

and if so, in what manner to improve efficacy of the rule, particularly as applied to suppliers of services and goods in the recipient country?

■ Should USAID modify the “special source rules,” FAA 604(b), (c), (e), (f), and (g), and reflected in 22 CFR 228.13, for procurement of agricultural commodities, vehicles or pharmaceuticals within limitations set forth in the FAA; and, if so, in what manner?

■ Should references in 22 CFR part 228 to other statutory requirements, such as the Fly America Act (49 U.S.C 40118) be removed or changed? Specifically is it useful for USAID to include Agency-specific policy and procedures in 22 CFR Part 228, when separate statutes and prevailing regulatory systems are already in place and publicly available from other sources?

■ What difficulties do contractors and grantees encounter when requesting a waiver to procure in any country other than those in the approved geographic code for each USAID-funded agreement (contract or grant?) How can the USAID’s waiver guidance be modified or improved for more clear and cost effective application of the statutory and regulatory waiver requirements?

If commenters suggest modification, USAID requests specific proposals for what elements of 22 CFR Part 228 should be modified. USAID requests commenters to provide information and supporting data related to:

- The potential costs of modifying the existing regulatory language noted above.
- The potential quantifiable efficiency benefits of modifying the regulatory language noted above.

Revisions to this regulation will have an impact on related provisions in the 48 CFR 7 Agency for International Development Acquisition Regulation (AIDAR) and various chapters in USAID’s Automated Directives System (ADS), including but not limited to ADS chapters 303, 310, and 311 (the ADS is accessible at <http://www.usaid.gov/policy/ads/>).

Dated: February 1, 2011.

**John Niemeyer,**

*Assistant General Counsel, USAID.*

[FR Doc. 2011-3401 Filed 2-11-11; 4:15 pm]

**BILLING CODE P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management, Regulation and Enforcement

#### 30 CFR Part 285

[Docket ID: BOEM-2010-0045]

RIN 1010-AD71

#### Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf—Acquire a Lease Noncompetitively

**AGENCY:** Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** BOEMRE proposes to revise the regulations that pertain to noncompetitive acquisition of an Outer Continental Shelf (OCS) renewable energy lease. We are taking this action because the current regulations governing the noncompetitive acquisition of an OCS renewable energy lease initiated by BOEMRE and a request for a noncompetitive OCS renewable energy lease initiated by an unsolicited request are inconsistent. This rulemaking will make the two processes consistent with each other by eliminating a duplicative and unnecessary step in the noncompetitive leasing process, while continuing to provide for adequate public notice and review of leasing proposals as required by law.

**DATES:** *Comment Due Date:* Submit comments on the proposed rule by March 18, 2011.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010-AD71 as an identifier in your message. 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-2010-0045, then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking. BOEMRE will post all comments.

• Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Regulations and Standards Branch (RSB); 381 Elden Street, MS-4024, Herndon, Virginia 20170-4817. Please reference “Acquire a Lease Noncompetitively, 1010-AD71” in your comments and include your name and address.

**FOR FURTHER INFORMATION CONTACT:** Timothy Redding at (703) 787-1219.

#### SUPPLEMENTARY INFORMATION:

##### Background

BOEMRE originally published the proposed revision for comment as a direct final rule in the **Federal Register** on November 26, 2010. That document stated that if BOEMRE received a significant adverse comment concerning the rulemaking, it would withdraw the direct final rule and publish a notice of proposed rulemaking. BOEMRE did receive significant adverse comment on the direct final rulemaking and on January 25, 2011, published in the **Federal Register** a notice of withdrawal and statement of intent to reinstate rulemaking by publishing this proposed rule.

The regulations at 30 CFR part 285 govern renewable energy leasing and alternate uses of existing facilities on the OCS. This proposed rule would revise the regulations at §§ 285.231 and 285.232. The regulations at § 285.231 address unsolicited requests for noncompetitive leases. The regulations at § 285.232 address the acquisition of noncompetitive leases in response to a Request for Interest (RFI) or a Call for Information and Nomination (Call). The process for awarding leases noncompetitively outlined in these two sections is currently inconsistent.

As currently written, § 285.231 allows the award of a noncompetitive lease after BOEMRE receives an unsolicited request for a noncompetitive lease, provided that BOEMRE determines that there is no competitive interest after publishing a single notice of a request for interest relating to the unsolicited request for a noncompetitive lease.

As currently written, § 285.232 provides that, after BOEMRE publishes an RFI or Call, if a respondent indicates interest in leasing an area for which no other party has indicated interest, BOEMRE may offer a lease through a noncompetitive process. However, the regulations require the publication of a second RFI notice to confirm the absence of competition before proceeding with the noncompetitive process. We believe that this requirement for a second notice is redundant and is at odds with the noncompetitive process prescribed for cases in which a party submits an unsolicited request for an OCS renewable energy lease, where BOEMRE is required to publish only a single notice. Eliminating this discrepancy and requiring only one RFI notice would make BOEMRE’s leasing processes more streamlined and efficient while maintaining BOEMRE’s obligation to

notify the public of areas that may be leased, solicit public input regarding those areas, and determine whether competitive interest exists in acquiring such leases in the proposed area(s).

Accordingly, BOEMRE proposes to revise § 285.231(d)(1) to state that we will publish in the **Federal Register** a notice that there is no competitive interest. We would also revise § 285.232(c) to refer back to § 285.231(d) through (i) instead of referring back to § 285.231(b) through (i).

### Comments on the Direct Final Rulemaking

BOEMRE received a total of eight comments in response to the direct final rulemaking published on November 26, 2010. All of the comments objected to the rulemaking, characterizing its effect as improper rushing by BOEMRE to allow offshore renewable energy leasing and development. Four comments took issue specifically with the direct final rulemaking process itself and called for a proposed rule and comment procedure. Five of the comments stated that the current wording of 30 CFR 285.231 and 232 should be retained. A majority of the commenters appeared to misunderstand the effect of the proposed revision, evidencing a belief that it would remove the requirement for public notice to determine competitive interest altogether. However, one comment, which appeared to accurately understand the effect of the rulemaking, recommended retention of the current wording, stating that, “[t]he current regulations provide an added level of protection by ensuring that the public has adequate notice of any requests for interest relating to proposals to construct offshore alternative energy projects, giving competitive interests the chance to participate and submit alternative bids and the public an opportunity to express concerns and make comments.”

BOEMRE has determined that it received significant adverse comment on the direct final rule, which was defined in the November 26 notice as “a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach or would be ineffective and unacceptable without a change.” It is therefore publishing this proposed rule for public comment.

However, BOEMRE believes that the intent and effect of the proposed regulatory revision were largely misunderstood by most of the commenters. This proposed rule would maintain adequate public notice of leasing proposals and would be

sufficient for the purpose of determining whether competitive interest existed, while eliminating unnecessary, inconsistent, and inefficient repetition in the renewable energy leasing process when it is initiated by BOEMRE. BOEMRE will consider the eight comments already received as they relate to this proposed rulemaking unless they are withdrawn by the commenters, and those commenters are welcome to submit additional comments.

### Procedural Matters

#### *Regulatory Planning and Review (Executive Order (E.O.) 12866)*

This proposed rule would not be a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(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. The proposed rule is intended to eliminate redundancy and inefficiency.

(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.*). The Department prepared a regulatory flexibility analysis for 30 CFR part 285, and concluded that the regulations will impact a substantial number of small entities, but will not have a significant economic impact on the small entities in comparison to the impacts on large entities. That analysis was discussed in detail in the Notice of Proposed Rulemaking for 30 CFR part 285 published in the **Federal Register** on July 9, 2008 (73 FR 39376).

The North American Industry Classification System (NAICS) code for the industries affected by this rule is 221119 (Other Electric Power

Generation). The definition for this code is:

“This U.S. industry comprises establishments primarily engaged in operating electric power generation facilities (except hydroelectric, fossil fuel, nuclear). These facilities convert other forms of energy, such as solar, wind, or tidal power, into electrical energy. The electric energy produced in these establishments is provided to electric power transmission systems or to electric power distribution systems.”

It is possible that this proposed rule could eventually affect entities that produce hydrogen and fall under NAICS Code 325120 (Industrial Gas Manufacturing). The definition for this code is:

“This industry comprises establishments primarily engaged in manufacturing industrial organic and inorganic gases in compressed, liquid, or solid forms.”

Given the original findings of the regulatory flexibility analysis done for 30 CFR part 285, as well as the minor adjustment to the renewable energy leasing process that is contemplated, the proposed rule would not have a significant effect on a substantial number of small entities.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 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 BOEMRE, 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 would apply indiscriminately to entities intending to acquire a renewable energy lease on the OCS pursuant to 30 CFR part 285.

*Unfunded Mandate 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. The 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 does not have significant takings implications. The proposed rule is not 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 does not have federalism implications. This proposed rule would not substantially and directly 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 complies with the requirements of E.O. 12988. Specifically, this proposed rule:

- (a) Meets 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) Meets 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, we have evaluated this proposed rule and determined that it has no substantial effects on federally recognized Indian tribes.

*Paperwork Reduction Act (PRA)*

This proposed rulemaking contains no new reporting or recordkeeping requirements; therefore, an OMB submission under the PRA (44 U.S.C. 3501 *et seq.*) is not required. The PRA provides that an agency may not

conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. The revisions in this rulemaking refer to, but would not change, information collection requirements in 30 CFR part 285. The OMB approved the referenced information collection requirements under OMB Control Number 1010–0176 (expiration 3/31/2013).

*National Environmental Policy Act of 1969*

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. BOEMRE has analyzed this proposed rule under the criteria of the National Environmental Policy Act (NEPA) and the Department's regulations implementing NEPA. This proposed rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this proposed rule is “\* \* \* of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis \* \* \*” Further, BOEMRE has analyzed this proposed rule to determine if it meets any of the extraordinary circumstances that would require an environmental assessment or an environmental impact statement as set forth in 43 CFR 46.215 and concluded that this proposed rule, being purely procedural, does not meet any of the criteria for extraordinary circumstances.

*Data Quality Act*

In developing this proposed rule, BOEMRE 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 on the 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 Proposed Regulation*

BOEMRE is 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 possible.

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 us revise the proposed 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, e-mail 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 will be able to do so.

**List of Subjects in 30 CFR Part 285**

Continental shelf, Environmental protection, Public lands.

Dated: February 9, 2011.

**Wilma A. Lewis,**

*Assistant Secretary for Land and Minerals Management.*

For the reasons stated in the preamble, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) proposes to amend 30 CFR part 285 as follows:

**PART 285—RENEWABLE ENERGY AND ALTERNATE USES OF EXISTING FACILITIES ON THE OUTER CONTINENTAL SHELF**

1. The authority citation for part 285 continues to read as follows:

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

2. Amend § 285.231 by revising paragraph (d)(1) to read as follows:

**§ 285.231 How will BOEMRE process my unsolicited request for a noncompetitive lease?**

\* \* \* \* \*

(d) \* \* \*

(1) We will publish in the **Federal Register** a notice that there is no competitive interest; and

\* \* \* \* \*

3. Amend § 285.232 by revising paragraph (c) to read as follows:

**§ 285.232 May I acquire a lease noncompetitively after responding to a Request for Interest or Call for Information and Nominations under § 285.213?**

\* \* \* \* \*

(c) After receiving the acquisition fee, BOEMRE will follow the process outlined in § 285.231(d) through (i).

[FR Doc. 2011-3515 Filed 2-15-11; 8:45 am]

BILLING CODE 4310-MR-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Part 100**

RIN 0907-AA

**National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table**

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Proposed rule; notice of public hearing.

**SUMMARY:** This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled "National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table."

*Date and Time:* The public hearing will be held on March 4, 2011, from 11:30 a.m. to 1 p.m.

*Place:* The public hearing will be held in Conference Room G in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

**FOR FURTHER INFORMATION CONTACT:** Dr. Geoffrey Evans, Director, Division of Vaccine Injury Compensation, at 301-443-6593 or by e-mail at [gevans@hrsa.gov](mailto:gevans@hrsa.gov).

**SUPPLEMENTARY INFORMATION:** The National Childhood Vaccine Injury Act of 1986, Title III of Public Law 99-660, as amended (42 U.S.C. 300aa-10 *et seq.*), established the National Vaccine Injury Compensation Program (VICP) for persons found to be injured by vaccines. The Secretary has taken the necessary initial steps to transfer four vaccines covered under the VICP from the provisional category in the Vaccine Injury Table to their own separate categories, with no associated injuries.

These proposed changes would not change the rights of any current or potential VICP petitioners.

The NPRM was published in the **Federal Register**, September 13, 2010; 75 FR 55503. The public comment period closes March 14, 2011.

A public hearing will be held during the 180-day public comment period. This hearing is to provide an open

forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearing will be held on March 4, 2011, beginning at 11:30 a.m. in Conference Room G in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Upon entering the Parklawn Building, persons who wish to attend the hearing will be required to call Mr. Mario Lombre at (301) 443-3196 to be escorted to Conference Room G.

The presiding officer representing the Secretary, HHS will be Dr. Geoffrey Evans, Director, Division of Vaccine Injury Compensation, Healthcare Systems Bureau (HSB), Health Resources and Services Administration.

Persons who wish to participate are requested to file a notice of participation with the Department of Health and Human Services (HHS) on or before March 1, 2011. The notice should be mailed to the Division of Vaccine Injury Compensation, HSB, Room 11C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. To ensure timely handling any outer envelope should be clearly marked "NPRM Hearing." The notice of participation should contain the interested person's name, address, e-mail address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit notice of participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Dr. Geoffrey Evans, Director, Division of Vaccine Injury Compensation, at (301) 443-6593 no later than March 1, 2011.

Those persons who give oral notice of participation should also submit written notice containing the information described above to HHS by the close of business March 2, 2011.

After reviewing the notices of participation and accompanying information, HHS will schedule each appearance and notify each participant by mail, e-mail or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

Written comments and transcripts of the hearing will be made available for public inspection as soon as they have been prepared, on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. at the Division of Vaccine Injury Compensation Program, Room 11C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: February 10, 2011.

**Mary K. Wakefield,**  
*Administrator.*

[FR Doc. 2011-3523 Filed 2-15-11; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket ID FEMA-2011-002; Internal Agency Docket No. FEMA-B-1178]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance