

Overview of BOEMRE Regulatory Framework, Leasing Process, and Environmental Compliance Process

For: the **BOEMRE North Carolina Renewable Energy Task Force**
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Overview

- Major Elements of the Regulatory Framework
- Renewable Energy Leases and Grants
- Competitive and Noncompetitive Leasing Processes
- Effect of “Smart from the Start”
- Environmental Review Process Overview
- Opportunities for Task Force and Stakeholder Engagement

Major Framework Elements

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

Renewable Energy Leases and Grants

➤ Two Leases:

- Commercial Lease
- Limited Lease

➤ Two Grants:

- Right-of-Way (ROW)
 - Right-of-Use and Easement (RUE)
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Competition Requirement

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

Energy Policy Act of 2005, Section 388

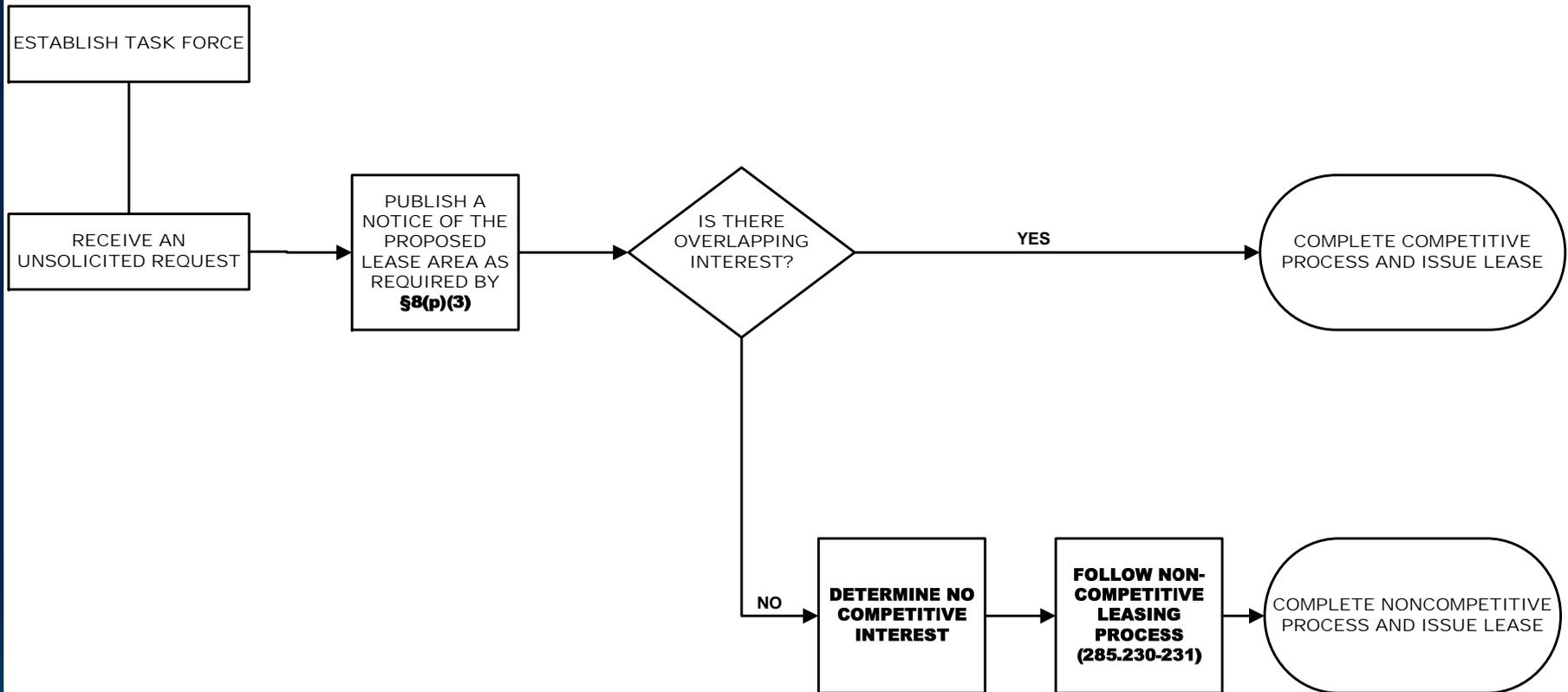
Initiating the Leasing Process

- BOEMRE establishes an intergovernmental task force in response to a requesting State or the receipt of an unsolicited application
- BOEMRE, after consulting the task force, develops a Request for Interest (RFI) or Call for Information to gauge level of competitive interest:
 - BOEMRE determines competitive interest and proceeds with the competitive leasing process
 - BOEMRE determines no competitive interest and proceeds with the noncompetitive leasing process

Unsolicited Commercial Lease Application

- Receive Unsolicited Application
- Consult with Task Force(s)
- Issue public notice (RFI or Call)
- Overlapping Interest
 - Proceed with Competitive Process
- No Overlapping Interest
 - Proceed with Non-Competitive Process

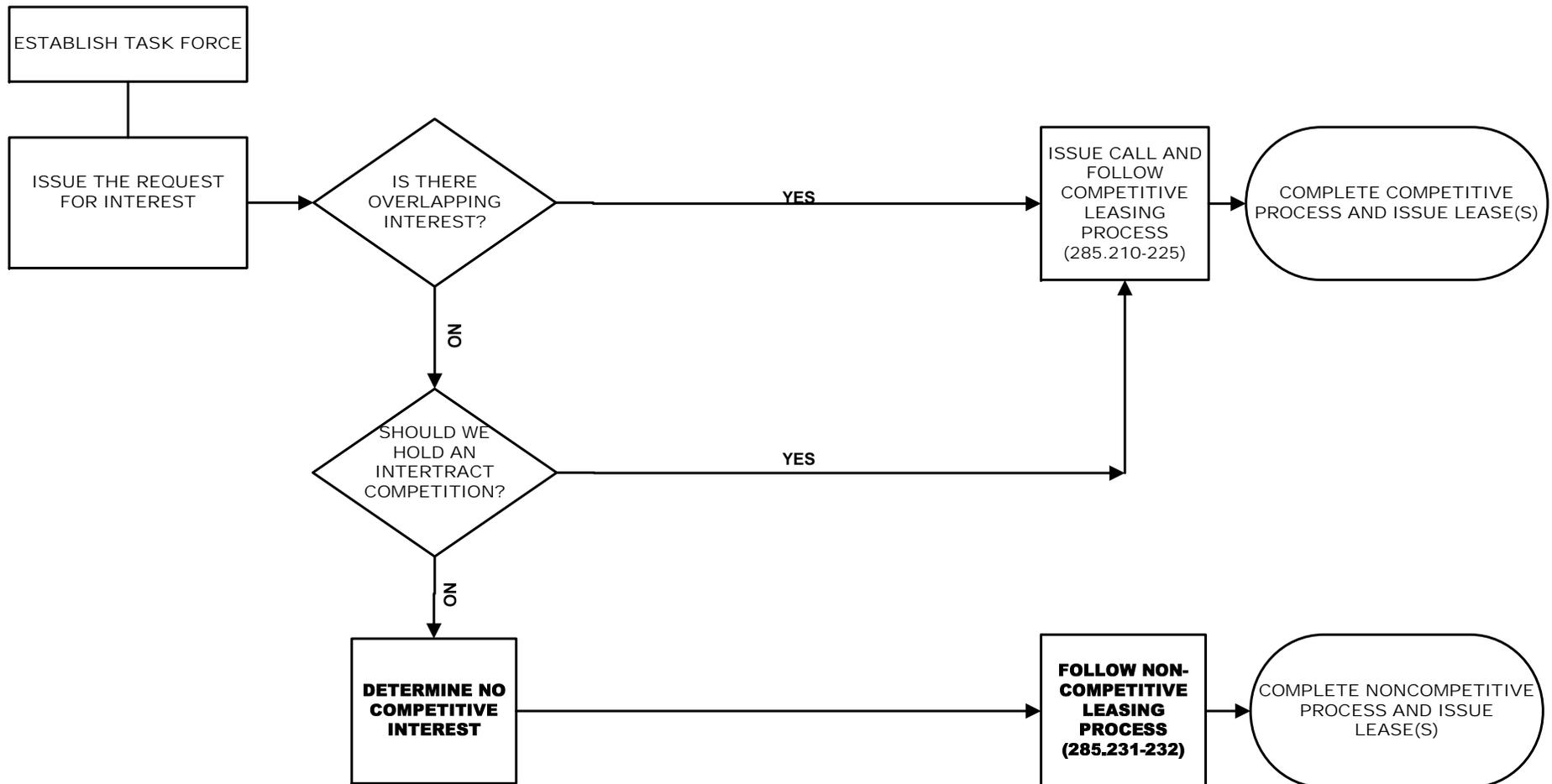
STARTING THE COMMERCIAL WIND LEASE PROCESS WITH AN UNSOLICITED REQUEST



Commercial Lease – BOEMRE initiated

- BOEMRE consults with Task Force.
- Identifies a promising area for commercial development.
- Issues public notice (RFI or Call for Information)
- Overlapping Interest
 - Proceed with Competitive Process
- No Overlapping Interest
 - Proceed with Non-Competitive Process

STARTING THE COMMERCIAL WIND LEASE PROCESS WITH A REQUEST FOR INTEREST* (PROPOSED REVISION)

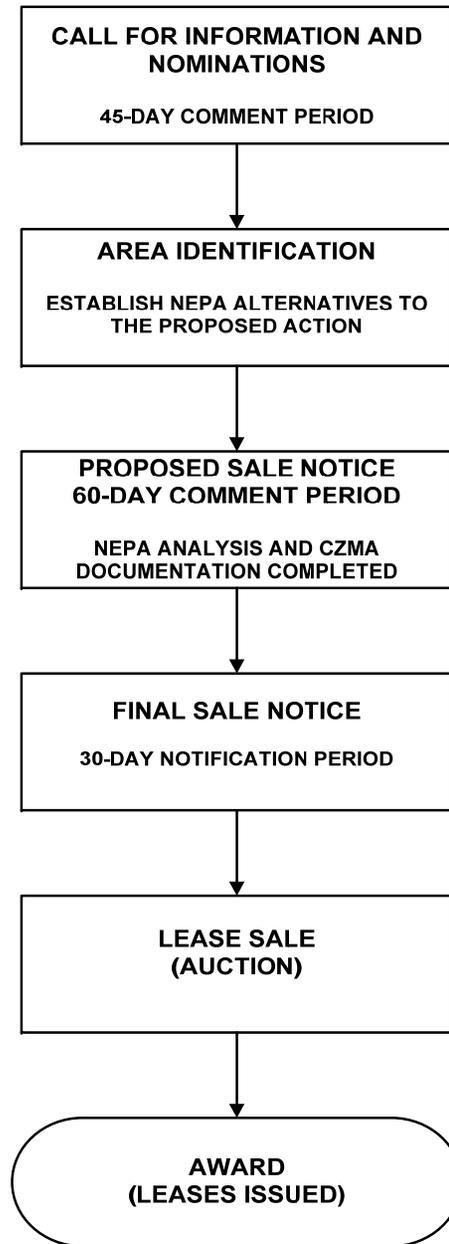


*Depending on responses submitted by developers and determinations made by BOEMRE, it is possible that the leasing process could be exclusively competitive, exclusively noncompetitive, or a mixture (competitive for some nominations and noncompetitive for others).

Competitive Leasing Process

- Determination of competitive interest
- (Call for Information and Nominations)
- Proposed/Final Sale Notice
- Lease auction & award: Requires NEPA review (likely EA)
- Site Assessment Plan (SAP): Approval may require additional NEPA review
- Construction and Operations Plan (COP): Approval requires NEPA review, likely EIS
- Facilities Design Report (FDR) and Fabrication and Installation Report (FIR)
- Decommissioning Plan

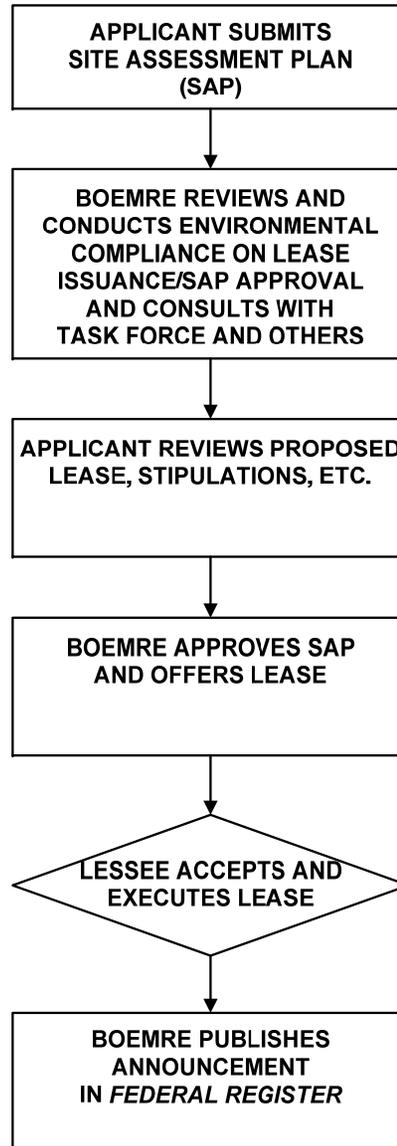
**PROCESS FOLLOWING BOEMRE DETERMINATION OF COMPETITIVE INTEREST IN
COMMERCIAL WIND LEASING AND DECISION TO HOLD A SALE**



Non-Competitive Leasing Process

- Determination of no competitive interest
- Applicant submits Site Assessment Plan (SAP)
- Lease Issuance and approval of SAP: requires NEPA review, likely EA
- Construction and Operations Plan (COP): Approval requires NEPA review, likely EIS
- Facilities Design Report (FDR) and Fabrication and Installation Report (FIR)
- Decommissioning Plan

PROCESS FOLLOWING BOEMRE FINAL DETERMINATION OF NO COMPETITIVE INTEREST FOR COMMERCIAL WIND LEASING



Effect of “Smart from the Start”

- Goes beyond regional identification of Wind Energy Areas
- Environmental Reviews:
 - Lease issuance, reasonably foreseeable site assessment activities will likely require an Environmental Assessment (EA)
 - Consideration of Site Assessment Activities
 - No Consideration of Commercial Activities
 - Site Assessment Plan (SAP) may not require additional NEPA review (Determination of NEPA Adequacy)
 - Determine whether proposed activities were already considered in a completed environmental review.
 - Construction and Operations Plan (COP) will likely trigger an Environmental Impact Statement (EIS)
 - Consideration of Commercial Activities—construction, operations, etc.
- Direct-to-Final Rule
 - Before: Duplicative public notice required before determination of no competitive interest
 - After: Single public notice required before determination of no competitive interest

Formal Opportunities for Public Input

- **Request for Information** published in the Federal Register (60 days)
- **Call for Information and Nominations** published in the Federal Register, assuming competitive interest, (45 days)
- **Proposed Sale Notice** (assuming competitive interest) published in the Federal Register (60 days)
- **Notice of Intent** to prepare an **environmental assessment** or **environmental impact statement** published in the Federal Register (30-90 day scoping)
- **Notice of Availability** of a **draft environmental impact statement** published in the Federal Register (60 days, public hearings in the vicinity of the proposed lease)
- **Notice of Availability** of a **final environmental impact statement** published in the Federal Register (30 days public review)

Questions?

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Policy Group

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Environmental Review Process

- Whether the leasing process is competitive or noncompetitive, it will include opportunities for the **public to provide input** and will be conducted **in conformance with all applicable laws and regulations.**
- Environmental compliance reviews will be conducted under the National Environmental Policy Act (NEPA) for major actions:
 - **Lease Issuance**
 - **Plan Approval (Site Assessment, Construction and Operation, or General Activities)**
 - **Decommissioning Activities**

State, Tribal & Local Stakeholders Involved in OCS Activities

- Local Governments
- Tribal Governments
- State Historic Preservation Offices
- Tribal Historic Preservation Offices
- Numerous State Agencies (Department of the Secretary of State, Department of Environment and Natural Resources, etc.)

Major Federal Agencies Involved in OCS Activities



Bureau of Ocean Energy Management,
Regulation and Enforcement



U.S. Coast Guard



Environmental Protection Agency



U.S. Fish and Wildlife Service



National Marine Fisheries Service



U.S. Army Corps of Engineers



Federal Aviation Administration

U.S. Geological Survey



Department of Defense

Environmental Consultation Processes

- Coastal Zone Management Act
- Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat)
- National Historic Preservation Act (Section 106)
- Endangered Species Act (Section 7)
- Clean Air Act General Conformity Determination
- Migratory Birds Treaty Act/Executive Order Analysis

Run concurrently with NEPA process

Processes Required by Other Federal Agencies or Responsibility of Applicant

- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- Marine Mammal Protection Act
- Federal Aviation Act (out to 12 nautical mile)
- USCG Ports and Waterways Safety Act, Maritime Transportation Act
- U.S. Army Corps of Engineers permitting under Section 404, Clean Water Act, Section 10 Rivers and Harbors Act
- EPA NPDES/VGP Permitting
- EPA Title V Air Permit
- FERC Licensing and Coordination
- DOD Coordination

Environmental and Socioeconomic Resources and Issues

- Air Quality
- Water Quality
- Marine Mammals
- Sea Turtles
- Birds
- Bats
- Seafloor Habitats



- Physical Oceanography
- Coastal Habitats
- Socioeconomics
- Cultural Resources
- Fisheries
- Multiple Use Conflicts

Mitigation Measures

- BOEMRE's primary mitigation strategy is avoidance
- Lease stipulations
- Conditions of plan approval
- Source of mitigation measures:
 - Task Force members
 - NEPA analysis
 - Consultations (with partner agencies)
 - Renewable Energy Regulatory Framework
 - Best Management Practices in the Record of Decision on the AEAU Programmatic EIS

Opportunities for Task Force Involvement

- Request for Interest
- Determination of Competitive Interest
- Call for Information and Nominations
- Scoping for NEPA documents (i.e., EAs and EISs)
- Comments on NEPA documents
- Proposed and Final Sale Notices (if competitive)
- Identify data gaps and information needs to inform leasing decisions
- Development of Protocols for Monitoring, Environmental Studies, etc.
- Lease Terms and Conditions, Mitigation Measures
- Construction and Operations Plan Review Process
- Review of Decommissioning Plan

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