

UNITED STATES OF AMERICA
Before the
BUREAU OF OCEAN ENERGY, MANAGEMENT, REGULATION AND
ENFORCEMENT

Request for Comments on the Notice of)	Renewable Energy Alternate Uses of
Proposed Rulemaking to Acquire a)	Existing Facilities on the Outer
Noncompetitive Lease)	Continental Shelf

COMMENTS OF THE NATIONAL HYDROPOWER ASSOCIATION ON THE NOTICE
OF PROPOSED RULEMAKING FOR OUTER CONTINENTAL SHELF NON-
COMPETITIVE LEASING

I. INTRODUCTION AND INTEREST

On February 16, 2011, the Bureau of Ocean Energy, Management, Regulation and Enforcement (BOEMRE or Bureau) issued its Notice of Proposed Rulemaking (NOPR or Notice)¹ proposing a revision of regulations pertaining to noncompetitive acquisition of an Outer Continental Shelf (OCS) renewable energy lease.

The National Hydropower Association (NHA or Association)² appreciates the opportunity to comment on BOEMRE's proposal. Since the passage of EPOA 2005, NHA has been closely monitoring the work of BOEMRE and its predecessor, the Minerals Management Service, on the establishment of a renewable energy leasing process on the OCS. Previously, NHA has submitted comments on various Notices of Proposed Rulemaking and draft lease documents for

¹ 76 Fed. Reg. 32,8962 (Feb. 16,2011).

² NHA is a non-profit national association dedicated exclusively to advancing the interests of the U.S. hydropower industry, including conventional, pumped storage and new marine and hydrokinetic technologies. NHA's membership consists of more than 180 organizations including public utilities, investor owned utilities, independent power producers project developers, equipment manufacturers, environmental and engineering consultants and attorneys. In 2006, NHA established an Ocean, Tidal and New Technologies Council to promote growth and development of these technologies.

alternative energy activities. With this background, NHA respectfully submits the following comments on the NOPR.

II. SUPPORT ELIMINATION OF SECOND NOTICE

Congress and the Administration, as well as the states, have set ambitious energy goals for the country, seeking the short and long term benefits of significantly increased renewable energy generation, such as reduced emission of greenhouse gases and other pollutants. NHA believes that hydropower can play a leading role in meeting these goals by bringing significant new renewable energy generation online. In particular, ocean energy resources, such as wave, current and tidal power, have tremendous untapped potential. Independent analyses estimate that thousands of megawatts of power are available from these resources located off both coasts of the United States -- from Maine and Florida to the Pacific Northwest and Alaska.

NHA supports the proposed rule eliminating a second Request for Interest (RFI) from the non-competitive leasing process. The step is redundant and eliminating it would streamline the leasing process for renewable energy development on the OCS while continuing to provide adequate public notice of leasing proposals.

Additionally, this change aligns the RFI process with that already in place for unsolicited requests for non-competitive leases. Currently, a noncompetitive lease sought through an unsolicited request is awarded after BOEMRE determines that there is no competitive interest after publishing a single notice. NHA believes this is a preferred approach and eliminating the inconsistency between the RFI and unsolicited request process is appropriate.

III. OTHER SUGGESTED CHANGES

The Association would also like to take this opportunity to suggest other areas of regulatory improvement that would benefit the leasing process. These proposals have been recommended by NHA and industry members in the past in response to various BOEMRE requests for comments on the OCS program³.

a. Priority Rights for Limited Lease Holders

NHA believes that limited lease holders should have priority to file an application for a full lease. Expenditures in time, resources and capital on a site for which a developer may ultimately lose access is a significant risk to take and serves as a disincentive to development.

b. Ability of Limited Lease Holders to Sell Power to the Grid

NHA supports the ability of limited lease holders to sell power to the grid to generate revenue for the project. The U.S. industry is still in its early stages and some companies could utilize the revenue from these power sales to subsidize testing activities.

c. Financial assurance requirements too stringent

Many in the ocean and tidal industry are smaller, start-up companies who will be challenged to meet the stringent financial assurance requirements. While such requirements are necessary, NHA believes different levels are appropriate for different ocean energy technologies.

IV. CONCLUSION

NHA commends the Bureau for assessing its regulatory process and eliminating redundant steps in order to streamline the leasing process for renewable energy projects on the OCS . The

³ Comments filed 2/11/2008 and 9/8/2008.

Association remains committed to participating in any further BOEMRE efforts to ensure the success of ocean and tidal technologies as an integral part of the Nation's energy policy.

Respectfully submitted,

NATIONAL HYDROPOWER
ASSOCIATION

A handwritten signature in cursive script that reads "Linda Church Ciocci". The signature is written in black ink on a light-colored background.

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