



BLM Wind Instruction Memorandum 2009-043 (issued 12/19/08) – Key Points

BLM’s new Instruction Memorandum (IM) on wind energy development provides guidance on processing Right of Way (ROW) applications for monitoring, site testing, and wind energy development, and includes several important changes.

Key Changes

- Changes to Visual resource Management (VRM) management classes: in areas with wind power class 5 and above, VRM management objectives are to be met through strategic placement and thoughtful design treatments for installations, avoiding “unnecessary land use plan restrictions”
 - *Implications:* wind energy testing and development normally excluded in areas with VRM Class II and III may be allowed if high value wind resources are present
- Wind energy development not universally excluded from Areas of Critical Environmental Concern (ACECs): ACECs are to be managed consistent with management prescriptions for the individual ACEC
 - *Implications:* wind energy testing and development may be allowed in some ACECs
- Rental fees have been increased: as detailed below, rental fees for monitoring, testing, and development have been increased
 - *Implications:* This could theoretically limit speculative applications and allow BLM to exact a fairer return on the use of public lands for wind energy testing and development

ROW Application Types

As detailed in the table below, BLM’s IM sets 3 types of projects to be permitted:

Application Type	Area Allowed	ROW Term/ Renewability	Exclusive or Preferential Rights to Future Development	Regulations included in ROW	Bonding	Fees
Site-specific testing and monitoring	Minimum necessary for construction and maintenance	3 years/Yes, with a new testing ROW application	No. Also, numerous site-specific ROW grants may be issued to various ROW holders in the same area	May contain BMPs and site-specific stipulations	Minimum of \$2,000/testing tower (met tower)	Minimum of \$100/year/met tower
Project area testing and monitoring	Enough to support a possible ROW application for development	3 years/Yes, with a new ROW application and Plan of Development	No – still required to submit separate ROW application and Plan of Development for a Development ROW	May contain BMPs and site-specific stipulations	Minimum of \$2,000/met tower	\$1,000/year or \$1/acre/year, whichever is greater
Development	No maximum	Generally 30 years, but not limited/Yes	Yes, for the duration of the ROW grant	No mention of BMPs and stipulations	Minimum of \$10,000/turbine	\$4,155/MW of total anticipated installed capacity. Phased rent: 25/50/100% over 3 years

ROW Grant Processing

Competitive Interest: grants are processed on a first-come, first-serve basis unless a land use planning decision has specifically identified an area for competitive leasing. No such areas were identified in the Wind Energy Development Programmatic Environmental Impact Statement (PEIS), but competitive leasing areas could be in future land use planning decisions.

Environmental Review: NEPA analysis is to be tiered to the PEIS; BLM expects this to allow for the preparation of Environmental Assessments instead of Environmental Impact Statements for most ROW applications.

- Categorical Exclusions: categorical exclusions may be applicable for site-specific testing and monitoring ROWs or project area testing and monitoring ROWs. Activities must be subject to sufficient review to determine if any of the extraordinary circumstances identified in the guidelines apply.
- Reasonably Foreseeable Development (RFD) and Cumulative Impacts: *Site-specific testing ROWs and Project area testing ROWs* – the RFD should focus on the potential for installation of additional testing facilities, not the potential for future wind energy development facilities. This restriction of RFD focus limits the analysis of cumulative impacts of site-specific testing ROWs and project area testing ROWs. *Development ROWs* – the RFD should focus on the potential for the installation of additional wind turbines and increased production and electrical transmission from the project area.

Due Diligence

Technical capability: can be demonstrated by international or domestic experience with wind or other energy projects.

Financial capability: can be demonstrated by actual development or ownership of similarly sized wind energy projects.

Progress requirements: *Site-specific testing ROW* – monitoring facilities must be installed within 12 months or grant holder must provide good cause for delay. *Project area testing ROW* – no mention of requirements. *Development ROW* – construction of wind energy facilities must begin within 2 years or grant holder must provide good cause for delay.

For more information, or to obtain a complete summary of the IM, contact Alex Daue, 303-650-5818 x108 or alex_daue@tws.org