

## **Record of Decision for Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 257**

### **1. INTRODUCTION**

This is the Record of Decision for the Bureau of Ocean Energy Management's (BOEM) proposed action to hold a lease sale in the Gulf of Mexico (GOM) according to the schedule of proposed lease sales set forth by the *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Final Program* (2017-2022 National OCS Program).

The purpose of this proposed Federal action is to offer for lease certain Outer Continental Shelf (OCS) blocks located in the GOM that may contain economically recoverable oil and gas resources. Under the 2017-2022 National OCS Program, two GOM lease sales are tentatively scheduled to be held annually. Lease Sale 257 now is planned for the Fall of 2021. While the National OCS Program provides a framework and general guide for leasing during the Program's term, the Secretary of the Interior has discretion under the Outer Continental Shelf Lands Act (OCSLA) and other applicable laws to determine whether and when to hold individual lease sales. *See* 43 U.S.C. § 1344(e). Lease Sale 257 is the eighth lease sale in the GOM under the 2017-2022 National OCS Program. Qualified bidders will have the opportunity to bid on unleased blocks in the Gulf of Mexico OCS with a few exceptions as noted below and in the forthcoming Final Notice of Sale documents.

The *Outer Continental Shelf Oil and Gas Leasing Program: 2017-2022; Final Programmatic Environmental Impact Statement* (2017-2022 National OCS Program EIS) includes an analysis of the potential environmental impacts of the lease sale schedule put forward in the 2017-2022 National OCS Program, including the 10 proposed GOM lease sales. The *Gulf of Mexico Outer Continental Shelf Lease Sale: Final Supplemental Environmental Impact Statement 2018* (2018 GOM Supplemental EIS) evaluates the potential environmental effects of a GOM oil and gas lease sale as proposed under the 2017-2022 National OCS Program. It updates, tiers from, and incorporates by reference information in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2017-2022; Gulf of Mexico Lease Sales 249, 250, 251, 252, 253, 254, 256, 257, 259, and 261—Final Multisale Environmental Impact Statement* (2017-2022 GOM Multisale EIS) and 2017-2022 National OCS Program EIS. The 2018 GOM Supplemental EIS informs the decision on whether and how to proceed with GOM Lease Sale 257.

This Record of Decision (ROD) for GOM Lease Sale 257 is the eighth that relies on the analysis in the 2018 GOM Supplemental EIS. On January 21, 2021, after the final day of the Trump Administration, BOEM issued an initial ROD for Lease Sale 257. That ROD was rescinded on February 18, 2021, pending “review and reconsideration of Federal oil and gas permitting and leasing practices,” consistent with Section 208 of Executive Order 14008 and the Secretary’s broad authority to administer the offshore oil and gas leasing program under OCSLA. The Department now has determined to move forward with the process for GOM Lease Sale 257, consistent with the Secretary’s authorities and discretion under applicable law.

BOEM has reviewed relevant information since the 2018 GOM Supplemental EIS and has verified that the 2018 GOM Supplemental EIS adequately addresses the environmental effects of this proposed action. There are no new circumstances, information, or changes in the proposed action or its impacts that require supplementation of the 2018 GOM Supplemental EIS.

## **2. DECISION**

Pursuant to my authority to exercise the delegable functions and duties of the Assistant Secretary for Lands and Mineral Management, I have chosen to offer for lease a subset of the blocks analyzed as Alternative A in the 2018 GOM Supplemental EIS, that is, to hold oil and gas Lease Sale 257 as a GOM region-wide lease sale. In the 2018 GOM Supplemental EIS, Alternative A excluded the blocks listed in Items 1 through 3 below. My decision is to also exclude those blocks listed in Items 4 through 6 below. These blocks are noncontiguous and form a very small portion of the area analyzed as Alternative A and, therefore, excluding these blocks does not alter the analysis of Alternative A. Alternative A was identified as BOEM's preferred alternative in the 2018 GOM Supplemental EIS. Alternative A allows for a proposed GOM region-wide lease sale encompassing all three planning areas: Western Planning Area (WPA), Central Planning Area (CPA), and a small portion of the Eastern Planning Area (EPA) not under congressional moratorium. For GOM Lease Sale 257, the U.S. Department of the Interior will offer for lease all available, unleased blocks in the proposed region-wide lease sale area for oil and gas operations with the following exceptions:

- (1) whole and portions of blocks not available for leasing under the Gulf of Mexico Energy Security Act of 2006;
- (2) blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap;
- (3) whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary as of the July 2008 *Memorandum on Withdrawal of Certain Areas of US OCS from Leasing Disposition*;
- (4) the blocks whose lease status is currently under appeal: Vermilion Area Block 179; and Atwater Valley Block 63;
- (5) whole or partial blocks that have received bids in previous lease sales, where the bidder has sought reconsideration of BOEM's rejection of their bid, unless the reconsideration request is fully resolved at least 30 days prior to publication of the Final Notice of Sale for Lease Sale 257; and
- (6) the depth-restricted, segregated block portion(s) of Block 299, Main Pass Area, South and East Addition (as shown on Louisiana Leasing Map LA10A), containing 1,125 acres, from the surface of the earth down to a subsea depth of 1,900 feet.

The blocks in Items 4 and 5 of the list above are excluded because the pending appeal or request for reconsideration prevents BOEM from offering them unencumbered by claims of an existing lessee or bidder. The depth-restricted partial block described in Item 6 above is not being offered because it is an anomaly; leases are not typically segregated by depth. The necessity for the vertical assignment was created by resource development challenges that arose after sulfur rights were leased on an existing oil and gas lease. The remainder of the block is leased. All of the unavailable blocks will be listed in the Final Notice of Sale for GOM Lease Sale 257.

This Lease Sale 257 region-wide lease area encompasses about 91.93 million acres (ac) with 80.8 million ac available for lease. As described in the 2018 GOM Supplemental EIS, the estimate of oil and gas resources projected to be developed as a result of this region-wide lease sale is between 0.211 and 1.118 billion barrels of oil and 0.547 and 4.424 trillion cubic feet of natural gas.

BOEM considered in all of its environmental analyses the oil and gas resource potential in the GOM planning areas and the likelihood of industry to develop those oil and gas resources in the context of social, economic, and environmental values, impacts, and concerns. Alternative A could potentially produce 1.2-4.2% of the forecasted cumulative OCS oil- and gas-related activity in the GOM.

Pursuant to my authority to exercise the delegable functions and duties of the Assistant Secretary for Lands and Mineral Management, I have concluded that holding GOM region-wide oil and gas Lease Sale 257, as described in Alternative A of the 2018 GOM Supplemental EIS, meets the purpose of and need for the proposed action, balances regional and national policy considerations, and includes appropriate measures to minimize potential environmental and socioeconomic impacts. I have also concluded that GOM Lease Sale 257, as described in this ROD and in the forthcoming Final Notice of Sale, is subject to adequate environmental safeguards and is consistent with the maintenance of competition and the meeting of national energy needs.

As noted in the 2018 GOM Supplemental EIS, environmental resources could be negatively impacted to varying degrees by routine activities and accidental events that could result from leases issued pursuant to GOM Lease Sale 257. Possible adverse impacts from expected OCS oil- and gas-related activities and reasonably foreseeable accidental events include degradation of wetlands, coastal resources, benthic habitat, and pelagic habitat; behavioral changes to fish, sea turtles, marine mammals, and birds; mortality of individual organisms; and changes in air and water quality. The impact conclusions related to routine activities and accidental events are described in the “Executive Summary” of the 2018 GOM Supplemental EIS. BOEM published the 2018 GOM Final Supplemental EIS after considering all public and Federal agency comments received on the Draft 2018 GOM Supplemental EIS. BOEM responded to those substantive comments as appropriate in the Final 2018 GOM Supplemental EIS. In addition, BOEM considered substantive comments submitted on the Final 2018 GOM Supplemental EIS in the ROD for GOM Lease Sale 250. Taking into account the comments and the information in the Final 2018 GOM Supplemental EIS, I have fully considered the potential environmental impacts that are reasonably foreseeable as a result of holding GOM Lease Sale 257.

The Notice of Availability of the Final 2018 GOM Supplemental EIS was published in the *Federal Register* on December 15, 2017 (82 FR 59645). The U.S. Environmental Protection Agency (USEPA), Region 6, submitted a comment letter on the final supplemental environmental impact statement. The USEPA referred to its previous letter to BOEM dated April 10, 2017, which contained USEPA's comments on BOEM's air quality modeling study report in the Draft 2018 GOM Supplemental EIS. BOEM addressed the comments from the April 10, 2017, letter in "Appendix E: Responses to Public Comments on the Draft Supplemental EIS" of the 2018 GOM Supplemental EIS. The USEPA's letter did not present any new circumstances or information that substantially affected the analyses presented in the 2018 GOM Supplemental EIS.

As noted in the Final 2018 GOM Supplemental EIS and to better understand potential impacts to air quality on a regional basis, BOEM conducted a comprehensive, photochemical modeling study assessing pollutant concentration in the atmosphere using chemical and physical processes. Initial results of the study were outlined in a report included in the Draft 2018 GOM Supplemental EIS, and BOEM received technical comments on the air quality modeling study during the public comment period. BOEM updated its air quality modeling study based on these comments, and the final results were included in the Final 2018 GOM Supplemental EIS. A peer review by the National Academy of Sciences (NAS) was completed after publication of the 2018 GOM Supplemental EIS. The results of the final air quality modeling study, as well as the NAS peer review—including the methodological questions raised by the NAS—were considered in determining whether the National Environmental Policy Act (NEPA) analyses supporting GOM Lease Sale 257 were adequate. BOEM has determined that currently available information does not change the conclusions presented in the 2018 GOM Supplemental EIS, and therefore, no supplementation is required.

To the extent that the updated air quality modeling indicates impacts, regulations governing post-lease plan reviews allow for conditions of approval to address these impacts. During its review of any plan submitted post-lease, BOEM conducts an air quality review to determine if additional controls are necessary. BOEM has the authority to disapprove a plan or require additional mitigation to reduce impacts from a facility's projected emissions. In addition, BOEM's regulations direct the applicable Regional Supervisor (for BOEM's New Orleans Office, the applicable official is the Regional Supervisor of the Office of Environment) to require a lessee of any facility otherwise exempt from emission controls to submit additional information to determine whether emission control measures are necessary if the Regional Supervisor determines that the facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area.

Current regulations (updated in 2020) provide that BOEM applies values for the Significance Levels in 30 CFR § 550.303(e) consistent with those already established by the USEPA for analogous purposes (40 CFR § 51.165(b)(2)). These regulations do not affect BOEM's NEPA analyses and conclusions for a GOM lease sale, such as Lease Sale 257. The projected scenarios, such as the amount and location of activities and projected air pollutant emissions that were evaluated in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS and used to reach the lease sale conclusions, have not changed.

The 2018 GOM Supplemental EIS acknowledges that a catastrophic spill has an extremely low probability of occurrence and is not reasonably expected to result from this lease sale. BOEM has prepared the *Catastrophic Spill Event Analysis* as a stand-alone technical report, which is summarized and incorporated by reference in the 2018 GOM Supplemental EIS. The *Catastrophic Spill Event Analysis* provides a comprehensive analysis of reasonably foreseeable impacts associated with a low probability catastrophic spill event resulting from oil and gas-related activities on the OCS, as per the recommendations provided in the August 16, 2010, Council on Environmental Quality report following the *Deepwater Horizon* explosion, oil spill, and response. Such a catastrophic spill event could have significant impacts on environmental resources; however, such an event is not reasonably expected to result from GOM Lease Sale 257.

To minimize the environmental impacts that could occur from OCS oil- and gas-related activities following a lease sale, BOEM imposes mitigation measures that have proven effective in the past in avoiding or reducing impacts. The mitigation measures that I am adopting in the form of lease stipulations for this lease sale are described below in Section 5. While offshore exploration and development cannot be made risk free, OCS oil- and gas-related activities can be conducted safely and responsibly with strong regulatory oversight and appropriate measures to protect human safety and the environment. Since the *Deepwater Horizon* explosion, oil spill, and response, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) have raised standards for offshore drilling safety and environmental protection to reduce the risk of oil spills and their severity, and have improved the Federal Government's and industry's ability to respond in the unlikely occurrence of another large oil spill.

BOEM has reanalyzed the forecasted oil and gas exploration, discovery, development, and production activity expected from a proposed lease sale following the reduction in royalty rates from 18.75% to 12.5% for leases in water depths of 200 meters (656 feet) or less. BOEM modeled the range of anticipated oil and natural gas production volumes and associated levels of exploration, development, and decommissioning activity on a per lease sale basis; segregated anticipated production volumes into water depth categories; and evaluated the high case forecasted for wells drilled considering leases sold under the shallow-water lower rate. Through this analysis, BOEM has confirmed that the effective change in activity due to the change in royalty rate is within the range of the forecast scenarios presented in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS. Therefore, BOEM has determined that the impact analyses conducted in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS remain valid. Any additional activity that could occur as a result of the change in the royalty rate is still expected to be within the range of the reasonably foreseeable activity scenario under which the above analysis was performed. Further, when any plan is submitted, BOEM conducts a review to determine if a site-specific environmental assessment (EA) or EIS is required and whether additional controls are necessary. Such review informs BOEM's decision to require additional mitigation measures to reduce impacts from projected activities or to disapprove the plan if impacts cannot be adequately reduced.

BOEM has verified its analyses in the 2017-2022 National OCS Program EIS, 2017-2022 GOM Multisale EIS, and 2018 GOM Supplemental EIS with consideration given to the finalized revisions for the 2019 Well Control and Blowout Preventer Rule, which became effective on

July 15, 2019, and the finalized revisions for the 2018 Oil and Gas Production Safety Systems Rule, which became effective on December 27, 2018. BOEM conducted its environmental analyses with the 2016 Oil and Gas Production Safety Systems Rule and 2016 Well Control and Blowout Preventer Rule in place. BOEM has reviewed BSEE's Final EA and Finding of No Significant Impact (FONSI) for the 2019 Well Control and Blowout Preventer Proposed Rule and the Final EA and FONSI for the 2018 Oil and Gas Production Safety Systems Rule. BOEM has determined that the changes in the 2019 Well Control and Blowout Preventer Rule and the 2018 Oil and Gas Production Safety Systems Rule do not change the conclusions of the 2018 GOM Supplemental EIS.

BOEM also confirmed that its analyses in the 2017-2022 National OCS Program EIS, 2017-2022 GOM Multisale EIS, and 2018 GOM Supplemental EIS would not be affected by changes in USEPA's actions related to the regulation of greenhouse gas emissions from power plants. The range of activity described by the scenarios in these NEPA documents represents BOEM's best estimate of the range of possible production volumes and associated activity that can reasonably be expected from the acreage leased during a single proposed lease sale. The range provides subject matter experts the flexibility to develop impact analyses for the full array of potential activity that can be expected from an individual lease sale regardless of changing policies. BOEM is confident that the scenario development methodology used in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS analyses adequately projects Gulf of Mexico OCS oil- and gas-related activities in both the short term and long term.

On May 1, 2020, the National Oceanic and Atmospheric Administration (NOAA) published a proposed rule to expand the boundaries of the Flower Garden Banks National Marine Sanctuary (FGBNMS) (see 85 FR 25359 [May 1, 2020]). This proposed expansion was based on the recommendation contained within the Sanctuary Expansion Action Plan of the FGBNMS Management Plan (April 2012) and considered alternatives analyzed in NOAA's 2016 Draft EIS (see 81 FR 37576 [June 10, 2016]). Executive Order 13795 (see 82 FR 20815 [April 28, 2017]) modified the process and requirements for the Department of Commerce to designate or expand National Marine Sanctuaries. Pursuant to Executive Order 13795, NOAA requested an analysis from BOEM on the potential oil and gas, hydrate, renewable, and marine mineral resources and development impacts of the proposed expansion on those resources. For this consultation, BOEM analyzed NOAA's revised preferred alternative for the expansion boundaries, as recommended by the FGBNMS Sanctuary Advisory Council in May 2018, based on comments received on NOAA's 2016 Draft EIS. BOEM's analysis found that the proposed expansion does not alter any previous conclusions from the 2017 GOM Multisale EIS or 2018 GOM Supplemental EIS. A Final EIS for the proposed FGBNMS expansion was published on December 18, 2020, and the rule expanding the boundaries of the sanctuary became effective on March 22, 2021.

On December 1, 2020, BOEM issued a ROD for authorizing geological and geophysical (G&G) survey activities in the Gulf of Mexico. BOEM's ROD selected a modified Alternative C as described in the *Gulf of Mexico OCS Proposed Geological and Geophysical Activities: Western, Central, and Eastern Planning Areas; Final Programmatic Environmental Impact Statement* (Programmatic EIS). Under this decision, G&G activities (e.g., through post-lease plan approvals for on-lease airgun surveys) would continue to be considered, and any authorization in

the Gulf of Mexico OCS waters under BOEM’s jurisdiction will include, where applicable, the mitigation measures, monitoring, reporting, survey protocols, and guidance that are included in Alternative A<sup>1</sup>, as well as the following mitigation measures: the protected species observer program expanded to include manatees and all water depths; passive acoustic monitoring (PAM) for deep-penetration seismic activities in low visibility in >100 meter (m) (328-foot [ft]) isobaths (water depth); PAM for deep-penetration seismic activities in Mississippi Canyon and De Soto Canyon (24 hours); and coastal waters seasonal closures for airgun surveys in <20-m (66-ft) isobaths (water depth) between February 1 and May 31. The decision cited above establishes a framework for subsequent NEPA analyses of site-specific actions (e.g., post-lease plan reviews), where new information and compliance with existing applicable laws and regulations may result in additional mitigation measures or changes to the measures described in the ROD and Programmatic EIS. Operators will also be required to comply with any relevant Biological Opinions and will be expected to obtain an incidental take authorization under the Marine Mammal Protection Act (MMPA) if incidental take of a marine mammal is expected.

Since the GOM Lease Sale 257 Determination of NEPA Adequacy was originally signed on September 9, 2020, the Ninth Circuit Court of Appeals ruled, in the context of a Development and Production Plan approval in Alaska, that BOEM must consider foreign oil consumption in its analysis of the lifecycle greenhouse gas (GHG) emissions associated with its No Action Alternative (*Center for Biological Diversity v. Bernhardt*, 2020 WL 7135484 [9th Cir. Dec. 7, 2020]). In light of the Ninth Circuit's decision and the similarity between the GHG analysis conducted for the challenged plan approval and the one used for both the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS, BOEM analyzed whether the court's reasoning changed any conclusions made in BOEM's previous NEPA documents. The potential impacts of GHG emissions from foreign oil consumption are not inconsistent with conclusions from the 2017-2022 National OCS Program EIS, 2017-2022 GOM Multisale EIS, 2018 GOM Supplemental EIS, or the recently updated GOM Lease Sale 257 Determination of NEPA Adequacy.

On August 9, 2021, the Intergovernmental Panel on Climate Change released a new report detailing observations of a rapidly changing climate in every region globally. This report does not present sufficient cause to supplement the EIS, at this time. *See Stand Up for California! v. United States Dep't of the Interior*, 994 F.3d 616, 628 (D.C. Cir. 2021). The report as well as additional analysis of climate change may be a significant consideration in the Department's decisions regarding oil and gas leasing programs in the future.

The decision to hold Lease Sale 257 recognizes the role that GOM oil and gas resources play in addressing the Nation's demand for domestic energy sources and fosters economic benefits, including employment, labor income, and tax revenues, which are highest in Gulf Coast States and also distributed widely across the United States. Revenues from offshore oil and gas lease

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<sup>1</sup> Mitigations for Alternative A include seismic airgun survey protocol (NTL 2016-BOEM-G02), guidance for vessel strike avoidance, guidance for marine debris awareness, avoidance of sensitive benthic resources, guidance for avoidance of historic and prehistoric sites, guidance for shallow hazards surveying and reporting, consultation in or near National Marine Sanctuaries, guidance for military coordination, and guidance for ancillary activities (Oil and Gas Program only).

sales support national conservation programs and coastal resiliency for applicable coastal states and political subdivisions under the Gulf of Mexico Energy Security Act of 2006.

After considering the benefits and potential impacts evaluated in the 2018 GOM Supplemental EIS, all comments received, and determining that no new information or circumstances substantially affect the conclusions of that analysis, I have concluded that OCSLA permits me to hold GOM Lease Sale 257 in the manner described herein. In making my decision, I considered the alternatives, information, analyses, and any objections submitted by State, Tribal, and local governments, and public commenters for consideration by the lead and cooperating agencies in developing the 2018 GOM Supplemental EIS.

### **3. OTHER ALTERNATIVES ANALYZED IN THE 2018 GOM SUPPLEMENTAL EIS**

Alternative B in the 2018 GOM Supplemental EIS would have offered for lease all available, unleased blocks within the CPA and EPA portions of the proposed lease sale area for oil and gas operations, with the following exceptions: whole and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006, and blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap. Available blocks within the WPA would **not** be offered for lease under this alternative. Additionally, the following blocks would also be excluded: depth-restricted, segregated portions of Block 299, Main Pass Area, South and East Addition (Louisiana Leasing Map LA10A); blocks where the lease status is currently under appeal; and whole or partial blocks that received bids in previous lease sales, where the bidder has sought reconsideration of BOEM's rejection of their bid, unless the reconsideration request is fully resolved at least 30 days prior to publication of the Final Notice of Sale.

BOEM considered the oil and gas resource potential in the CPA and EPA and the likelihood of industry to develop those oil and gas resources in the context of social, economic, and environmental values, impacts, and concerns. Alternative B could potentially result in a slightly smaller amount of activity than forecasted for Alternative A (1.0-3.6% of the forecasted cumulative OCS oil and gas activity in the GOM). Approximately 53 million ac of the proposed lease sale area would have been available for lease under Alternative B. This alternative was not selected because it does not provide a timely opportunity for bidding on rejected, relinquished, or expired OCS lease blocks from the WPA as is provided in the chosen alternative, i.e., holding a region-wide lease sale. Further, the incremental contribution of the possible negative impacts of the selected alternative is expected to be only slightly greater than those of Alternative B. For these reasons, I did not choose Alternative B.

Alternative C would have offered for lease all available, unleased blocks within the WPA portion of the proposed lease sale area for oil and gas operations, except for whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary as of the July 2008 *Memorandum on Withdrawal of Certain Areas of US OCS from Leasing Disposition*. Available blocks within the CPA and EPA would **not** be offered for lease under this alternative.

Additionally, due to their lease status, the following blocks would also be excluded: blocks where the lease status is currently under appeal and whole or partial blocks that received bids in previous lease sales, where the bidder has sought reconsideration of BOEM's rejection of their

bid, unless the reconsideration request is fully resolved at least 30 days prior to publication of the Final Notice of Sale.

BOEM considered the oil and gas resource potential in the WPA and the likelihood of industry to develop those oil and gas resources in the context of social, economic, and environmental values, impacts, and concerns. Alternative C could potentially result in only 0.2-0.6% of the forecasted cumulative OCS oil- and gas-related activity in the GOM, which is much smaller than either Alternative A or B. Approximately 26.9 million ac of the proposed lease sale area would have been available for lease under Alternative C. This alternative was not selected because it does not provide as prompt an opportunity for bidding on rejected, relinquished, or expired OCS lease blocks from the CPA and EPA as is provided in the chosen alternative, i.e., holding a region-wide lease sale. Moreover, because those planning areas likely would be considered separately for potential leasing under the current program, Alternative C is not certain to result in meaningfully different levels of oil and gas-related activity. For these reasons, I did not choose Alternative C.

Alternative D would have offered for lease all available, unleased blocks under either Alternative A (the chosen region-wide Lease Sale 257 decision), B, or C, but would have excluded from the lease sale all blocks in Alternative A subject to either the Topographic Features, Live Bottom (Pinnacle Trend), and/or Blocks South of Baldwin County, Alabama, Stipulations, precluding economic benefits of oil and gas that could be developed in these blocks. Other than these block exclusions, all other aspects of Alternative D, including potential mitigation measures and estimates of resource production, are the same as for the chosen GOM Lease Sale 257 decision.

Alternative D was not selected. Its impacts are expected to be nearly the same as those for the selected alternative. Compared to Alternative D, the incremental contribution of possible negative impacts attributable to the selected alternative is expected to be slight, and these negative impacts should be largely mitigated by the adoption of the Topographic Features Stipulation, Live Bottom Stipulation, the Blocks South of Baldwin County, Alabama, Stipulation (refer to Section 5), and site-specific mitigation measures that may be imposed at the plan or permit stages. Therefore, the minimal decrease in impacts that might be avoided did not outweigh the benefits of the oil and gas resources that could be produced by holding a region-wide lease sale that did not exclude these blocks. For these reasons, I did not choose Alternative D.

GOM Lease Sale 257 would not be held under Alternative E, which is the No Action Alternative analyzed in the 2018 GOM Supplemental EIS. Alternative E was not selected because if it were, revenue would not be collected by the Federal Government nor subsequently disbursed to the States. If the proposed GOM region-wide lease sale were not held, the overall near-term level of OCS oil and gas-related activity in the region would be reduced. However, not holding a single lease sale would not significantly change the overall activity levels in the GOM (i.e., on blocks leased in previous lease sales) and the associated environmental impacts in the near term.

#### **4. ENVIRONMENTALLY PREFERABLE ALTERNATIVE**

BOEM identified Alternative E, defined as the No Action Alternative, as environmentally preferable in the 2018 GOM Supplemental EIS. The No Action Alternative is considered environmentally preferable because not holding the lease sale would preclude OCS oil- and gas related activities related to new leases from occurring, along with the resulting environmental effects in the Gulf of Mexico. However, significant OCS oil- and gas-related activity would be expected to continue under existing leases and, with only forty-eight percent of leases with approved exploration plans or development plans, the majority of currently leased blocks are still in the early exploration phase. Therefore, a no action alternative will not have immediate environmental benefits. It is also possible that in the short term, assuming OCS oil- and gas-related activities remain confined to acreage currently leased, OCS operators would likely reevaluate their exploration, delineation, and development strategies across their existing portfolio and reallocate resources accordingly. This could also lead to small increases in the intensity of the activities in already leased areas and attendant small increases in impacts in those areas.

#### **5. MITIGATION MEASURES**

As part of the decision to hold proposed GOM Lease Sale 257, all practicable means to avoid or minimize environmental harm at the lease sale stage and analyzed in the NEPA documents are being adopted. In addition, post-lease activities (e.g., exploration and development plans), which may be expected as a result of proposed GOM Lease Sale 257, will undergo additional environmental review and may include additional project-specific mitigation measures applied as conditions of individual plan approvals. The various mitigation measures adopted for the lease sale, and those that may be applied during post-lease reviews, are summarized below.

***Lease Stipulations*** – The leases will be offered subject to the lease stipulations described in the 2018 GOM Supplemental EIS. In the ROD for the 2017-2022 National OCS Program EIS, the Secretary of the Interior required the protection of biologically sensitive underwater features in all GOM oil and gas lease sales as programmatic mitigation. Therefore, the Topographic Features Stipulation and Live Bottom (Pinnacle Trend) Stipulation will apply to designated lease blocks in GOM Lease Sale 257. The additional eight lease stipulations that I am adopting for GOM Lease Sale 257 are as follows: the Military Areas Stipulation; the Evacuation Stipulation; the Coordination Stipulation; the Blocks South of Baldwin County, Alabama, Stipulation; the Protected Species Stipulation; the United Nations Convention on the Law of the Sea Royalty Payment Stipulation; the Restrictions Due to Rights-of-Use and Easement for Floating Production Facilities Stipulation; and the Stipulation on the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico; An eleventh stipulation, the Timeframe for Decisions on an Application for Permit to Drill and an Application for Permit to Modify stipulation, was considered for inclusion in Sale 257 in the Proposed Notice of Sale. I have decided not to include that stipulation in Lease Sale 257, as it is unnecessary. BSEE regularly processes reviews and approvals for those applications in a timely manner. The Protected Species Stipulation was recently updated due to the completion of the Endangered Species Act (ESA) consultation with the National Marine Fisheries Service (NMFS) and the issuance of the March 2020 Biological Opinion addressing oil and gas activities

in the Gulf of Mexico, including this lease sale (see *Endangered and Threatened Species Protections* below). These 10 stipulations will be added as lease terms where applicable and are enforceable as terms of the lease. The 10 stipulations being applied to GOM Lease Sale 257 will be listed and fully described in the forthcoming Final Notice of Sale package. The blocks to which each stipulation applies will be identified on the map entitled “Gulf of Mexico Region-wide Oil and Gas Lease Sale 257, Stipulations and Deferred Blocks Map,” which will be included in the Final Notice of Sale package.

***Site-Specific Conditions of Approval*** – There are post-lease conditions of approval that have been developed through experience and post-lease environmental analyses that are more appropriately applied during site-specific, plan- and permit-approval stages. Many of these mitigation measures have already been adopted and incorporated into BOEM and BSEE’s approved plans and permits for blocks leased in previous lease sales in accordance with processes established in regulations to adopt measures identified in NEPA analyses or ESA consultations relevant to OCS exploration, development, and production activities. For example, additional mitigation measures may require surveys to detect and avoid archaeological sites and biologically sensitive areas, such as topographic features and deepwater benthic communities. BOEM and BSEE incorporate the applicable conditions of approval into plan and permit approvals. All submitted plans and permit applications for site-specific, OCS oil- and gas-related activities (e.g., exploration and development plans, pipeline applications, and structure-removal applications) also go through additional review by BOEM, BSEE, or both to ensure compliance with established laws and regulations.

BOEM and BSEE have developed a list of over 120 “standard” conditions of approval that are often applied to plan or permit approvals. Appendix B of the 2017-2022 GOM Multisale EIS, which is incorporated by reference into the 2018 GOM Supplemental EIS, provides a list and description of many of these post-lease conditions of approval that may be required by BOEM or BSEE as a result of plan and permit review processes in their respective New Orleans offices. These conditions of approval include hazard survey reviews, inspection requirements, notifications, post-approval submittals, and safety precautions. Many of these conditions of approval clarify existing mitigation requirements included in regulations or lease instruments, based on site-specific reviews. The conditions cover such areas as air quality, archaeological resources, artificial reef material, deepwater- benthic communities, the Flower Garden Banks National Marine Sanctuary, topographic features, potentially sensitive biological features, hard bottoms, military warning areas, hydrogen sulfide, drilling hazards, remotely operated vehicle surveys, geophysical survey reviews, and general safety concerns. BOEM or BSEE may also apply conditions of approval that are developed on a case-by-case basis during the plan or permit approval process.

***Endangered and Threatened Species Protections*** – On April 20, 2018, the U.S. Fish and Wildlife Service (FWS) issued its 10-year programmatic Biological Opinion under the ESA for BOEM’s and BSEE’s oil and gas activities in the Gulf of Mexico. The FWS Biological Opinion does not include any terms and conditions for the protection of endangered species that the Bureaus, lessees, or operators must implement. On March 13, 2020, NMFS issued a Biological Opinion and related terms and conditions and reasonable and prudent measures for future approvals of oil and gas activities (including lease sales) in the Gulf of Mexico for the protection

of species listed as endangered or threatened under the ESA and under NMFS jurisdiction. The NMFS programmatic Biological Opinion addresses any future lease sales and approvals issued by BOEM and BSEE, under both existing and future OCS oil and gas leases in the GOM, over a 10-year period. Applicable terms and conditions and reasonable and prudent measures from the NMFS Biological Opinion are included in this lease sale in the Protected Species Stipulation; other specific conditions of approval will also be applied to site-specific, post-lease approvals (e.g., permits and plans) and environmental reviews. The 2020 NMFS Biological Opinion made a jeopardy determination concerning Bryde's<sup>2</sup> whales due to the potential for vessel strikes from service vessels transiting the Bryde's whale area, which is largely in the portion of the Gulf of Mexico currently subject to a congressional moratorium on leasing through July 2022 under GOMESA.<sup>3</sup> Therefore, this area is not included in this sale. BOEM has since accepted the reasonable and prudent alternative for the Bryde's whale, and NMFS amended its Biological Opinion in April 2021 to reflect that and other updates and remove the jeopardy determination. BOEM continues to review the analyses in the 2020 NMFS Biological Opinion to ensure that any future Federal action it undertakes will not violate Section 7(a)(2) of the ESA, which prohibits any action that would jeopardize the continued existence of a listed species or cause adverse modification of designated critical habitat. Both BOEM and BSEE will ensure that both the lease sale and any post-lease approvals comply with Section 7(a)(2). In addition, BOEM will continue to provide NOAA the opportunity for step-down review of certain post-lease approvals (e.g., seismic surveys, new and unusual technologies) pursuant to the process specified in the Biological Opinion. In those areas not subject to the leasing moratorium, BOEM will process requests to conduct G&G surveys related to the oil and gas program, conduct site-specific reviews, and consider, as appropriate, any relevant provisions of NMFS' Biological Opinion, including application of relevant terms and conditions and reasonable and prudent measures. The impacts to ESA-listed species from an oil and gas lease sale were addressed in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS and were used to support the proposed action; the completion of the two Biological Opinions does not significantly alter the conclusions in those EISs and thus supplementation is not required.

BOEM petitioned NMFS for rulemaking under the MMPA to assist industry in obtaining incidental take coverage for marine mammals due to oil and gas G&G surveys in the Gulf of Mexico. On January 19, 2021, NMFS published in the *Federal Register* its final rule as a result of the petition; with the publication of the final rule, NMFS also amended its 2020 Biological Opinion (which also served as the intra-service consultation for the rule). The final rule includes additional mitigation measures beyond what was originally within Appendices A and C of the Biological Opinion; NMFS amended the Biological Opinion in April 2021 to update these

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<sup>2</sup> On August 23, 2021, NMFS published a direct final rule in the *Federal Register* (86 FR 47022): Endangered and Threatened Wildlife and Plants; Technical Corrections for the Bryde's Whale (Gulf of Mexico Subspecies). NMFS revised the common name to the Rice's whale, the scientific name to *Balaenoptera ricei*, and the description of the listed entity to the entire species. The changes to the taxonomic classification and nomenclature do not affect the species' listing status under the ESA or any protections and requirements arising from its listing. This rule will become effective October 22, 2021, without further action, unless significant adverse comment is received by NMFS before September 22, 2021.

<sup>3</sup> Since issuance of the 2020 NMFS Biological Opinion, President Trump exercised authority granted him under Section 12(a) of OCS Lands Act, 43 U.S.C. § 1341(a), and issued a presidential memorandum on September 8, 2020, withdrawing the GOMESA moratorium area from leasing for an additional 10 years, beginning on July 1, 2022, and ending on June 30, 2032.

Appendices in light of the final rule. These additional mitigations will be applied by industry through the rule and the Letter of Authorization process and would only be expected to further reduce impacts already addressed in the 2017-2022 GOM Multisale EIS and 2018 GOM Supplemental EIS. The final incidental take regulation took effect on April 19, 2021, and survey operators are now able to apply for Letters of Authorization.

**Mitigation Monitoring and Adaptation** – BOEM and BSEE continually assess compliance and effectiveness of mitigation measures, where appropriate, to allow BOEM’s New Orleans Office and BSEE’s Gulf of Mexico OCS Region to adjust mitigation as needed. This effort relies on lessees or operators submitting required information within the specified time period after plan and permit approvals or after triggering events (e.g., end of operations reports for plans, construction reports for pipelines, and removal reports for structure removals). This information is tracked and assessed by BOEM, BSEE, or both.

**Enforcement** – BSEE has the authority under 30 CFR part 250 subpart N to inspect operations and enforce the conditions of any lease terms, including stipulations, as well as the conditions of any plan or permit approval. BOEM may likewise refer potential violations to BSEE for investigation and potential enforcement. BSEE may impose penalties on or require corrective actions from any lessee or any operator that fails to comply with the terms of a lease, including stipulations and other mitigation measures, and conditions of any post-lease plan approvals or permits.

## 6. CONCLUSION

For the reasons provided above, I have decided that Lease Sale 257 will be held as a GOM region-wide lease sale in the Fall of 2021, and I will offer for lease all available, unleased blocks in the proposed region-wide lease sale area, with the following exceptions: whole and portions of blocks deferred by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary as of the July 2008 *Memorandum on Withdrawal of Certain Areas of US OCS from Leasing Disposition*; depth-restricted, segregated portions of Block 299, Main Pass Area, South and East Addition (as shown on Louisiana Leasing Map LA10A ); blocks the lease status of which is currently under appeal; and whole or partial blocks bid on in previous lease sales where the bidder has sought reconsideration of BOEM’s rejection of their bid, unless the reconsideration request is fully resolved at least 30 days prior to publication of the Final Notice of Sale. My decision is to offer the subset of the blocks analyzed as Alternative A in the 2018 GOM Supplemental EIS with the above exceptions. The leases will be issued with the stipulations referenced above and will include other terms that I have approved for the Final Notice of Sale.

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Laura Daniel-Davis  
Principal Deputy Assistant Secretary  
Land and Minerals Management

Date