

Record of Decision for Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 259

1. INTRODUCTION

This is the Record of Decision (ROD) for the Bureau of Ocean Energy Management's (BOEM's) action to hold an oil and gas lease sale in the Gulf of Mexico (GOM) as required by the Inflation Reduction Act of 2022 (IRA) (Public Law 117-169, enacted August 16, 2022). Section 50264(d) of the IRA requires BOEM to hold GOM Lease Sale 259 no later than March 30, 2023, notwithstanding the expiration of the National Outer Continental Shelf (OCS) Oil and Gas Leasing Program (National OCS Program) on June 30, 2022. While section 50264 requires BOEM to hold Lease Sale 259, the IRA does not disturb the bulk of BOEM's normal leasing process, including the resolution of questions regarding the scope of the lease sale and the terms of the resulting leases. In addition, under section 50265(b)(2) of the IRA, in order to issue a lease for offshore wind BOEM must hold an offshore oil and gas lease sale during the 1-year period ending on the date of the issuance of the lease for offshore wind development and the sum total of acres offered for lease in offshore oil and gas lease sales during that 1-year period must be no less than 60,000,000 acres. (IRA, Section 50265(b)(2)).

The purpose of this proposed Federal action is to offer for lease certain OCS blocks located in the GOM that may contain economically recoverable oil and gas resources. Under the 2017-2022 National OCS Oil and Gas Program, two regionwide GOM lease sales were tentatively scheduled to be held each year in in 2018-2021, and one regionwide GOM lease sale was scheduled to be held in 2017 and 2022. Lease Sale 259, the ninth lease sale in the GOM scheduled under the 2017-2022 National OCS Oil and Gas Program, is now required to be held by the IRA and will provide qualified bidders the opportunity to bid on unleased blocks in the Gulf of Mexico OCS in order to explore for, develop, and produce oil and natural gas.

The *Outer Continental Shelf Oil and Gas Leasing Program: 2017-2022; Final Programmatic Environmental Impact Statement* (2017-2022 National OCS Oil and Gas Program EIS) includes an analysis of the potential environmental impacts of the lease sale schedule put forward in the 2017-2022 National OCS Oil and Gas Program, including the 10 proposed GOM lease sales. The *Gulf of Mexico Lease Sales 259 and 261: Final Supplemental Environmental Impact Statement* (GOM Lease Sales 259 and 261 Supplemental EIS) evaluates the potential environmental effects of a representative GOM oil and gas lease sale. It tiers from, updates, and incorporates by reference information in the *Gulf of Mexico Outer Continental Shelf Lease Sale: Final Supplemental Environmental Impact Statement 2018* (2018 GOM Supplemental EIS) and 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). While BOEM has no discretion on whether to hold Lease Sale 259, which BOEM is required to hold by the end of March 2023, as directed in the IRA, BOEM prepared the GOM Lease Sales 259 and 261 Supplemental EIS to follow its normal leasing process to the fullest extent possible and to inform the decisionmaker on impacts from a lease sale, mitigations, and other action alternatives. The ROD for GOM Lease Sale 259 relies

on the analysis in the GOM Lease Sales 259 and 261 Supplemental EIS and the prior EISs it tiers from.

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 in Lease Sale 259 a subset of the blocks analyzed as Alternative D in the GOM Lease Sales 259 and 261 Supplemental EIS, with the exclusion of whole and partial blocks that would otherwise have been proposed to be subject to the Topographic Features Stipulation, the Live Bottom (Pinnacle Trend) Stipulation, and the Blocks South of Baldwin County, Alabama, Stipulation. In the GOM Lease Sales 259 and 261 Supplemental EIS, Alternative D excluded the blocks listed in Items 1 through 6 below. My decision is to also exclude those blocks listed in Items 7 through 9 below. Excluding these additional blocks from this lease sale will help reduce identified space-use conflicts or competing interests in the GOM while we study whether these areas are compatible for use by more than one infrastructure type, and maintains the status quo and reduces or avoids any potential impacts on these blocks while that analysis takes place. A benefit of this alternative over Alternative A (a GOM lease sale of all unleased available blocks in the Western Planning Area (WPA), Central Planning Area (CPA), and Eastern Planning Area (EPA)), is that it avoids sensitive benthic habitat and visual resources rather than applying mitigation measures to protect the habitat and resources. Excluding blocks in items listed in 7 through 9 below helps reduce identified space-use conflicts or competing interests in the GOM, and does not otherwise alter the analysis and other reasonably foreseeable impacts of Alternative D. In making my decision, I have considered the analyses in the 2017-2022 GOM Multisale EIS, 2018 GOM Supplemental EIS, GOM Lease Sales 259 and 261 Supplemental EIS, and the documents incorporated by reference. The impacts of Alternative A and the chosen subset of Alternative D are not materially different, except for the additional benefits of eliminating potential impacts to benthic habitats from bottom-disturbing activities and visual impacts from OCS oil- and gas-related activities, rather than mitigating for them. In addition, space-use conflicts in the draft and final identified Wind Energy Areas and the BOEM-designated Significant Sediment Resource Area blocks are limited with the additional exclusions. The lease sale and reasonably foreseeable post-lease activity scenario, which was analyzed in the 2017-2022 GOM Multisale EIS, 2018 GOM Supplemental EIS, and GOM Lease Sales 259 and 261 Supplemental EIS, results in a level of activity that would be the same for Alternative A or slightly less for Alternative D; therefore, I have decided to choose a subset of Alternative D. Alternative D was identified as BOEM's preferred alternative in the GOM Lease Sales 259 and 261 Supplemental EIS. Alternative D allows for a GOM regionwide lease sale encompassing all three planning areas, in the WPA, CPA, and a small portion of the EPA not under Presidential withdrawal. For GOM Lease Sale 259, the U.S. Department of the Interior will offer for lease all available unleased blocks in the proposed lease sale area for oil and gas operations with the following exceptions:

- (1) whole and portions of blocks withdrawn from leasing by Presidential withdrawal in the September 8, 2020, *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition*;
- (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 14, 2008, *Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf from Leasing Disposition*;
- (4) whole and partial blocks that were otherwise proposed to be subject to the Topographic Features Stipulation;
- (5) whole and partial blocks that were otherwise proposed to be subject to the Live Bottom (Pinnacle Trend) Stipulation;
- (6) whole and partial blocks that were otherwise proposed to be subject to the Blocks South of Baldwin County, Alabama, Stipulation including 32 blocks (Mobile Blocks 826-830, 869-874, 913-918, 957-962, 1001-1006; and Viosca Knoll Blocks 33-35) within 15 miles (24 kilometers) of Baldwin County, Alabama;
- (7) draft identified Wind Energy Areas (Areas A, B, C, D, E, F, G, H, J, K, L, and N) and final Wind Energy Areas (Areas I and M);
- (8) Depth-restricted, segregated block portions (Block 299, Main Pass Area, South and East Addition); and
- (9) BOEM-designated Significant Sediment Resource Area Blocks.

All of the unavailable blocks are listed in Section I of the Final Notice of Sale for Lease Sale 259. The GOM Lease Sale 259 lease area encompasses about 13,600 OCS blocks covering approximately 73.3 million acres.

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. BOEM has utilized this approach to provide greater flexibility to industry, including more frequent opportunities to bid on rejected, relinquished, or expired OCS lease blocks in all three GOM planning areas.

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 oil and gas Lease Sale 259, as described herein as a subset of Alternative D of the GOM Lease Sales 259 and 261 Supplemental EIS, complies with the IRA, 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 259, as described in this ROD and in the 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.

Environmental Analysis Considered in Reaching Decision

As noted in the GOM Lease Sales 259 and 261 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 259. 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 GOM Lease Sales 259 and 261 Supplemental EIS. BOEM published the Final GOM Lease Sales 259 and 261 Supplemental EIS after considering all public and Federal agency comments received on the Draft GOM Lease Sales 259 and 261 Supplemental EIS. BOEM responded to those substantive comments as appropriate in the Final GOM Lease Sales 259 and 261 Supplemental EIS. Taking into account the comments and the information in the Final GOM Lease Sales 259 and 261 Supplemental EIS, I have fully considered the potential environmental impacts that are reasonably foreseeable as a result of holding GOM Lease Sale 259.

To minimize the environmental impacts that could occur from OCS oil- and gas-related activities following a lease sale, BOEM imposes mitigating measures that have proven effective in the past in avoiding or reducing impacts. The mitigating measures that I am adopting in the form of lease stipulations for this lease sale are described below in Section 6. 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.

For this lease sale, I have chosen to implement the 18¾ percent royalty rate across all water depths. The 18¾ percent royalty rate is the maximum allowed by Section 50261 of the IRA for OCS leases. An 18¾ percent royalty rate in all GOM water depths would leave the royalty in water depths 200 meters and deeper unchanged from the last GOM lease sale, but it would be a 50 percent increase in the shallow-water royalty compared to recent lease sales.

BOEM has reanalyzed the forecasted oil and gas exploration, discovery, development, and production activity expected from a lease sale with an 18¾ percent royalty rate. BOEM has confirmed that the likely 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, as this initial analysis was conducted assuming royalty rates of 18¾ percent for all leases. BOEM retained the same activity scenario in the GOM Lease Sales 259 and 261 Supplemental EIS. Though GOM Lease Sales 259 and 261 will have higher royalty rates than GOM Lease Sales 251, 252, 253, 254, 256, and 257, BOEM determined that the expected activities resulting from this range still represent those within the range of the forecast scenarios analyzed.

Therefore, my decision to implement the 18¾ percent royalty rate across all water depths was thoroughly analyzed and will result in impacts within the range of the forecast scenarios analyzed, including as a subset of Alternative D that I am choosing herein.

BOEM conducted a greenhouse gas (GHG) analysis entitled *Gulf of Mexico OCS Oil and Gas Leasing Greenhouse Gas Emissions and Social Cost Analysis: Addendum to the Gulf of Mexico Lease Sales 259 and 261: Draft Supplemental EIS and Technical Report* (2022 Gulf of Mexico GHG Analysis Addendum) that estimates the GHG emissions from domestically produced or consumed energy that could result from Alternative A and the No Action Alternative scenario. As discussed in Chapter 2 of the GOM Lease Sales 259 and 261 Supplemental EIS, BOEM finds that the chosen subset of Alternative D could result in either a reduction or equal level of activity and production anticipated and analyzed for Alternative A. Therefore, the GHG emissions analysis and results of Alternative A represent a conservative estimate of the impacts from GHG emissions that could result from the chosen alternative, i.e., the subset of Alternative D.

The 2022 Gulf of Mexico GHG Analysis Addendum includes GHG emissions estimates from (1) domestic full life cycle emissions (including emissions from exploration for hydrocarbon resources through consumption) and (2) emissions associated with a change in foreign oil consumption. Since publication of the GOM Lease Sales 259 and 261 Supplemental EIS, BOEM corrected two errors pertaining to the greenhouse gas emissions analysis. Both changes stemmed from the input of incorrect production volumes into one of BOEM's models. As a result, BOEM has completed the attached errata sheet for the GOM Lease Sales 259 and 261 Supplemental EIS, published the errata sheet on the BOEM webpage, and published an updated version of the *Gulf of Mexico OCS Oil and Gas Leasing Greenhouse Gas Emissions and Social Cost Analysis: Addendum to the Gulf of Mexico Lease Sales 259 and 261 Supplemental EIS and Technical Report – Corrected* (Gulf of Mexico GHG Analysis Corrected Addendum) on the BOEM webpage.¹

The corrected analysis results in increased levels of midstream and downstream emissions under Alternative A and the No Action. Further, the analysis results in a higher estimate of foreign emissions from increased global consumption. The corrected analysis reaches the same aggregate conclusion that, at a global level, the No Action Alternative results in lower emissions than the Leasing Alternative. For domestic emissions, the corrected analysis reaches a similar conclusion, namely that emissions from domestic production and consumption between the Leasing Alternative and the No Action Alternative remain comparable given emissions resulting from the No Action Alternative from estimated energy market substitutes (e.g., increased

¹ <https://www.boem.gov/oil-gas-energy/gulf-mexico-lease-sales-259-and-261-supplemental-environmental-impact-statement>

imports, onshore production). However, the corrected analysis now finds a slightly lower volume of emissions under the No Action Alternative compared to the corrected Leasing Alternative. The Gulf of Mexico GHG Analysis Corrected Addendum rectifies the emissions and associated social cost of the domestic estimated GHG emissions.

With the corrected numbers, the conclusion surrounding the potential domestic lifecycle impacts of GHG emissions and those from domestic foreign oil consumption do not change from those in the 2017-2022 National OCS Oil and Gas Program EIS, 2017-2022 GOM Multisale EIS, and 2018 GOM Supplemental EIS, and are generally consistent with the analysis in the earlier Final GOM Lease Sales 259 and 261 Supplemental EIS, with the exception of the references identified in the errata sheet.

The corrections also address certain prior concerns raised by commenters regarding the estimates of greenhouse gases and what some commenters saw as an underestimate of the impacts of the leasing alternative versus the no leasing alternative²; these comments are addressed by the Gulf of Mexico GHG Analysis Corrected Addendum and errata sheet for the Final GOM Lease Sales 259 and 261 Supplemental EIS.

I have considered the analysis in the Gulf of Mexico GHG Analysis Corrected Addendum when making my decision on the size and location of the sale and other the terms of the sale for the reasons ascribed herein. For example, in the domestic lifecycle analysis, my choice of Alternative D results in expected domestic emissions that are slightly higher than, but largely similar, to the lifecycle CO_{2e} estimated for the No Leasing Alternative. The change in foreign consumption increases the global lifecycle emissions of my chosen alternative over the No Leasing alternative, but only slightly compared to the domestic full lifecycle emissions. In sum, the slightly larger GHG emissions from the analyzed Leasing Alternative, when compared to the No Action Alternative, in the Gulf of Mexico GHG Analysis Corrected Addendum are not appreciably different from those outlined in the Final GOM Lease Sales 259 and 261 Supplemental EIS such that they alter the national policy considerations that weigh in favor of holding GOM Lease Sale 259. The aggregate conclusion between the global emissions resulting from the No Action Alternative and Leasing Alternative has not changed. The comprehensive analysis provides me with the necessary information, quantitative and qualitative, about the chosen alternative's contribution to global GHG levels and facilitates my reasoned decision among alternatives analyzed and open to me. Taking into account the relative GHG emissions and impacts, I find that the national interest weighs in favor of holding Lease Sale 259 according to the terms herein.

I also reach this decision in the context of the IRA, which requires the sale to be held no later than March 31, 2023, and provides BOEM with at most limited discretion to delay the sale. For example, Congress demonstrated in the Act that it was capable of tethering action required of BOEM to the consummation of the agency's analysis and review, such as when Congress instructed BOEM to "promptly" issue leases for Lease Sale 257 (i.e., not by a date certain). P.L.

² See e.g., comments from the Center for Biological Diversity on p. C-80 of the Final GOM Lease Sales 259 and 261 Supplemental EIS.

117-169, § 50264(b)(2). Here, by statute, Congress has left BOEM discretion only to complete that review available to the agency before March 31, 2023. Particularly because the errors in the previous Final GOM Lease Sales 259 and 261 Supplemental EIS were minor and immaterial, those errors do not provide reason for BOEM to delay the sale.

After considering the benefits and potential impacts evaluated in the GOM Lease Sales 259 and 261 Supplemental EIS and determining that no new information or circumstances substantially affect the conclusions of that analysis, I have concluded that holding GOM Lease Sale 259 complies with the IRA and that it is in the Nation's best interest to hold GOM Lease Sale 259 in the manner described herein. In making my decision, I considered the alternatives, information, and 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 GOM Lease Sales 259 and 261 Supplemental EIS.

3. COMMENTS ON THE FINAL GOM LEASE SALES 259 AND 261 SUPPLEMENTAL EIS

The Notice of Availability of the Final GOM Lease Sales 259 and 261 Supplemental EIS was published in the *Federal Register* on January 13, 2023 (88 FR 2371). BOEM received three comment letters on the Final GOM Lease Sales 259 and 261 Supplemental EIS. Comments were received from the National Park Service (NPS), Natural Resources Defense Council (NRDC), and the U.S. Environmental Protection Agency (USEPA). Responses to the comments are provided below.

BOEM received a letter dated February 3, 2023, from the NPS with comments on the GOM Lease Sale 259 and 261 Final Supplemental EIS. The letter acknowledged BOEM's revisions to the GOM Lease Sale 259 and 261 Final Supplemental EIS in response to the NPS's comments on the Draft GOM Lease Sales 259 and 261 Supplemental EIS concerning potential OCS space-use conflicts. The NPS had two follow-up requests to BOEM to be addressed during the post-lease process following Lease Sale 259. The NPS requested assurance that BOEM would coordinate with NPS during its review of post-lease plans submitted by lessees of whole and partial lease blocks within the first 12 miles of Federal waters near Gulf Islands National Seashore (GUIS) in response to the requirements of the GUIS ITL. After removal of excluded blocks from the sale area, including those designated by BOEM as Significant Sediment Resource Area (SSRA) blocks, only a few blocks within the first 12 miles of federal waters of the GUIS remain in the sale (Viosca Knoll 24-27 and Mobile 944, 948, and 949) and BOEM is including the GUIS ITL in the Final Notice of Sale package to address these blocks. As outlined in the GUIS ITL, BOEM will coordinate with NPS on post-lease reviews for development operations as a result of Lease Sale 259 that may visually impact whole and partial lease blocks within the first 12 miles of Federal waters near GUIS. NPS requested that this ROD include additional details about the process of OCS space-use deconfliction and identify any opportunities for the NPS to be consulted during that process. As described in BOEM's NTL No. 2009-G04, distancing requirements for bottom disturbing activities will be implemented for SSRA blocks, which largely overlap with the area around the GUIS. BOEM will continue to coordinate with NPS where BOEM authorized activities could have space use conflicts in the first twelve miles of federal waters around the GUIS.

BOEM received a letter dated January 25, 2023, from the NRDC. The letter contained a re-submission of the comments sent by NRDC on the Draft GOM Lease Sales 259 and 261 Supplemental EIS as well as supplemental material to those original comments. All of the comments in the included letter dated November 21, 2022, were considered in preparation of the Final GOM Lease Sales 259 and 261 Supplemental EIS and all comments were responded to in the responses to comments. The other supplemental information included in the January 25, 2023 letter is not applicable to this Supplemental EIS or lease sale; BOEM has forwarded the information to the BOEM staff developing the next National OCS Oil and Gas Program, to which the information may be relevant.

BOEM received a letter dated February 13, 2023, from the USEPA with comments on the GOM Lease Sale 259 and 261 Final Supplemental EIS. The USEPA had sent a letter on the GOM Lease Sale 259 and 261 Draft Supplemental EIS and reaffirmed the recommendations that were sent in the February 13, 2023 letter. Detailed recommendations for consideration from the USEPA were on the topics of greenhouse gases, environmental justice, and wetlands.

Regarding USEPA's comments on the greenhouse gasses analysis, BOEM notes that its analysis comports with the January 9, 2023 National Environmental Policy Act (NEPA) interim guidance on the consideration of greenhouse gas emissions and climate change to calculate greenhouse gas emissions, including conducting a substitution analysis. While USEPA claims that the same volume of production will come from substitute sources, BOEM does not assume nor show an equivalent amount of oil and natural gas demand (nor supply) under the No Action Alternative and Leasing Alternative. Section 2.1.1 of the *Gulf of Mexico OCS Oil and Gas Leasing Greenhouse Gas Emissions and Social Cost Analysis: Addendum to the Gulf of Mexico Lease Sales 259 and 261 Supplemental EIS and Technical Report – Corrected* shows the various categories of substitute energy sources and, as noted in the analysis, BOEM does not find that there would be perfect substitution for the Leasing and No Action Alternatives. In response to USEPA's claim of a perceived inconsistency in the treatment of GHG substitution effects in the No Action Alternative analysis with other parts of the Final GOM Lease Sales 259 and 261 Supplemental EIS, such as the water quality and coastal habitats sections, BOEM notes that this Supplemental EIS tiers to the 2017 – 2022 National OCS Oil and Gas Program EIS, which also follows CEQ guidance to analyze the reasonably foreseeable potential impacts of substitution to other resources as part of the No Action Alternative, where appropriate.

The USEPA's environmental justice comments correctly note that the Final GOM Lease Sales 259 and 261 Supplemental EIS does not fully address USEPA's recommendations to analyze adverse impacts to minority and low-income populations. The 2017-2022 GOM Multisale EIS, the 2018 GOM Supplemental EIS, and the Final GOM Lease Sales 259 and 261 Supplemental EIS provide the detailed explanation why this type of analysis cannot be conducted at the lease sale stage. The comments USEPA previously provided do not fully consider the geographic scope and complexity of the analyzed alternatives. BOEM does provide the data, methodologies, and operational information that were used for an appropriate level of analysis in Chapter 4.15.3 of the Final GOM Lease Sales 259 and 261 Supplemental EIS and Chapter 4.14.3 of the 2017-2022 GOM Multisale EIS. Additionally, given the complexity of these actions, BOEM is proactively engaged in a series of environmental justice workshops in the Gulf of Mexico with

regional experts. The goal of the workshops is to inform our environmental justice analysis and engagement methods to produce more meaningful results and better inform decisionmakers, stakeholders, and affected communities. Given the nature of a lease sale and the indeterminate timing, duration, and offshore location of potential subsequent activities, BOEM analyses are appropriate and greater detail would be speculative and potentially undermine future activity or site-specific meaningful engagement if counter to analysis based on actual activities, locations, and context. Utilizing the results from these environmental justice workshops as well as the full array of environmental justice policy and guidance, BOEM will continue its analysis and engagement to comply with its ongoing environmental justice obligations, as appropriate.

In response to the recommendation on impacts to wetlands, BOEM does not regulate pipeline landfalls; BOEM's jurisdiction ends at the Federal-State waters boundary. There is a low probability for any new pipeline landfalls to result from the proposed action (0-1 projected in the NEPA analyses for this sale). However, if a pipeline installation were to occur at the coast, the installation would require a permit from the U.S. Army Corps of Engineers and be subject to Federal and State environmental review and compliance with Federal and state law regarding coastal and wetland protections.

I have reviewed and considered all applicable comments submitted on the Final Supplemental EIS. None of the comments change the impact conclusions of the Final Supplemental EIS and other analyses that inform my decision on Lease Sale 259. For the reasons described herein, my decision is to hold Lease Sale 259 according to the terms and conditions described herein and in the Final Notice of Sale.

4. OTHER ALTERNATIVES ANALYZED IN THE GOM LEASE SALES 259 AND 261 SUPPLEMENTAL EIS

Alternative A would have offered for lease all available unleased blocks within the three GOM planning areas of the WPA, CPA, and EPA except for those whole and partial blocks withdrawn from leasing by Presidential withdrawal in the September 8, 2020, *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition*, adjacent to or beyond the United States' Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap, and within the boundaries of the Flower Garden Banks National Marine Sanctuary as of the July 14, 2008, *Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf from Leasing Disposition*. BOEM considered the oil and gas resource potential in the WPA, 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 A could potentially result in the largest activity forecasted (1.2%-4.2% of the forecasted cumulative OCS production in the GOM). Approximately 80.51 million acres of the proposed lease sale area would have been available for lease under Alternative A. Any negative impacts that could occur as a result of OCS oil- and gas-related activity would be largely mitigated by the adoption of the Topographic Features Stipulation, Live Bottom (Pinnacle Trend) Stipulation, the Blocks South of Baldwin County, Alabama, Stipulation, and site-specific mitigating measures that may be imposed at the plan or permit stages. This alternative was not selected because BOEM is moving towards a policy of avoidance rather than mitigation of impacts to sensitive benthic and

visual resources. Under Alternative A, lease stipulations would be applied to the blocks subject to the Topographic Features Stipulation and the Live Bottom (Pinnacle Trend) Stipulation in order to provide distance between bottom-disturbing activity from OCS oil- and gas-related activities and the sensitive habitat. Lease stipulations would also be applied to blocks subject to the Blocks South of Baldwin County, Alabama, Stipulation in order to mitigate for visual impacts. The Department prefers, where possible, to avoid impacts altogether rather than mitigate impacts to sensitive benthic and visual resources, and thus I have decided to exclude these blocks from the lease sale.

Alternative B in the GOM Lease Sales 259 and 261 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 withdrawn from leasing by Presidential withdrawal in the September 8, 2020, *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition* 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.

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 production in the GOM). Approximately 53.76 million acres 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 and because it did not meet the IRA's cumulative 60-million-acre offshore oil and gas lease sale prerequisite in order to offer an offshore wind lease within the following year. *See IRA, 50265(b)(2)*. 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 14, 2008, *Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf From Leasing Disposition*. Available blocks within the CPA and EPA would **not** be offered for lease under this alternative.

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 production in the GOM, which is much smaller than either Alternative A or B. Approximately 28.54 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 and because it did not meet the IRA's cumulative 60-million-acre offshore oil and gas lease sale prerequisite in order to offer an offshore wind lease within the following year. While Alternative C would reduce potential impacts, it would also reduce the likely oil and gas resources to be produced, reduce domestic production, and potentially increase reliance on foreign resources. For these reasons, I did not choose Alternative C.

GOM Lease Sale 259 would not be held under Alternative E, which is the No Action Alternative analyzed in the GOM Lease Sales 259 and 261 Supplemental EIS. The decision to hold GOM Lease Sale 259 recognizes the role that GOM oil and gas resources play in addressing the Nation's demand for domestic energy. Further, Alternative E was not selected because, under the IRA, BOEM must hold GOM Lease Sale 259 by the end of March 2023. I cannot choose Alternative E absent an act of Congress.

5. ENVIRONMENTALLY PREFERABLE ALTERNATIVE

BOEM identified Alternative E, defined as the No Action Alternative, as environmentally preferable in the GOM Lease Sales 259 and 261 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 the decision to not hold a single lease sale would result in only slightly less cumulative OCS oil- and gas-related activity. 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. Regardless, Alternative E was not selected because, under the IRA, BOEM must hold GOM Lease Sale 259 by the end of March 2023. I cannot choose Alternative E absent an act of Congress.

6. MITIGATING MEASURES

As part of the decision to hold GOM Lease Sale 259, all practicable means to avoid or minimize environmental harm from the selected alternative at the lease sale stage are being adopted. In addition, post-lease activities (e.g., exploration and development plans), which may be expected as a result of GOM Lease Sale 259, will undergo additional environmental review and may include additional project-specific mitigating measures applied as conditions of individual plan approvals. The various mitigating measures adopted for the lease sale, and those that may be applied during post-lease reviews, are summarized below.

Lease Stipulations – I have decided that the leases will be offered subject to the relevant lease stipulations described in the GOM Lease Sales 259 and 261 Supplemental EIS and an additional stipulation. Because the OCS blocks that were otherwise proposed to be subject to the Topographic Features Stipulation, Live Bottom (Pinnacle Trend) Stipulation, and Blocks South of Baldwin County, Alabama, Stipulation have all been removed from leasing under the chosen

lease sale area, a subset of Alternative D, these stipulations will not be applied to leases. The eight lease stipulations that I am adopting for GOM Lease Sale 259 are as follows: the Military Areas Stipulation; the Evacuation Stipulation; the Coordination 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; 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; and Royalties on All Produced Gas Stipulation. 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 and subsequent April 2021 amendment, addressing oil and gas activities in the Gulf of Mexico, including this lease sale (refer to *Endangered and Threatened Species Protections* below). These eight stipulations will be added as lease terms where applicable and are enforceable as terms of the lease. The eight stipulations being applied to GOM Lease Sale 259 are provided in full in the Final Notice of Sale package. The blocks to which each stipulation applies are identified on the map entitled “Final Notice of Sale, Gulf of Mexico OCS Oil and Gas Lease Sale 259, March 2023, Stipulations and Deferred Blocks,” which is 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 mitigating measures have already been adopted and incorporated into BOEM’s 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 the NEPA analyses or ESA consultations relevant to OCS exploration, development, and production activities. For example, additional mitigating 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 plans 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 GOM Lease Sales 259 and 261 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-related 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-related 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, as amended, 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 Opinion³ made a jeopardy determination concerning the Bryde’s whales (now known as the Rice’s whale) due to the potential for vessel strikes from service vessels transiting the Rice’s whale area, which is largely in the portion of the Gulf of Mexico currently subject to a 2020 Presidential Withdrawal.⁴ Therefore, this area is not included in this lease sale or in the 2020 NMFS Biological Opinion. BOEM notified NMFS that it was adopting the reasonable and prudent alternative for the Rice’s whale and 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) of the ESA. In addition, BOEM will continue to provide the National Oceanic and Atmospheric Administration the opportunity for a step-down review of certain post-lease approvals (e.g., seismic surveys, and new and unusual technologies) pursuant to the process specified in the Biological Opinion. In those areas not subject to the 2020 Presidential Withdrawal, BOEM will process requests to conduct geological and geophysical 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, 2018 GOM Supplemental EIS and GOM Lease Sales 259 and 261 Supplemental EIS, and were

³ The 2020 NMFS Biological Opinion was amended in April 2021 to address changes in certain terms and conditions, reasonable and prudent measures and certain step down consultation procedures and to account for new mitigations implemented through Bureau conditions of approval.

⁴ 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 Gulf of Mexico Energy Security Act moratorium area (that had been in effect until June 30, 2022) from leasing for an additional 10 years, beginning on July 1, 2022, and ending on June 30, 2032.

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 Marine Mammal Protection Act to assist industry in obtaining incidental take coverage for all marine mammals due to oil and gas geological and geophysical surveys in the Gulf of Mexico. On December 8, 2020, NMFS submitted to the *Federal Register* its final rule as a result of the petition; with the publication of the final rule, NMFS amended its 2020 Biological Opinion (which also served as the intra-service consultation for the rule). The final rule includes additional mitigating measures beyond what is currently within Appendices A and C of the 2020 NMFS Biological Opinion. 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. As the final incidental take regulation took effect on April 19, 2021, survey operators are now able to apply for Letters of Authorization. BOEM does acknowledge that, due to some initial calculation errors (which largely meant that exposure numbers for certain species were underestimated), industry was running up against annual take limits earlier than expected or needed. The NMFS subsequently announced a plan to replace the existing rule, and on January 5, 2023, published a proposed incidental take regulation with a revised analysis. The effective end date of this rulemaking will remain the same as the original (April 18, 2026). See 88 Fed. Reg. 916 (Jan. 5, 2023).

On October 25, 2022, BOEM and BSEE requested reinitiation of the consultation with NMFS in light of an upcoming oil-spill risk analysis and to incorporate certain previously developed and implemented mitigations for Rice's whales. The existing 2020 Biological Opinion, as amended, remains in effect until the reinitiated consultation is completed and a new or amended Biological Opinion becomes available. During the reinitiation process, BOEM will continue to implement the Reasonable and Prudent Alternative for the Rice's whale, and comply with all Reasonable and Prudent Measures and Terms and Conditions under the existing 2020 Biological Opinion, as amended. This includes continuing to request step-down reviews for the prescribed activities and implementing and adaptively managing the mitigation, monitoring, and reporting requirements (2020 Biological Opinion Appendixes and/or Conditions of Approval, as amended) imposed by the Bureaus on plans and permits, and as coordinated with NMFS and industry. BOEM has documented that nothing in this lease sale or the reasonably foreseeable post-lease activities will prevent the Bureaus and Department from complying with their obligations under Section 7 of the ESA to prevent jeopardy to listed species or adverse modification of designated critical habitat.

Mitigation Monitoring and Adaptation – BOEM and BSEE continually assess compliance and effectiveness of mitigating 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.

7. CONCLUSION

For the reasons provided above, I have decided that Lease Sale 259 will be held on March 29, 2023, and will offer for lease all available unleased blocks in the proposed lease sale area, with the following exceptions: whole and portions of blocks withdrawn from leasing by Presidential withdrawal in the September 8, 2020, *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition*; 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 14, 2008, *Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf from Leasing Disposition*; whole and partial blocks that were otherwise proposed to be subject to the Topographic Features Stipulation; whole and partial blocks that were otherwise proposed to be subject to the Live Bottom (Pinnacle Trend) Stipulation; whole and partial blocks that were otherwise subject to the Blocks South of Baldwin County, Alabama, Stipulation; whole and partial blocks that are identified draft Wind Energy Areas and final Wind Energy Areas; depth-restricted, segregated block portions (Block 299, Main Pass Area, South and East Addition); and whole and partial Significant Sediment Resource Area Blocks. My decision is to offer the subset of the blocks analyzed as Alternative D in the GOM Lease Sales 259 and 261 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.

LAURA DANIEL-DAVIS  Digitally signed by LAURA DANIEL-DAVIS
Date: 2023.02.22 11:59:27 -05'00'

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

Date