



## United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

New Orleans Office

1201 Elmwood Park Blvd

New Orleans, Louisiana 70123-2394

Ms. Virginia Fay  
Assistant Regional Administrator  
Habitat Conservation Division  
National Marine Fisheries Service  
Southeast Regional Office  
263 13<sup>th</sup> Avenue, South  
Saint Petersburg, Florida 33701

*Via Electronic Mail*

Dear Ms. Fay:

This letter is in response to the conservation recommendations (CRs) received from the National Marine Fisheries Service's (NMFS) Southeast Regional Office (SERO) for reasonably foreseeable oil and gas activities on the Gulf of Mexico (GOM) Outer Continental Shelf (OCS). Reasonably foreseeable activities include proposed lease sales and activities related to exploration, development, production, and decommissioning, including, but not limited to, geological and geophysical activities, drilling, construction, support, removal, and site clearance operations. In the enclosed letter, NMFS/SERO proposes to adopt several of the Bureau of Ocean Energy and Management's (BOEM) Notices to Lessees and Operators (NTLs), including mitigation measures, as CRs and specifies annual reporting requirements. In addition, NMFS requests that BOEM subject matter experts (SMEs) continue to use the most recent and best available science when assessing risks to federally managed species and EFH in environmental compliance documentation under NEPA and other statutes; requests notification if new information from BOEM's ongoing pipeline displacement study becomes available and could inform mitigation revisions to better avoid potential impacts to EFH; and specifies additional circumstances in which modifications or reinitiation of this programmatic EFH consultation could be warranted.

### **EFH Conservation Recommendations**

BOEM concurs with the adoption of the following NTLs and any included mitigation measures as CRs:

- NTL 2009-G39 (Biologically-Sensitive Underwater Features and Areas Including the Topographic Features and Live-Bottom (Pinnacle Trend) Stipulations).
- NTL 2009-G40 (Deepwater Benthic Communities)
- NTL 2015-G03 (Marine Trash and Debris and Elimination)
- NTL 2009-G04 (Significant OCS Sediment Resources of the GOM)
- NTL 2009-G34 (Ancillary Activities)
- NTL 2019-G05 (Site Clearance and Verification for Decommissioned Wells, Platforms, and

Other Facilities)

- NTL 2012-N06 (Guidance to Owners and Operators of Offshore Facilities Seaward of the Coast Line Concerning Regional Oil Spill Response Plans)

BOEM concurs to provide the following information as annual reporting requirements:

- Number and type of permits issued in each planning area each year and describing the number and type of activities located in the Live Bottom (Pinnacle Trend) and Topographic Features blocks.
- Decommissioning activities completed in Live Bottom (Pinnacle Trend) and Topographic Features blocks.
- The number of seismic surveys proposing to utilize ocean-bottom surveys.
- The number of and/or miles of decommissioned pipelines, including the number of waivers granted for the burial requirement, thereby allowing self-burial that year.

BOEM does not concur with the adoption of the following NTLs as they have little to no direct impacts on the environmental and mitigation process:

- NTL 2008-G05 (Shallow Hazards Program)
- NTL 2009-G27 (Submitting Exploration Plans and DOCDs)

However, BOEM will inform NMFS/SERO of any revisions to the aforementioned NTLs that could potentially result in adverse impacts to EFH or the environmental review process and application of mitigations.

### **Review and Revision**

NMFS requested that BOEM continue to evaluate and assess risks to federally managed species and EFH in upcoming environmental compliance documentation under NEPA and other statutes based on the most recent and best available information. This is a routine part of BOEM's environmental review process and BOEM SMEs in the New Orleans Office (NOO) will continue this practice.

Upon completion of BOEM's pipeline displacement study, BOEM/NOO will provide NMFS/SERO with a summary of the findings. Additionally, the Bureau of Safety and Environmental Enforcement (BSEE) is developing a study to better assess the potential environmental impacts from abandoned pipelines and pipeline infrastructure, which will include coordination between BOEM and BSEE environmental SMEs. Findings will also be shared with NMFS/SERO and incorporated into the bureaus' NEPA and compliance/enforcement programs. The summaries will include any new information on potential adverse effects to EFH and the bureaus' recommendation(s) if it is determined new information resulting from the studies could inform changes to mitigations or CRs.

BOEM requested in their programmatic *EFH Assessment for Oil and Gas Activities in the Gulf of Mexico* (BOEM 2022-032), submitted to NMFS/SERO on May 25<sup>th</sup>, 2022, that consultation no longer be tied to a specific 5-year National OCS Oil and Gas Leasing Program but rather to focus on the suite of BOEM and BSEE authorized activities associated with any National OCS Oil and Gas Leasing Program. Specifically, BOEM requested programmatic EFH consultation be reinitiated under the following circumstances:

- NMFS and BOEM jointly agree to reinitiate consultation
- BOEM significantly alters the proposed action
- Upon meeting conditions for site-specific EFH consultation

NMFS/SERO requested that they also be notified of changes to the following if the change or revision may affect EFH, BOEM's ability to implement agreed upon measures, or BOEM's ability to mitigate potential impacts:

- BOEM and BSEE Programs (e.g., initiation of carbon sequestration activity);
- BOEM and BSEE site- and activity-specific review procedures;
- Lease stipulations; and
- NTLs or other guidance (e.g., Best Management Practices).

BOEM/NOO will notify NMFS/SERO of any changes to Programs, review processes, lease stipulations, or guidance that could result in changes to potential adverse effects on EFH. Finally, BOEM/NOO proposes to coordinate with NMFS/SERO every 5-years to review the programmatic EFH consultation for needed updates or reinitiation.

Thank you for your continued collaboration on the review of activities associated with oil and gas leasing on the OCS in the GOM. If you have any questions, please feel free to contact Mariana Steen at (504) 736-2642 or [mariana.steen@boem.gov](mailto:mariana.steen@boem.gov).

Sincerely,

AGATHA-

Digitally signed by AGATHA-MARIE KALLER  
DN: c=US, o=U.S. Government,  
ou=Department of the Interior, ou=Bureau of  
Ocean Energy Management, cn=AGATHA-  
MARIE KALLER  
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Date: 2022.09.26 15:27:53 -0500

Dr. Agatha-Marie Kaller  
Regional Supervisor  
Office of Environment  
BOEM

In concurrence:

TOMMY

Digitally signed by  
TOMMY BROUSSARD  
Date: 2022.09.27  
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Mr. TJ Broussard  
Regional Environmental Officer  
Office of Environmental Compliance  
BSEE

Enclosure

cc: Mr. Rusty Swafford  
Branch Chief  
Habitat Conservation Division  
National Marine Fisheries Service  
Southeast Regional Office  
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