

Record of Decision for Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 261

1 INTRODUCTION

This is the Record of Decision (ROD) for the Bureau of Ocean Energy Management (BOEM) 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 No. 117-169, enacted August 16, 2022). Section 50264(e) of the IRA requires BOEM to hold GOM Lease Sale 261 no later than September 30, 2023, notwithstanding the expiration of the 2017-2022 National Outer Continental Shelf (OCS) Oil and Gas Leasing Program (National OCS Oil and Gas Program) on June 30, 2022. While Section 50264 requires BOEM to hold GOM Lease Sale 261, the IRA does not change other aspects 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 one-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 one-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 2018-2021, and one regionwide GOM lease sale was scheduled to be held in 2017 and 2022. GOM Lease Sale 261, the tenth 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 regarding whether to hold GOM Lease Sale 261, which BOEM is required to hold by the end of September 2023, as directed in the IRA, BOEM is following its normal leasing process to the fullest extent possible to inform the decisionmaker on impacts from a lease sale, mitigations, and other action alternatives. The GOM Lease Sales 259 and 261 Supplemental EIS informs the decision on how to proceed with GOM Lease Sale 261. This ROD for GOM Lease

Sale 261 is the second ROD that relies on the analysis in the GOM Lease Sales 259 and 261 Supplemental EIS. BOEM has reviewed new and relevant information since the issuance of the GOM Lease Sales 259 and 261 Supplemental EIS and has verified that the GOM Lease Sales 259 and 261 Supplemental EIS adequately addresses the environmental effects of the proposed action. There are no new circumstances, information, or changes in the proposed action or its impacts that require supplementation of the GOM Lease Sales 259 and 261 Supplemental EIS.

2 DECISION

Pursuant to my authority to exercise the delegable functions and duties of the Assistant Secretary for Land and Minerals Management, I have chosen to offer for lease in GOM Lease Sale 261 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 were previously 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 11 below. Excluding additional blocks that contain banks¹ that are adjacent to blocks previously included in the Topographic Features Stipulation would protect sensitive benthic habitat in Garden Banks 181. Excluding blocks identified in Items 8 through 10 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. Finally, in Item 11, excluding whole and partial blocks between the 100-meter and 400-meter isobaths across the northern Gulf of Mexico could reduce potential conflicts with the endangered Rice's whale. Recent limited evidence shows that the Rice's whale may be present in this area and removing the area reduces risks from new leasing while BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) are engaged in a reinitiated consultation with National Marine Fisheries Service (NMFS) (described below). 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 8 through 10 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. Excluding blocks in Item 11 below would help reduce potential impacts to Rice's whale, if present in the area.

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 habitat from bottom-disturbing activities and visual impacts from OCS oil- and gas-related activities,

¹ "Banks" are a combination of underwater mountains, ridges, troughs, and hard bottoms patches.

rather than mitigating for them. In addition, space-use conflicts in areas identified as Wind Energy Area Options and final Wind Energy Areas and the BOEM-designated Significant Sediment Resource Area blocks are limited with the additional exclusions. Finally, excluding blocks between the 100-meter and 400-meter isobaths across the northern Gulf of Mexico should reduce or avoid the potential for impacts to Rice's whales from any on-lease activities. 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 261, the U.S. Department of the Interior (Department) 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 made unavailable for 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 previously subject to the Topographic Features Stipulation;
5. whole and partial blocks that were previously subject to the Live Bottom (Pinnacle Trend) Stipulation;
6. whole and partial blocks that were previously subject to the Blocks South of Baldwin County, Alabama, Stipulation;
7. whole blocks that contain banks that are adjacent to blocks previously included in the Topographic Features Stipulation (currently Garden Banks 181);
8. whole and partial blocks identified as either Wind Energy Area Options (Areas A, B, C, D, E, F, G, H, J, K, L, and N) or final Wind Energy Areas (Areas I and M);
9. depth-restricted, segregated block portions (Block 299, Main Pass Area, South and East Addition);
10. BOEM-designated Significant Sediment Resource Area blocks; and
11. whole and partial blocks between the 100-meter and 400-meter isobaths across the northern Gulf of Mexico on the OCS, eastward from the Mexican border with Texas and westward from the eastern edge of the Central Planning Area.

All of the unavailable blocks are listed in Section I of the Final Notice of Sale for GOM Lease Sale 261. The GOM Lease Sale 261 lease area encompasses about 12,395 OCS blocks covering approximately 67.3 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 used 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 Land and Minerals Management, I have concluded that holding GOM oil and gas Lease Sale 261, 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 261, 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 261. 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 261.

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 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 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 prepared the *Gulf of Mexico Catastrophic Spill Event Analysis* technical report, which is incorporated by reference in the GOM Lease Sales 259 and 261 Supplemental EIS. This 2021 updated evaluation provides a robust analysis of the potential impacts from low-probability catastrophic spills for oil-and gas-related activities on the OCS. 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 261.

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 is unchanged from the last GOM lease sale.

BOEM has analyzed 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 projected activity is within the range of the forecast scenarios presented in the 2017-2022 GOM Multisale EIS, 2018 GOM Supplemental EIS, and GOM Lease Sales 259 and 261 Supplemental EIS.

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: Supplemental EIS and Technical Report – Corrected* (Gulf of Mexico GHG Analysis Corrected Addendum), that estimated the GHG emissions from domestically produced or consumed energy that could result from Alternative A and the No Action Alternative scenario. For GOM Lease Sale 261, BOEM updated and refined that analysis. As discussed in Chapter 2 of the GOM Lease Sales 259 and 261 Supplemental EIS, BOEM found 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.

For GOM Lease Sale 261, BOEM refined and updated its GHG life cycle emissions estimates. These estimates include (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 Gulf of Mexico GHG Analysis Corrected Addendum, BOEM has updated the:

- modeling baseline in MarketSim with new data from U.S. Energy Information Administration (EIA), including EIA's 2023 Annual Energy Outlook, which incorporates certain provisions of the IRA;

- upstream emissions factors in the Offshore Environmental Cost Model using both internal and third-party data; and
- the Greenhouse Gas Energy Emissions Model with annual updates of data from the U.S. Environmental Protection Agency and EIA (updating from 2021 to 2022 data).

With these updates, BOEM's models now use the most recent information available and are responsive to comments BOEM received from stakeholders seeking updated baseline data and assumptions. This information has been used to reanalyze the impacts and review the conclusions provided in the Gulf of Mexico GHG Analysis Corrected Addendum. To reflect the updated analysis, BOEM has published the document *Gulf of Mexico GHG Analysis Updates for Lease Sale 261* on the BOEM webpage.²

Compared with the results shown in the Gulf of Mexico GHG Analysis Corrected Addendum, the updated analysis shows lower levels of upstream GHG emissions for both Alternative A and the No Action Alternative. The upstream GHG emissions attributable to Alternative A are still less than the emissions attributable to the substitute energy sources under the No Action Alternative, and this difference (i.e., the incremental upstream emissions) has increased by 35 percent since the previous analysis.

The updated analysis still shows Alternative A results in higher domestic midstream and downstream GHG emissions than the No Action Alternative. However, relative to the previous analysis in the Gulf of Mexico GHG Analysis Corrected Addendum for GOM Lease Sale 259, the updated domestic midstream and downstream GHG emissions shows a larger difference between Alternative A and the No Action Alternative. While the midstream and downstream emissions of Alternative A have increased only a half percent compared to GOM Lease Sale 259, the No Action Alternative midstream and downstream GHG emissions have dropped by 5 percent. BOEM's analysis for GOM Lease Sale 261 shows greater reduced demand than previously estimated in the Corrected Addendum, which is driven by the new 2023 Annual Energy Outlook baseline. Because fewer substitutes replace OCS production, there are fewer associated midstream and downstream GHG emissions under the No Action Alternative.

In aggregate, BOEM's life cycle GHG analysis for GOM Lease Sale 261 shows that the general relationships between the alternatives remain the same as the previous analysis; however, the difference between the alternatives has increased. The domestic life cycle emissions associated with Alternative A are now approximately 10 percent higher than those associated with the No Action Alternative; in the prior analysis, the difference was approximately 7.5 percent. The difference is even wider when considering foreign emissions from increased consumption.

² Gulf of Mexico GHG analysis updates for Lease Sale 261. Sterling (VA): U.S. Department of the Interior, Bureau of Ocean Energy Management. Report No.: BOEM 2023-046. <https://www.boem.gov/oil-gas-energy/leasing/lease-sale-261>.

The results do not change the general conclusions in the 2017-2022 National OCS Oil and Gas Program EIS, 2017-2022 GOM Multisale EIS, and 2018 GOM Supplemental EIS, and are consistent with the analysis in the GOM Lease Sales 259 and 261 Supplemental EIS, as updated by the Gulf of Mexico GHG Analysis Corrected Addendum. As identified above, 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. BOEM acknowledges that the GHG estimates are based on many different inputs and variables and any small variations in these variables in the future may further impact the results. However, at this time, using the best available scientific information and inputs and variables most appropriate for the analysis, the updated GHG emissions analysis reasonably estimates the potential impacts from the No Action and Leasing Alternatives.

I have considered the analysis in the *Gulf of Mexico GHG Analysis Updates for Lease Sale 261* when making my decision on the size and location of the sale and other terms of the sale. The aggregate conclusion between the global emissions resulting from the No Action Alternative and Leasing Alternative has not changed: the Leasing Alternative is expected to result in more life cycle GHG emissions than the No Action Alternative. 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 reasonably foreseeable as a result of the sale, I find that the national interest weighs in favor of holding GOM Lease Sale 261 according to the terms herein and is consistent with the requirement of the IRA to hold the sale by September 30, 2023.

The decision to hold GOM Lease Sale 261 in the manner described herein 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 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 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 261 complies with the IRA and that it is in the Nation's best interest to hold GOM Lease Sale 261 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 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 percent to 4.2 percent 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 toward 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 have potentially resulted in a slightly smaller amount of activity than forecasted for Alternative A (1.0 percent to 3.6 percent 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 would not have provided 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 would not have met 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 have potentially resulted in only 0.2 percent- to 0.6 percent of the forecasted cumulative production in the GOM, which is much smaller than either Alternative A or B. Approximately 28.54 million acres of the proposed lease sale area would have been available for lease under Alternative C. This alternative was not selected because it would not have provided 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 would not have met 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 261 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 261 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 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. Further, Alternative E was not selected because, under the IRA, BOEM must hold GOM Lease Sale 261 by the end of September 2023. I cannot choose Alternative E absent an act of Congress.

4 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 261 by the end of September 2023. I cannot choose Alternative E absent an act of Congress.

5 MITIGATING MEASURES

As part of the decision to hold GOM Lease Sale 261, 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 261, 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. Because the OCS blocks that were previously 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 issued as a result of this sale. The eight lease stipulations that I am adopting for GOM Lease Sale 261 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 Stipulation on the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico; the Restrictions Due to Rights-of-Use and Easement for Floating Production Facilities Stipulation; and Royalties on All Produced Gas Stipulation. The Protected Species Stipulation was also updated for this sale to include interim measures to protect the endangered Rice’s whale within the 100-meter to 400-meter isobaths across the northern Gulf of Mexico, until BOEM and BSEE complete reinitiated consultation with the NMFS under the Endangered Species Act (ESA) (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 261 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 261, September 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 National Environmental Policy Act 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 Office and Gulf of Mexico OCS Region office. 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 with 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.

On October 25, 2022, BOEM and BSEE requested reinitiation of the consultation with NMFS based on a reevaluation of the oil-spill analysis presented in the 2020 Biological Opinion, as well as BOEM's preparation of an updated oil-spill risk analysis in the GOM, and to incorporate certain previously developed and implemented conditions of approval. 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 Appendices and/or Conditions of Approval, as amended) imposed by the Bureaus on plans and permits, and as coordinated with NMFS and industry. In addition, based on a recent study that the endangered Rice's whale occurs in portions of the northern Gulf of Mexico between the 100-meter and 400-meter isobaths eastward from the Mexico border with Texas and westward of the Rice's Whale Core Area identified in the 2020 Biological Opinion (as amended in April 2021), removing this area from the lease sale could reduce risks to this species while reinitiated consultation with NMFS is ongoing. Further, the updated Protected Species Stipulation includes interim measures to require certain speed restrictions and other measures between the 100-

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, that withdrew 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.

meter to 400-meter isobaths. These measures will remain in place while the reinitiated consultation is ongoing and until a new or amended biological opinion is issued by NMFS. 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. 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 used to support the proposed action; the completion of the two Biological Opinions and the reinitiation of consultation do 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) in April 2021. The final rule includes additional mitigating measures beyond what is currently within Appendices A and C of the 2020 NMFS Biological Opinion. These additional mitigation measures 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 acknowledges that, due to some initial calculation errors (which largely meant that exposure numbers for certain species were underestimated), industry was reaching 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).

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 office 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 GOM Lease Sale 261 will be held on September 27, 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 previously subject to the Topographic Features Stipulation; whole and partial blocks that were previously subject to the Live Bottom (Pinnacle Trend) Stipulation; whole and partial blocks that were previously subject to the Blocks South of Baldwin County, Alabama, Stipulation; whole blocks that contain banks that are adjacent to blocks previously included in the Topographic Features Stipulation (currently Garden Banks 181); whole and partial blocks that are identified as either Wind Energy Area Options (Areas A, B, C, D, E, F, G, H, J, K, L, and N) or final Wind Energy Areas (Areas I and M); depth-restricted, segregated block portions (Block 299, Main Pass Area, South and East Addition); whole and partial BOEM-designated Significant Sediment Resource Area blocks; and whole and partial blocks between the 100-meter and 400-meter isobaths across the northern Gulf of Mexico on the OCS, eastward from the Mexican border with Texas and westward from the eastern edge of the Central Planning Area. 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
Principal Deputy Assistant Secretary
Land and Minerals Management

Date