
Leasing Activities Information



U.S. Department of the Interior
Minerals Management Service
Alaska OCS Region

Final Information to Lessees Oil and Gas Lease Sale 193 Chukchi Sea February 6, 2008

1. Community Participation in Operations Planning
2. Bird and Marine Mammal Protection
3. River Deltas
4. Endangered Whales and MMS Monitoring Program
5. Availability of Bowhead Whales for Subsistence-Hunting Activities
6. High-Resolution Geological and Geophysical Survey Activity
7. Spectacled Eider and Steller's Eider
8. Sensitive Areas to be Considered in Oil-Spill-Response Plans
9. Coastal Zone Management
10. Navigational Safety
11. Offshore Pipelines
12. Discharge of Produced Waters
13. Use of Existing Pads and Islands
14. Planning for Protection of Polar Bears
15. Possible Listing of Polar Bears under ESA.
16. Archaeological and Geological Hazards Reports and Surveys
17. Response Plans for Facilities Located Seaward of the Coast Line
18. Oil Spill Financial Responsibility for Offshore Facilities
19. Good Neighbor Policy
20. Rentals/Minimum Royalties and Royalty Suspension Provisions
21. MMS Inspection and Enforcement of Certain Coast Guard Regulations
22. Statement Regarding Certain Geophysical Data
23. Affirmative Action Requirements
24. Bonding Requirements
25. Review of Development and Production Plans

No. 1 - Community Participation in Operations Planning. Lessees are encouraged to bring one or more residents of communities in the area of operations into their planning

process. Local communities often have the best understanding of how oil and gas activities can be conducted safely in and around their area without harming the environment or interfering with community activities. Involving local community residents in the earliest stages of the planning process for proposed oil and gas activities can be beneficial to the industry and the community. Community representation on management teams, developing plans of operation, oil-spill response plans, and other permit applications can help communities understand permitting obligations and help the industry to understand community values and expectations for oil and gas operations being conducted in and around their area.

No. 2 - Bird and Marine Mammal Protection. Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the following laws, among others: the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 et seq.); the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 et seq.); and applicable International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and thereby be in violation of existing laws and treaties. With respect to endangered species and marine mammals, disturbance could be determined to constitute a “taking” situation. Under the ESA, the term “take” is defined to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Under the MMPA, “take” means “harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, or kill any marine mammal.” Violations under these Acts and applicable Treaties will be reported to National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (FWS), as appropriate.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory requirements of the MMPA, the ESA, or both, depending on the species that is taken, are met. Section 101(a)(5) of the MMPA, as amended, (16 U.S.C. 1371(a)(5)) provides a mechanism for allowing, upon request and during periods of not more than 5 consecutive years each, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region, provided that NMFS or FWS finds that the total of such taking during each 5-year (or less) period would have no more than a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses.

Applicants can receive authorization to incidentally, but not intentionally, take marine mammals under the MMPA through two types of processes: the Letter of Authorization (LOA) process and the Incidental Harassment Authorization (IHA) process. In either case, under the MMPA, incidental take of marine mammals is prohibited unless authorization is obtained by those proposing the activity, whether or not the marine mammals are endangered or threatened.

Lessees are advised that, if marine mammals may be taken by harassment, injury, or mortality as a result of exploration activities, specific regulations and LOA’s must be

applied for and in place or IHA's must be obtained by those proposing the activity in order to allow the incidental take of marine mammals whether or not they are endangered or threatened. The regulatory process may require 1 year or longer; the IHA process takes about 5 months after receipt of a complete application.

Based on guidance from the National Oceanographic and Atmospheric Administration (NOAA) Fisheries' Office of Protected Resources web site, if the applicant can show that: (a) there is no potential for serious injury or mortality; or, (b) the potential for serious injury or mortality can be negated through mitigation requirements that could be required under the authorization, the applicant should apply for an IHA and does not need an LOA for the activity.

If the potential for serious injury and/or mortalities exists and no mitigating measures are available to prevent this form of 'take' from occurring, to receive authorization for the take, the applicant must obtain an LOA. The LOA requires that regulations be promulgated and published in the *Federal Register* outlining: (a) permissible methods and the specified geographical region of taking; (b) the means of effecting the least practicable adverse impact on the species or stock and its habitat and on the availability of the species or stock for subsistence uses; and c) requirements for monitoring and reporting, including requirements for the independent peer review of proposed monitoring plans where the proposed activity may affect the availability of a species or stock for taking for subsistence uses.

Under the MMPA, of those marine mammal species that occur in Alaskan waters, NMFS is responsible for species of the order Cetacea (whales and dolphins) and the suborder Pinnipedia (seals and sea lions) except walruses; FWS is responsible for polar bears, sea otters, and walruses. Requests for Incidental Take Authorizations (ITA's) should be directed towards the appropriate agency. Procedural regulations implementing the provisions of the MMPA are found at 50 CFR Part 18.27 for the FWS and at 50 CFR Part 216 for NMFS.

If an applicant is requesting authorization for the incidental, but not intentional taking of a marine mammal that is the responsibility of NMFS, a written request must be submitted to the NOAA Fisheries Office of Protected Resources and the appropriate NMFS Regional Office where the specified activity is planned. If an applicant is requesting authorization for the incidental, but not intentional, taking of a marine mammal that is the responsibility of FWS, a written request must be submitted to the FWS Regional Office where the specific activity is planned. More information on this process, and application materials, are available from the NOAA Fisheries Office of Protected Resources website (www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake.info.htm).

According to NOAA Fisheries Small Take web site, most LOA's and IHA's to date have involved the incidental harassment of marine mammals by noise. Activities with the greatest potential to harass by noise include seismic airguns, ship and aircraft noise, high-energy sonars, and explosives detonations.

Please note that the NOAA Fisheries web site on small-take authorizations indicates the following timetables for LOA and IHA decisions: "Decisions on LOA applications

(includes two comment periods, possible public hearings and consultations) may take from 6-12 months. The IHA decisions normally involve one comment period and, depending on the issues and species involved, can take anywhere from 2-6 months” (www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications).

Section 7(b)(4) of the ESA allows for the incidental taking of endangered and threatened species under certain circumstances. If a marine mammal species is listed as endangered or threatened under the ESA, the requirements of both the MMPA and the ESA must be met before the incidental take can be allowed.

Of particular concern is disturbance at major wildlife-concentration areas, including bird colonies, marine mammal haulout and breeding areas, and wildlife refuges and parks. Maps depicting major wildlife-concentration areas in the lease area are available from the MMS Regional Supervisor, Field Operations. Lessees also are encouraged to confer with FWS and NMFS in planning transportation routes between support bases and lease holdings.

Lessees also should exercise particular caution when operating in the vicinity of species that are not listed under the ESA but are proposed for listing, designated as candidates for listing, or are listed as a “Species of Concern” or whose populations are believed to be in decline, such as the yellow-billed loon, walrus, and polar bear.

Generally, behavioral disturbance of most birds and mammals found in or near the sale area would be unlikely if aircraft and vessels maintain at least a 1-mile horizontal distance and aircraft maintain at least a 1,500-foot (ft) vertical distance above known or observed wildlife-concentration areas, such as seabird colonies, the spring lead system, and marine mammal haulout and breeding areas.

For the protection of endangered whales and marine mammals throughout the lease area, MMS recommends that all aircraft operators maintain a minimum 1,500-ft altitude when in transit between support bases and exploration sites. The MMS encourages lessees and their contractors to minimize or reroute trips to and from the leasehold by aircraft and vessels when endangered whales are likely to be in the area.

Human safety will take precedence at all times over these recommendations.

No. 3 - River Deltas. Lessees are advised that certain river deltas of the Chukchi Sea coastal plain (such as the Kukpowruk River Delta) have been identified by the U.S. Fish and Wildlife Service (FWS) as special habitats for bird nesting and fish overwintering areas, as well as other forms of wildlife. Shore-based facilities in these river deltas may be prohibited by the permitting agency.

No. 4 - Endangered Whales and MMS Monitoring Program. Lessees are advised that the MMS intends to continue its area wide endangered bowhead whale monitoring project in the Beaufort Sea, and plans to conduct monitoring of marine mammals in the Chukchi Sea. The monitoring will gather information on whale distribution patterns which will be used by MMS and others to assess impacts on bowhead whales.

The MMS will perform an environmental review for each proposed exploration plan and development and production plan, including an assessment of cumulative effects of noise on endangered whales. Should the review conclude that activities described in the plan will be a threat of serious, irreparable, or immediate harm to the species, the Regional Supervisor, Field Operations (RS/FO) will require that activities be modified, or otherwise mitigated, before such activities would be approved.

Lessees are further advised that the RS/FO has the authority and intends to limit or suspend any operations, including ancillary activities, conducted pursuant to 30 CFR 250.207, on a lease whenever bowhead whales are subject to a threat of serious, irreparable, or immediate harm to the species. Should the information obtained from MMS's or lessees' monitoring programs indicate that there is a threat of serious, irreparable, or immediate harm to the species, the RS/FO will take action to protect the species. The RS/FO may require the lessee to suspend operations causing such effects, in accordance with 30 CFR 250.172. Any such suspensions may be terminated when the RS/FO determines that circumstances which justified the ordering of suspension no longer exist.

No. 5 - Availability of Bowhead Whales for Subsistence Hunting Activities. Lessees are advised that the National Marine Fisheries Service (NMFS) issues regulations for incidental take of marine mammals, including bowhead whales. Incidental Take Authorizations (ITA's) are issued, and 5-year incidental take regulations are promulgated, only upon request and NMFS must be in receipt of an application prior to initiating either the regulatory or ITA process. Incidental takes of bowhead whales are allowed only if a Letter of Authorization (LOA) or an Incidental Harassment Authorization (IHA) is obtained from the NMFS pursuant to the regulations in effect at the time. An LOA or an IHA must be requested annually. In issuing an LOA or an IHA, the NMFS must determine that proposed activities will not have an unmitigable adverse effect on the availability of the bowhead whale to meet subsistence needs by causing whales to abandon or avoid hunting areas, directly displacing subsistence users, or placing physical barriers between whales and subsistence users.

Lessees are also advised that, in reviewing proposed exploration plans which propose activities during the bowhead whale migration, MMS will conduct an environmental review of the potential effects of the activities, including cumulative effects of multiple or simultaneous operations, on the availability of the bowhead whale for subsistence use. The MMS may limit or require operations be modified if they could result in significant effects on the availability of the bowhead whale for subsistence use.

The MMS and NMFS will establish procedures to coordinate results from site-specific surveys required by Stipulation No. 4 and NMFS LOA's or IHA's to determine if further modification to lease operations are necessary.

No. 6 - High-Resolution Geological and Geophysical Survey Activity. Lessees are advised of the potential effect of geophysical activity to bowhead whales, other marine mammals, coastal birds, and subsistence hunting activities. High-resolution seismic surveys are distinguished from 2D/3D seismic surveys by the magnitude of the energy source used in the survey, the size of the survey area, the number and length of arrays

used, and duration of the survey period. High-resolution seismic surveys are typically conducted after a lease sale in association with a specific exploration or development program or in anticipation of future lease sale activity.

Lessees are advised that all seismic survey activity conducted in Chukchi Sea Planning Area, either under the geological and geophysical (G&G) permit regulations at 30 CFR 251 or as an ancillary activity in support of an exploration plan or development and production plan under 30 CFR 250, is subject to environmental and regulatory review by the MMS. The MMS has standard mitigating measures that apply to these activities, and lessees are encouraged to review these measures before developing their applications for G&G permits or planning ancillary activities on a lease. Protective measures may be modified or additional measure developed based upon future consultation with the FWS and NMFS.

Copies of the nonproprietary portions of all G&G permits applications will be provided by MMS to appropriate agencies, co-management organizations, and directly affected communities. Organizations currently recognized by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) for the co-management of the marine mammals resources are the Alaska Eskimo Whaling Commission, the Alaska Beluga Whale Committee, the Alaska Eskimo Walrus Commission, and the Nanuk Commission. The MMS may impose restrictions (including the timing of operations relative to open water) and other requirements (such as having a locally approved coordinator on board) on seismic surveys to minimize unreasonable conflicts between the seismic survey activities and subsistence whaling activities.

Lessees and applicants are advised that MMS will require any proposed seismic activities to be coordinated with the appropriate agencies, co-management organizations, and directly affected subsistence communities to identify potential conflicts and develop plans to avoid these conflicts. Copies of the results of any required monitoring plans will be provided by MMS to the North Slope Borough, directly affected subsistence communities, and appropriate agencies and subsistence organizations for comment.

No. 7 - Spectacled Eider and Steller's Eider. Lessees are advised that the spectacled eider (*Somateria fischeri*) and Steller's eider (*Polysticta stelleri*) are listed as threatened by the U.S. Fish and Wildlife Service (FWS) and are protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Spectacled eiders and Steller's eiders are present in the Chukchi Sea during spring migration in May and June. Males return to the open sea in late June, while nesting females remain on the arctic coastal tundra until late August or early September. Molting eiders occur in certain offshore areas until freeze-up (typically in November). Onshore activities related to OCS exploration, development, and production during the summer months (May-September) may affect nesting spectacled eiders and Steller's eiders.

Lessees are advised that exploration and development and production plans submitted to MMS will be reviewed by the FWS to ensure that spectacled eider, Steller's eider, and their habitats are protected. For Lease Sale 193, MMS specifically requested an

incremental Section 7 consultation with the FWS. The MMS consulted with FWS on the potential effects of leasing and seismic/exploration activities. As few details are known regarding the specific location/design of a future development, that stage of the process will require further consultation with the FWS. To allow this step-wise approach, FWS found that the leasing and seismic/exploration stage of the project would not result in a jeopardy determination to either the Steller's eider or spectacled eider nor would adverse modification of spectacled eider critical habitat occur.

The FWS also concluded that there "is a reasonable likelihood that the entire action will not violate Section 7(a)(2) of the [Endangered Species] Act." Section 7(a)(2) of the Act requires that federal agencies ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species or adversely modify designated critical habitat. Lessees are advised that future development projects arising from Lease Sale 193 are subject to Section 7 consultation with the FWS and a future project would not be authorized by MMS if it results in jeopardy or adverse modification of designated critical habitat as determined by FWS.

No. 8 - Sensitive Areas to be Considered in the Oil-Spill Response Plans (OSRP).

Lessees are advised that certain areas are especially valuable for their concentrations of marine birds, marine mammals, fishes, other biological resources or cultural resources, and for their importance to subsistence harvest activities, and should be considered when developing OSRP's. Coastal aggregations of polar bears during the open water/broken-ice period are particularly vulnerable to the effects of an oil spill, which lessees must account for in their OSRP's. Identified areas and time periods of special biological and cultural sensitivity for the Chukchi Sea include:

- 1) Elson Lagoon;
- 2) Barrow Polar Bear Aggregation Area, August-October;
- 3) Spring Lead System April-June;
- 4) Peard Bay/Franklin Spit;
- 5) Kuk Lagoon;
- 6) Icy Cape and associated Barrier Islands;
- 7) Kasegaluk Lagoon and Naokok, Kukpowruk, Akunik, and Utukok Passes through the Barrier Islands;
- 8) Ledyard Bay Critical Habitat Area;
- 9) Cape Lisburne, May-September;
- 10) Marryat Inlet;
- 11) Cape Thompson, May-September;
- 12) On-and offshore waters from Point Hope to Cape Thompson, including Aiautak and Akoviknak Lagoons;
- 13) Kugrua River, May-October;
- 14) Kuchiak River, Jan-Dec;
- 15) Kuk River, May-October;
- 16) Kokolik River, May-October;
- 17) Kukpowruk River, May-October;
- 18) Pitmegea River, May-October; and
- 19) Utukok River, May-October.

These areas are among areas of special economic or environmental importance required by 30 CFR 254.26 to be considered in the OSRP. Lessees are advised that they have the primary responsibility for identifying these areas in their OSRP's and for providing specific protective measures. Additional areas of special economic or environmental importance may be identified during review of exploration plans and development and production plans.

Industry should consult with U.S. Fish and Wildlife Service or State of Alaska personnel to identify specific environmentally sensitive areas within National Wildlife Refuges or state special areas which should be considered when developing a project-specific OSRP.

Consideration should be given in an OSRP as to whether use of dispersants is an appropriate defense in the vicinity of an area of economic or environmental importance. Lessees are advised that prior approval must be obtained before dispersants are used.

No. 9 – Coastal Zone Management. The MMS advises lessees that under the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451 et. seq., Section 307), as amended, a State with an approved Coastal Zone Management (CZM) Plan reviews certain outer continental shelf (OCS) activities to determine whether they will be conducted in a manner consistent with the enforceable policies of their approved CZM plan. This review authority is applicable to activities described in OCS exploration plans and development and production plans that affect any land or water use or natural resource within the state's coastal zone.

Generally, the MMS may not issue a permit for activities described in a plan unless the state concurs or is conclusively presumed to have concurred that the plan is consistent with its CZM plan. In cases where concurrence is not given or presumed, the matter may be appealed to the Secretary of Commerce.

The Department of Commerce, National Oceanic and Atmospheric Administration revised the regulations at 15 CFR 930 implementing the Federal consistency provisions of the CZMA effective February 6, 2006. These revised regulations were published in the *Federal Register* on January 5, 2006, at 71 FR 788, et seq.

State of Alaska regulations for the Alaska Coastal Management Program consistency review process are contained in 11 AAC 110 (Alaska Administrative Code). The enforceable policies of the Alaska Coastal Management Program include: a) the Alaska Department of Environmental Conservation (ADEC) requirements specified in 11 AAC 110.010(e), b) statewide standards found in 11 AAC 112, and c) enforceable policies developed and approved under 11 AAC 114 found within approved coastal district programs. For the Chukchi Sea OCS mineral lease sales, the enforceable policies of the North Slope Borough Coastal Management Program and the statewide standards are applicable.

In context, many enforceable policies list information that may be necessary to determine consistency with enforceable policies. The Alaska Department of Natural Resources, Office of Project Management and Permitting (OPMP), coordinates review of an applicant's consistency certification of an OCS plan. On request, prior to the start of a

consistency review, OPMP will assist an applicant by providing information about consistency review requirements including, to the extent feasible, preliminary identification of what may be required to determine consistency with the enforceable policies of the program, compliance with resource agency authorizations, and potential mitigation requirements. Also, a resource agency may identify issues related to the authorization and potential mitigation requirements and, to the extent feasible, discuss with the applicant how an activity may comply with the agency's statutory and regulatory authority. Prior to preparing a consistency certification, MMS encourages lessees to consult with OPMP about the requirements above.

During the consistency review, OPMP may request additional information needed to determine concurrence or objection with the consistency certification. The applicant must provide the additional information requested. If OPMP determines that some or all of the additional information provided is inadequate, it may request the applicant to provide further information. OPMP may modify the state's consistency review schedule until the information is received and considered adequate.

No. 10 - Navigational Safety. Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard (USCG) pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended. Lessees are encouraged to contact the USCG regarding any identified restrictions. The U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended. For additional information, prospective bidders should contact the U.S. Coast Guard, 17th Coast Guard District, P.O. Box 3-5000, Juneau, Alaska 99802, (907) 586-7355. For Corps of Engineers information, prospective bidders should contact U.S. Army Corps of Engineers, Alaska District, Regulatory Branch (1145b), P.O. Box 898, Anchorage, Alaska 99506-0898, (907) 753-2724.

No. 11 - Offshore Pipelines. Lessees are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding (MOU), dated December 10, 1996, concerning the design, installation, and maintenance of offshore pipelines. See also 30 CFR 250.1000(c)(1). Bidders should consult both departments for regulations applicable to offshore pipelines. Copies of the MOU are available from the MMS Internet site and the MMS Alaska OCS Region.

No. 12 - Discharge of Produced Waters. Lessees are advised that the State of Alaska prohibits discharges of produced waters on state tracts within the ten-meter depth contour. Discharges of produced waters into marine waters are subject to conditions of National Pollutant Discharge Elimination System permits issued by the U.S. Environmental Protection Agency (USEPA), and may also include a zero-discharge requirement on Federal tracts within the ten-meter contour.

No. 13 - Use of Existing Pads and Islands. The MMS encourages lessees to use existing pads, natural and gravel islands, and other infrastructure in support of proposed exploration, development, and production activities wherever feasible.

No. 14 - Planning for Protection of Polar Bears. Polar bears are part of a dynamic rather than a static system. Changes in their distributions and populations in recent years indicate that adaptive management is required to adequately mitigate potential impacts to their populations (i.e., specific mitigation measures developed today may not be applicable 5, 10, or 20 years from now). The U.S. Fish and Wildlife Service (FWS) is the management agency responsible for polar bear management; as such, they have the most current information about the status of polar bear populations, the issues facing them, and the most recent research findings applicable to them. Therefore, MMS will be implementing increased coordination with FWS for the protection of polar bears.

Lessees are advised to consult with FWS and local Native communities while planning their activities and before submission of their Oil-Spill Response Plans (OSRP) to ensure potential threats to polar bears are adequately addressed based on the most current knowledge regarding their habitat use, distribution, and population status, and to ensure adequate geographic coverage and protection are provided under the OSRP. Coastal aggregations of polar bears during the open water/broken ice period are particularly vulnerable to the effects of an oil spill, which lessees must address in their OSRP's. For example, well known polar bear aggregations have occurred at Point Barrow in close proximity to subsistence-harvested whale carcass remains. Measures to ensure adequate timely geographic coverage and protection of polar bears may include, but are not limited to, the pre-staging of oil-spill equipment at or near locations of polar bear aggregation to support oil-spill-response operations. Lessees are encouraged to consult and coordinate with FWS, local Native communities, and the Nanuk Commission to develop plans and mitigation strategies in their OSRP to prevent adverse effects to known bear aggregations. Making subsistence-harvested whale carcasses unavailable to polar bears on land during the fall open-water period may reduce polar bear aggregations and thus lower the potential for an oil spill to impact polar bears.

As part of the MMS review of proposed activities and mitigation measures, the Regional Supervisor, Field Operations (RS/FO) will notify FWS of the review of proposed Exploration Plans and Development and Production Plans (and associated OSRP) and make copies of these documents available to FWS for review and comment.

Lessees are encouraged to continue existing or initiate new training programs for oil-spill-response teams in local villages to facilitate local participation in spill response and cleanup. This effort allows local Native communities to use their knowledge about sea ice and the environment in the response process and can enhance their ability to provide protection to key resources, including polar bears.

Under the Marine Mammal Protection Act (MMPA), the incidental take of marine mammals is prohibited unless authorization is obtained by those proposing the activity, whether or not the marine mammals are endangered or threatened. To protect polar bears and other marine mammals, MMS encourages OCS operators to obtain an incidental take authorization (ITA) from FWS under the MMPA prior to any operation. Incidental takes of polar bears are allowed only if an ITA is obtained from the FWS pursuant to the regulations in effect at the time. Obtaining an ITA will ensure that lessees' operations are planned and conducted with the most current knowledge of polar bears' habitat use, distribution, and population status. The FWS must be in receipt of a petition for

incidental take prior to initiating the regulatory process. An ITA must be requested annually.

Lessees are advised that polar bears may be present in the area of operations, particularly during the solid-ice period. Lessees should conduct their activities in a way that will limit potential encounters and interaction between lease operations and polar bears. Lessees are advised to contact FWS regarding proposed operations and actions that might be taken to minimize interactions with polar bears. Lessees also are advised to consult OCS Study MMS 93-0008, *Guidelines for Oil and Gas Operations in Polar Bear Habitats*.

Lessees are reminded of the provisions of the 30 CFR 250.300 regulations, which prohibit unauthorized discharges of pollutants into offshore waters. Trash, waste, or other debris that might attract polar bears or might be harmful to polar bears should be properly stored and disposed of to minimize attraction of, or encounters with, polar bears.

No. 15 - Possible Listing of Polar Bears under ESA. Lessees are advised that the U.S. Fish and Wildlife Service is proposing to list the polar bear (*Ursus maritimus*) as a threatened species under the Endangered Species Act and has initiated a comprehensive scientific review to assess the current status and future of the species. The FWS anticipates making a decision in early 2008 on whether to list polar bears under the ESA. Please refer to <http://alaska.fws.gov/fisheries/mmm/polarbear/issues.htm> for additional information. If the polar bears are ultimately listed under the ESA, then MMS will consult with FWS under Section 7 of the ESA, and may be required to apply additional mitigation measures on OCS activities to ensure appropriate protection.

No. 16 - Archaeological and Geological Hazards Reports and Surveys. The regulations at 30 CFR 250.214(e) and 30 CFR 250.244(e) require a shallow hazards report be included with all Exploration Plans (EPs) or Development and Production Plans (DPPs) at the time they are submitted to MMS for completeness review. In addition, the Regional Director may require lessees to include an archaeological resources report as required by 30 CFR 250.227(b)(6) and 30 CFR 250.261(b)(6) with any EP or DPP submitted to MMS for completeness review. Lessees are encouraged to combine surveys whenever feasible.

Potential submerged archaeological resources range from historic to prehistoric. Historic resources include man-made objects or structures older than 50 years, such as shipwrecks, abandoned relics of historic importance, or submerged airplanes. The likelihood of historic resources is determined by historical records and their areas are tentatively identified in the Alaska Shipwreck Database. There may be other occurrences of historic resources and these will be determined during survey work. The following is a list of specific blocks in the Chukchi Sea Planning Area that may contain historic archaeological resources for which an archaeological report will be required:

- OPD NR 03-04, Solivik Island, Blocks: 6623, 6624, 6673, 6674, 6723, and 6724

- OPD NR 03-07, Point Hope, Blocks: 6609, 6610, 6611, 6659, 6660, 6661, 6709, 6710, and 6711
- OPD NR 04-01, Hanna Shoal, Blocks: 6918, 6919, 6920, 6968, 6969, 6970, 7018, 7019, and 7020
- OPD NR 04-02, Barrow, Blocks: 6566, 6567, 6568, 6616, 6617, 6619, 6666, 6667, 6668, 6716, 6717, 6801, 6802, 6803, 6851, 6852, 6853, 6901, 6902, 6903, 7102, 7103, and 7104
- OPD NR 04-03, Wainwright, Blocks: 6601, 6602, 6603, 6651, 6652, 6653, 6019, 6020, 6021, 6069, 6070, 6071, 6119, 6120, and 6121
- OPD NR 04-04, Meade River, Blocks: 6002, 6003, 6004, 6053, and 6054

Prehistoric archaeological resources may occur in areas that were sub-aerially exposed during the low stand of sea level approximately 13,000 years before present (generally 60 meters below sea level on the Alaska OCS), which would include most of the Sale 193 area. Relict terrestrial landforms such as preserved levees or terraces associated with paleo-river channels, river confluences, ponds, lakes, lagoons, or paleo-shorelines are areas where archaeological sites are most likely to occur. No prehistoric resources are expected in some areas of the shelf in water depths less than 60 meters, where: (1) there are no Quaternary sediments, and (2) where extensive ice gouging has reworked the Quaternary section, but these are not well defined and will have to be determined on a case-by-case basis.

Activities that have the potential to disturb offshore archaeological resources include: (1) anchoring; (2) pipeline trenching; (3) excavating well cellars; (4) emplacement of bottom-founded platforms; and (5) use of bottom cables for seismic data collection. Guidelines for conducting archaeological surveys are described in Notice to Lessees (NTL) 05-A03, dated July 25, 2005.

Except as approved on a case-by-case basis, lessees may not set a drilling or production facility on location until MMS has approved an EP or DPP. Lessees are advised that seasonal constraints may prevent the following from occurring in the same year: collecting required data, obtaining of any necessary permits and coastal consistency certification, and initiating operations including mobilizing and setting down of the facility at location. Lessees are encouraged to plan accordingly.

No. 17 - Response Plans for Facilities Located Seaward of the Coast Line. The regulations at 30 CFR 254 Subpart D implement the facility response planning provision of the Oil Pollution Act. The rule allows one plan to be used to cover multiple offshore facilities. This allows operators to reduce the cost of spill response compliance without sacrificing environmental protection.

No. 18 - Oil Spill Financial Responsibility (OSFR) for Offshore Facilities. Bidders should note that MMS has implemented regulations regarding the financial responsibility

provision of the OPA. The regulations, which appear at 30 CFR 250 and 253, require those responsible for offshore oil facilities to demonstrate that they can pay for cleanup and damages caused by facility oil spills. See also 30 CFR 254.

The OSFR for offshore facilities established requirements on responsible parties for demonstrating financial responsibility for cleanup and damages caused by oil or condensate discharges from offshore oil and gas exploration and production facilities and associated pipelines. The regulations at 30 CFR 250 and 253 apply to the OCS, and state waters seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea, and certain coastal inland waters.

The OSFR requirements may not affect facilities which have a worst case oil spill discharge potential of 1,000 barrels or less. The regulation explains how to calculate this discharge. If the facility's potential worst case spill exceeds this amount, the facility will be required to establish and maintain OSFR at a minimum level of \$35 million. Prior to receiving approval of an application to drill or approval of an applicable lease assignment, a company must demonstrate sufficient coverage for all covered facilities which have a worst case oil spill of greater than 1,000 barrels.

The MMS Notice to Lessees No. 99-N01 ("Guidelines for Oil Spill Financial Responsibility for Covered Facilities"), issued on and effective January 6, 1999, provides guidelines for implementing this program.

No. 19 - Good Neighbor Policy. Potential impact from a major oil spill on resources and subsistence hunting activities has been a major concern to the North Slope Borough (NSB), the Alaska Eskimo Whaling Commission (AEWC), and native tribal governments. Under the Oil Pollution Act of 1990 (OPA-90), oil and gas companies are responsible for damages from an oil spill resulting from their operations, including damages to subsistence resources. However, the above-mentioned organizations have concerns about the OPA-90 process and the remedies available to prevent disruption to seasonal subsistence activities.

The NSB and the AEWC have estimated the monetary impact of a major oil spill over a given time. They considered direct and indirect impacts, such as relocation of whaling crews and equipment, hauling of harvested meat, and socio-cultural counseling. While the long term reimbursement of the monetary impacts of a spill are covered under OPA-90, the NSB and AEWC believe that a prudent operator should provide some type of compensation commitment that could be accessed immediately.

To provide such an "insurance policy", several oil and gas companies operating in the Beaufort Sea have elected to enter into a Good Neighbor Policy (GNP) with the NSB and AEWC; lessees are encouraged to negotiate a similar GNP for the Chukchi Sea. The GNP serves the purpose of demonstrating an operator's commitment to a more immediate compensation system to minimize disruption to subsistence activities and provides resources to relocate subsistence hunters to alternate hunting areas or to provide temporary food supplies if a spill affects the taking of marine subsistence resources. The GNP demonstrates that the participating operators have made these commitments prior to conducting the proposed exploration or development operations. The GNP represents a

viable mechanism for companies to assure timely and direct compensation to affected communities in the event of a major oil spill as required by OPA-90 and for expediting claims in accordance with 30 CFR 253 Subpart F.

No. 20 - Rentals/Minimum Royalties and Royalty Suspension Provisions. The timing of when rental versus minimum royalty is due has been recently revised. The revised requirement is contained in the Final Notice of Sale. For all leases issued as a result of this sale, an Addendum will be added to the lease to modify sections 4, 5 and 6 of the lease instrument to implement these revised rental/minimum royalty requirements and to address royalty suspension provisions.

No. 21 - MMS Inspection and Enforcement of Certain Coast Guard Regulations. On February 7, 2002, the USCG published a final rule (67 FR 5912) authorizing "...the Minerals Management Service (MMS) to perform inspection on fixed OCS facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities in 33 CFR Chapter I, Subchapter N." Questions regarding this authorization may be directed to the USCG as indicated in the final rule.

No. 22 - Statement Regarding Certain Geophysical Data. Pursuant to section 18 and 26 of the OCS Lands Act, as amended, and the regulations issued there under, MMS has a right of access to geophysical data and information obtained or developed as a result of operations on the OCS. A rule specifying the details and procedures regarding this right of access is found at 30 CFR 251.12. Reimbursement for the cost of reproducing these data will be made in accordance with 30 CFR 251.13.

No. 23 - Affirmative Action Requirements. Lessees are advised that they must adhere to the rules of the Department of Labor, Office of Federal Contract Compliance, at 41 CFR Chapter 60. Companies with questions regarding those rules should contact one of the various regional Department of Labor, Offices of Federal Contract Compliance.

No. 24 - Bonding Requirements. The MMS general bonding requirements are found at 30 CFR 256 Subpart I. Section 30 CFR 256.58, "Termination of the period of liability and cancellation of a bond" defines the terms and conditions under which MMS will terminate the period of liability of a bond or cancel a bond. The MMS Notice to Lessees No. 2003-N06, Supplemental Bond Procedures, became effective on June 17, 2003. This document is an updated summary of the procedures that will be used in assessing the financial strength of OCS lessees as they implement the requirement to submit a supplemental bond in compliance with 30 CFR 256. These procedures apply to all OCS Regions.

No. 25 - Review of Development and Production Plans. Lessees are advised that MMS intends to prepare an environmental impact statement (EIS) on any Development and Production Plan submitted for a lease issued from Chukchi Sea Sale 193 and pursuant to regulations at 30 CFR 250. Per the Department of Interior Manual (516 DM 15.4), approval of an offshore oil and gas development and production plan in any area or region of the offshore, other than the central or western Gulf of Mexico, normally requires preparation of an EIS. Preparation of such an EIS typically takes 2-3 years.

Per 30 CFR 250.247 and 250.261, environmental information and an environmental impact analysis (EIA) must accompany the DPP. Information in the EIA must be as specific as necessary to assist MMS in complying with NEPA and other relevant Federal laws. The DPP and EIA must include the information necessary for evaluation of potential direct and indirect impacts of the proposed activities, including any proposed coastal facilities and the lessee's plans for complying with relevant State of Alaska and North Slope Borough regulations for coastal facility construction and use.

The MMS has a long established goal to ensure that exploration, development, and production operations are conducted in a manner that promotes the multiple use of the Outer Continental Shelf (OCS). To achieve this goal, MMS will take action within its authority to limit structures and associated infrastructure for drilling, development, production, and transportation of production to the minimum necessary for proper and safe operations. In support of this policy, any future DPP and EIA must include information demonstrating that the structures and associated infrastructure proposed in the DPP are necessary and that no other reasonable alternative sizing, placement, or grouping of this infrastructure would result in a smaller environmental footprint or cause less interference with other significant uses of the OCS and the adjacent coastal area (30 CFR 250 Subpart B).

In support of the cumulative analysis in the EIS, MMS can require lessees and operations in the vicinity of the proposed development activity to submit information about preliminary plans for their leases or units (30 CFR 250.269(b)).

Per Outer Continental Shelf Lands Act (OCSLA) implementing regulations at 30 CFR 250.270(a)(1)(ii), the Regional Supervisor will act on the deemed submitted DPP within 60 calendar days after the final EIS is released or adopted.

Lessees also need to be aware of certain information that the State of Alaska may seek from the lessee for OCS-related operations that extend into state waters or that affect coastal resources and uses when the State reviews the DPP for consistency with the Alaska Coastal Management Plan. The lessee should be aware of the following:

- A. The State may require lessees to complete biological surveys prior to the start of operations, in conjunction with local/native knowledge, to identify environmentally sensitive areas. A plan for protecting environmentally sensitive areas may be required by the State under its oil discharge prevention and contingency plan regulations (18 AAC 75, Article 4).
- B. The State may require lessees to provide additional training on Alaska oil spill prevention standards (18 AAC 75, Article 1).
- C. The lessee may be required to adhere to the oil pollution prevention regulations of the State of Alaska, including financial responsibility requirements (18 AAC 75, Article 2), oil spill response requirements (18 AAC 75, Article 3), and oil discharge prevention and contingency plan (c-plan) requirements (18 AAC 75, Article 4).
- D. The lessee may need to comply with pre-booming requirements (18 AAC 75, Article 1) for transfers of fuel, crude oil, persistent product, and oily ballast to all vessels operating in Alaska state waters.