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# Leasing Activities Information



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

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## Proposed Notice of Sale Beaufort Sea Oil and Gas Lease Sale 195

Enclosed is the Proposed Notice of Sale (PNOS) 195, Beaufort Sea, which is scheduled to be held on March 30, 2005, in Anchorage, Alaska.

In addition to the Notice, this package consists of:

- Lease Stipulations for Sale 195
- Information to Lessees for Sale 195
- Royalty Suspension Provisions for Sale 195
- Blocks Available for Leasing in Sale 195
- Bid Form and Envelope examples
- Telephone Numbers/Addresses of Bidders Form
- Instructions for Making EFT Bonus Payments

All of these documents may be found on the Internet at: <http://www.mms.gov/alaska>.



**Please Note:** Terms and conditions for Sale 195 include the following:

### Stipulations

There are seven stipulations which will be made a part of leases resulting from this sale. Bidders should note that Stipulation No. 4 – Industry Site-Specific Bowhead Whale Monitoring Program is applicable to specific blocks during specified time frames. Please refer to the Lease Stipulations information page.

### Notices to Lessees (NTL's)

**Bonding Requirements:** The regulations at 30 CFR 256.58, "Termination of the period of Liability and cancellation of a bond" were amended on December 3, 2001, and became effective on January 2, 2002. Please see paragraph (z) in the Information to Lessees document.

**Electronic Funds Transfer (EFT) Payments:** The 1/5<sup>th</sup> bonus bid deposits for successful bids will be due by 1:00 P.M. Eastern Time the day following bid reading. In addition, certain bid submitters (i.e., those that do NOT currently own or operate an OCS mineral lease OR those that have ever defaulted on a 1/5<sup>th</sup> bonus payment [EFT or otherwise]) will be required to guarantee (secure) their 1/5<sup>th</sup> bonus payment **prior** to the submission of bids. Also, when paying the 4/5<sup>th</sup> bonus and rental payments, it is requested that only one transaction be used. Please refer to Instructions for Making EFT Bonus Payments.

**Minimum Bonus Bid Amounts:** The blocks offered in Sale 195 have been subdivided into two zones. Zone A is the area that is nearest to existing infrastructure, Zone B is more distant. The minimum bid amount for blocks in Zone A is \$37.50 per hectare, or fraction thereof. For blocks in Zone B the minimum bid amount is \$25 per hectare, or fraction thereof.

**Rentals/Minimum Royalties/Royalty Suspension Provisions:** The timing of when rental versus minimum royalty is due has been recently revised. The revised requirement is contained in the Notice of Sale.

Royalty suspensions apply to all blocks in the sale area. Royalty suspensions are prorated by lease acreage and subject to price thresholds. Refer to the paper on Royalty Suspension Provisions included in the Notice of Sale package. All leases resulting from this sale will include an Addendum to modify Sections 4, 5, and 6 of the lease instrument to implement these revisions and to address royalty suspension provisions. The minimum royalty rate is \$13 per hectare, or fraction thereof, due at the expiration of each lease year which commences after the start of royalty-bearing production.

Annual rentals are due on or before the first day of each lease year as shown in the table included in the Final Notice of Sale. Bidders are advised that Zones A and Zone B have different rental rates and are lower in the early years and rise in later years.

**MMS Inspection and Enforcement of Certain Coast Guard Regulations:** On February 7, 2002, the Coast Guard published in the *Federal Register* (67 FR 5912) a final rule authorizing "... MMS to perform inspections on fixed Outer Continental Shelf facilities engaged in OCS activities ..." Bidders are referred to paragraph (x) of the Information to Lessees document.



## ***Statistical Information – Sale 195***

**Size of Area Offered:** Approximately 9.4 million acres comprised of approximately 1,823 whole and partial blocks

**Range of Water Depths:** Approximately 25 feet to 3,000 feet (approximately 99% of the sale area is less than 200 feet deep, a small portion of the outer limits of the sale area north of Harrison Bay drops to approximately 3,000 feet)

**Range of Distance from Shore:** 3 miles to approximately 60 nautical miles

**Initial Period of Leases:** 10 years

**Minimum Bonus Bid Amount:** \$62 per hectare or fraction thereof for all blocks/bidding units

**Rental/Minimum Royalty Rate:** \$13 per hectare or fraction thereof

**Royalty Rate:** 12 ½ percent applies to all blocks/bidding units

**Royalty Suspension Areas:** Royalty suspensions prorated by lease acreage and subject to price thresholds will apply to all blocks. Refer to the paper on Royalty Suspension Provisions included in the Proposed Notice of Sale package.

For more information on the information included in this package, please contact Mr. Fred King at (907) 334-525271 or Mr. Steve Flippen at (907) 334-5268 of the Alaska OCS Region Leasing Activities Section.

**Billing Code:** 4310-MR-P

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service (MMS)**

Outer Continental Shelf (OCS), Beaufort Sea Oil and Gas Lease Sale 195

**AGENCY:** Minerals Management Service, Interior.

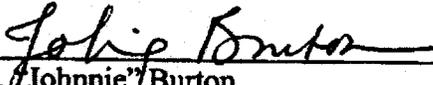
**ACTION:** Availability of the Proposed Notice of Sale

**SUMMARY:** Alaska OCS, Beaufort Sea; Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 195 in the Beaufort Sea. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice of Sale for Sale 195 and a "Proposed Sale Notice Package" containing information essential to potential bidders may be obtained by mail from the Alaska OCS Region, Information Resource Center, Minerals Management Service, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508-4302. Telephone: (907) 271-6070 or 1-800-764-2627. Certain documents may be viewed and downloaded from the MMS World Wide Web site at <http://www.mms.gov/alaska>.

The final Notice of Sale will be published in the Federal Register at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 30, 2005.

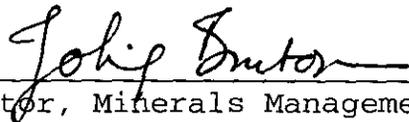
  
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R. M. "Johnnie" Burton  
Director, Minerals Management Service

OCT 8 2004  
Date

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf  
Proposed Notice of Sale  
Beaufort Sea  
Oil and Gas Lease Sale 195

With regard to oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The following is a proposed Notice of Sale for Sale 195 in the offshore waters of the Beaufort Sea.

  
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Director, Minerals Management Service

OCT 8 2004  
Date

**DEPARTMENT OF THE INTERIOR**

Minerals Management Service (MMS)

Outer Continental Shelf (OCS) Beaufort Sea Alaska, Oil and Gas Lease Sale 195

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Proposed Notice of Sale. OCS Oil and Gas Lease Sale 195, Beaufort Sea

**SUMMARY:** The MMS proposes to hold OCS oil and gas lease Sale 195 on March 30, 2005, in accordance with provisions of the OCS Lands Act (43 U.S.C. 1331-1356, as amended), the implementing regulations (30 CFR Part 256), and the OCS Oil and Gas Leasing Program for 2002-2007.

**DATES:** Lease Sale 195 is tentatively scheduled to be held on March 30, 2005, at the Wilda Marston Theatre, Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska. Public reading will begin at 9:00 a.m. All times referred to in this document are local Anchorage, Alaska times, unless otherwise specified.

**ADDRESSES:** A package containing the Proposed Notice of Sale and several supporting and essential documents referenced herein are available from:

Alaska OCS Region  
Information Resource Center  
Minerals Management Service  
949 East 36<sup>th</sup> Avenue, Room 330  
Anchorage, Alaska 99508-4302  
Telephone: (907) 271-6438 or 1-800-764-2627

These documents are also available on the MMS Alaska OCS Region's Web site at [www.mms.gov/alaska](http://www.mms.gov/alaska).

Notice: The Alaska OCS Region is scheduled to move in October 2004 to a new address. We will be mailing a notice of our new address to all entities on our mailing list. In addition, the new address will be available on 1-800-764-2627 and posted on MMS Alaska OCS Region's web site.

**BID SUBMISSION DEADLINE:** Bidders will be required to submit bids to the MMS at the Alaska OCS Region Office, 949 East 36th Avenue, Third Floor, Anchorage, Alaska 99508 by 10 a.m. on the day before the sale, Tuesday, March 29, 2005. The MMS will further specify procedures for bid submission in the Final Notice of Sale which will be published no later than 30 days prior to the Bid Opening date.

**PROPOSED SALE AREA:** The MMS proposes to offer for bid in this sale all of the unleased acreage in the area of the Beaufort Sea identified on the map included as part of this Notice.

**STATUTES AND REGULATIONS:** Each lease issued in this lease sale is subject to the OCS Lands Act of August 7, 1953, 67 Stat. 462; 43 U.S.C. 1331 et seq., as amended (92 Stat. 629), hereinafter called "the Act"; all regulations issued pursuant to the Act and in existence upon the effective date of the lease; all regulations issued pursuant to the statute in the future which provide for the prevention of waste and conservation of the natural resources of the OCS and the protection of correlative rights therein; and all other applicable statutes and regulations.

**LEASE TERMS AND CONDITIONS:** The following lease terms and conditions are proposed:

**Initial Period:** Ten years.

**Minimum Bonus Bid Amounts:** \$37.50 per hectare or a fraction thereof for all blocks in Zone A and \$25 hectare or a fraction thereof for all blocks in Zone B. Refer to the Proposed Notice of Sale, Beaufort Sea Sale 195, March 2005 map and the *Summary Table of Minimum Bids, Minimum Royalty Rates, and Rental Rates* shown below.

**Rental Rates:** The lessee shall pay the lessor, on or before the first day of each lease year which commences prior to a discovery in paying quantities of oil or gas on the leased area, then at the expiration of each lease year until the start of royalty-bearing production, a rental at the rate shown below in the *Summary Table of Minimum Bids, Minimum Royalty Rates, and Rental Rates*. For the time period between discovery in paying quantities until the start of royalty-bearing production, the lessee shall pay an annual rental of \$13 per hectare (or fraction thereof).

**Minimum Royalty Rates:** After the start of royalty-bearing production, the lessee shall pay the lessor a minimum royalty of \$13 per hectare, to be paid at the expiration of each lease year with credit applied for actual royalty paid during the lease year. If actual royalty paid exceeds the minimum royalty requirement, then no minimum royalty payment is due.

**Royalty Rates:** A 12 1/2 percent royalty rate will apply for all blocks.

**SUMMARY TABLE OF MINIMUM BIDS, MINIMUM ROYALTY RATES, AND RENTAL RATES**

<b>Terms (values per hectare or fraction thereof)</b>	<b>Zone A</b>	<b>Zone B</b>
Royalty Rate	12 ½% fixed	12 ½% fixed
Minimum Bonus Bid	\$37.50	\$25.00
Minimum Royalty Rate	\$13.00	\$13.00
<b>Rental Rates:</b>		
Year 1	\$ 7.50	\$ 2.50
Year 2	\$ 7.50	\$ 3.75
Year 3	\$ 7.50	\$ 5.00
Year 4	\$ 7.50	\$ 6.25
Year 5	\$ 7.50	\$ 7.50
Year 6	\$12.00	\$10.00
Year 7	\$17.00	\$12.00
Year 8	\$22.00	\$15.00
Year 9	\$30.00	\$17.00
Year 10	\$30.00	\$20.00

**Royalty Suspension Areas:** Royalty suspension provisions apply to first oil production. Royalty suspensions on the production of oil and condensate, prorated by lease acreage and subject to price thresholds, will apply to all blocks. Royalty suspension volumes (RSV) are based on 2 zones, Zone A and Zone B, as depicted on the Map. More specific details regarding royalty suspension eligibility, applicable price thresholds and implementations are included in the document “Royalty Suspension Provisions, Sale 195” in the Proposed NOS 195 package. Minimum royalty requirements apply during RSV periods. Depending on surface area and zone, leases will receive a RSV as follows:

<b>Hectares</b>	<b>Zone A Million Barrels RSV</b>	<b>Zone B Million Barrels RSV</b>
Less than 771	10	15
771 to less than 1541	20	30
1541 or more	30	45

The RSV only applies to liquid hydrocarbon production, i.e., oil and condensates. Natural gas volumes that leave the lease are subject to original lease-specified royalties. The market value of natural gas will be determined by MMS’s Minerals Revenue Management (MRM) office. The MRM will value the natural gas from Sale 195 based on its potential uses and applicable market characteristics at the time the gas is produced.

**DEBARMENT AND SUSPENSION (Nonprocurement):** In accordance with regulations pursuant to 43 CFR, part 42, subpart C, the lessee shall comply with the U.S. Department of the Interior's nonprocurement debarment and suspension requirements and agrees to communicate this requirement to comply with these regulations to persons with whom the lessee does business as it relates to this lease by including this term as a condition to enter into their contracts and other transactions.

**STIPULATIONS AND INFORMATION TO LESSEES:** The document entitled "Proposed Lease Stipulations and Information to Lessees for Oil and Gas Lease Sale 195" contains the text of the proposed Stipulations and the Information to Lessees. This document is included in the Proposed Notice of Sale Package.

**BONUS BID DEPOSIT:** Each bidder submitting an apparent high bid must submit a bonus bid deposit to MMS equal to one-fifth of the bonus bid amount for each such bid submitted for Sale 195. Under the authority granted by 30 CFR 256.46(b), MMS **requires** bidders to use electronic funds transfer (EFT) procedures for payment of the one-fifth bonus bid deposits. Such payment will be due by 1:00 p.m. Eastern time on the day following bid reading. In addition, certain bid submitters [i.e., those that do **NOT** currently own or operate an OCS mineral lease **OR** those that have ever defaulted on a one-fifth bonus payment (EFT or otherwise)] will be required to guarantee (secure) their one-fifth bonus payment prior to the submission of bids. The MMS will specify the detailed bid deposit procedures in the Final Notice of Sale.

**JURISDICTION:** The United States claims exclusive maritime resource jurisdiction over the area offered. Canada claims such jurisdiction over the four easternmost blocks included in the sale area. These blocks are located in Official Protraction Diagram NR 07-06 and are block numbers 6201, 6251, 6301, and 6351. Nothing in this Notice shall affect or prejudice in any manner the position of the United States with respect to the nature or extent of the internal waters of the territorial sea, of the high seas, or of sovereign rights or jurisdiction for any purpose whatsoever.

**UPCOMING MILESTONES:** This Proposed Notice of Sale was sent to the Governor of Alaska on the date after it was signed. The Governor of Alaska has 60 days to comment on the size, timing, and location of the proposed sale, as required by Section 19 of the OCS Lands Act (43 U.S.C. 1345). After the Assistant Secretary for Land and Minerals Management receives the Governor's comments a decision will be made on the Final Notice of Sale. The Department of the Interior reserves the right to revise the areas proposed for bidding and associated terms and conditions described in this proposed Notice. If the Assistant Secretary decides to proceed with the sale, a Final Notice of Sale for Beaufort Sea Sale 195 will be published in the Federal Register at least 30 days prior to the date of the public opening of the bids. The Final Notice will also be available at that time from the MMS Alaska OCS Region at the address given in this document under "Addresses" and on our Web site at [www.mms.gov/alaska](http://www.mms.gov/alaska). The Final Notice of Sale Package will contain all sale terms and conditions and detailed instructions to bidders.

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# Leasing Activities Information



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

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## Proposed Notice of Sale Blocks Available for Leasing Beaufort Sea Oil and Gas Lease Sale 195

The locations of blocks offered for lease in Sale 195 are shown on a Locator Map and on Outer Continental Shelf (OCS) Official Protraction Diagrams. Some of the blocks may be partially leased or transected by administrative lines such as the Federal/State jurisdictional boundary line. All federal blocks and federal portions of blocks that are unleased outside the Barrow Subsistence Whale Deferral and the Kaktovik Subsistence Whale Deferral areas, are considered as available for leasing in the proposed Notice of Sale for Sale 195.

The following OCS Official Protraction Diagrams pertain to this sale area and may be purchased for \$2.00 each from the Minerals Management Service, Alaska OCS Region, 949 East 36<sup>th</sup> Avenue, Public Information Unit, Anchorage, Alaska 99508. Requests may be made in person, in writing, or by telephone at (907) 334-5208 or (800) 764-2627.

- NR 05-01, Dease Inlet, revised September 30, 1997
- NR 05-02, Harrison Bay North, revised September 30, 1997
- NR05-03, Teshekpuk, revised September 30, 1997
- NR 05-04, Harrison Bay, revised September 30, 1997
- NR 06-01, Beechey Point North, approved February 1, 1996
- NR 06-03, Beechey Point, revised September 30, 1997
- NR 06-04, Flaxman Island, revised September 30, 1997
- NR 07-03, Barter Island, revised September 30, 1997
- NR 07-05, Demarcation Point, revised September 30, 1997
- NR 07-06, Mackenzie Canyon, revised September 30, 1997

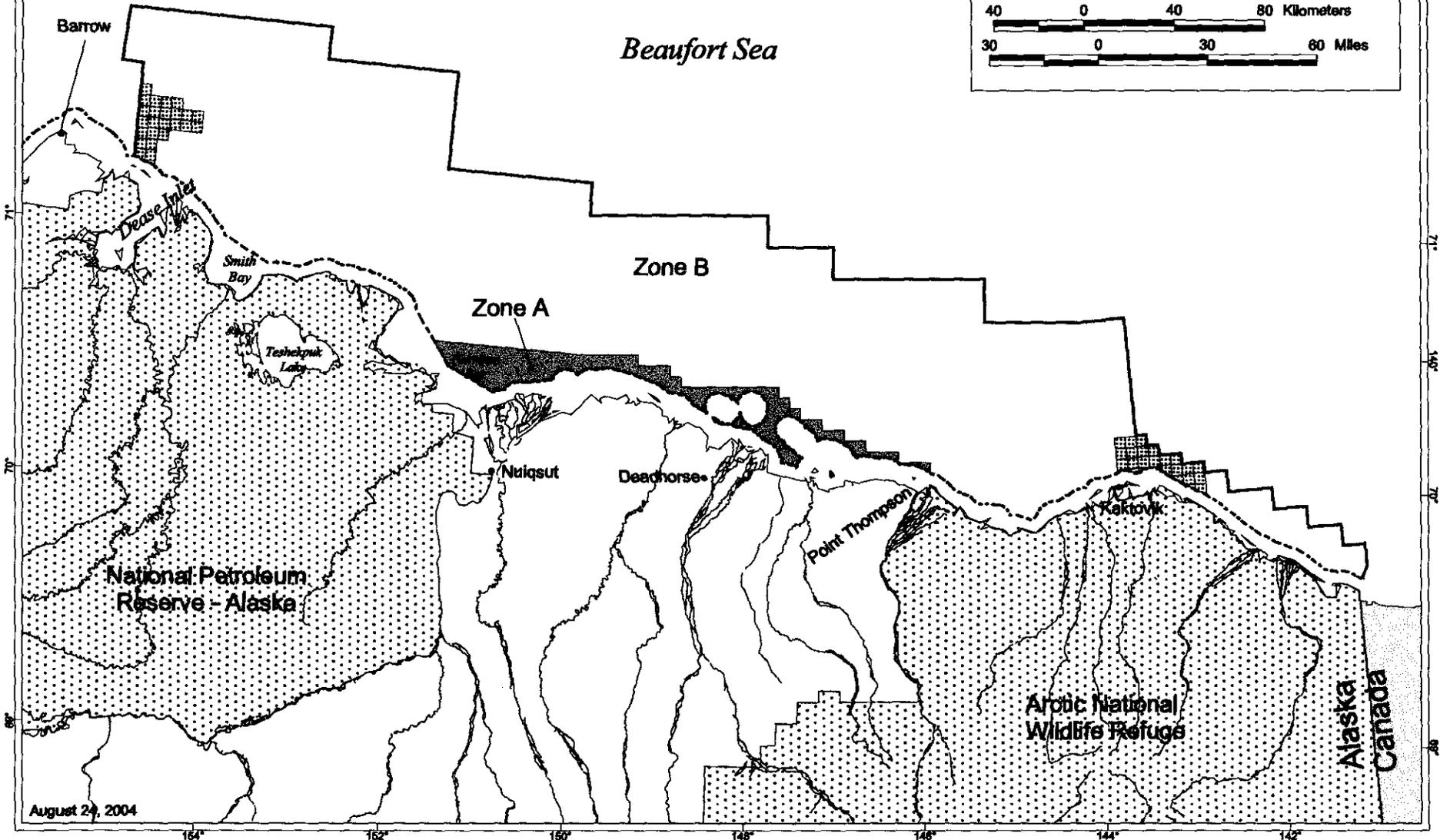
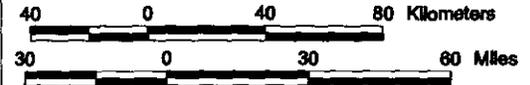
A listing of unleased blocks and portions of blocks is available at the address given above. Whole blocks cover an area of 2,304 hectares. The descriptions for partial blocks and bidding units (combinations of blocks/portions of blocks) include the hectare figures for each portion. These partial block descriptions are derived from Supplemental Official OCS Block Diagrams and OCS Composite Block Diagrams which are available upon request at the address or phone number given above. The Locator Map is available for use but is not the

official description of the blocks available for lease. The OCS Official Protraction Diagrams, the Supplemental Official OCS Block Diagrams, and the OCS Composite Block Diagrams constitute the official descriptions of the areas offered. Some individual block diagrams for partial blocks may indicate 2 separate federal areas, federal 8(g) and non 8(g). This is for administrative purposes only. These federal areas are combined to determine the areal extent of the portion of the block being offered. Any areas labeled as “Leased” on the block diagrams is not included in the area being offered.

# Arctic Ocean

Proposed Notice of Sale, Beaufort Sea Sale 195,  
March 2005

- Blocks Deferred from Sale Area
- Zone A
- Zone B
- Submerged Lands Act Boundary
- Sale Area Boundary



August 24, 2004

Alaska  
Canada

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# ***Leasing Activities Information***

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## **Lease Stipulations Proposed Oil and Gas Lease Sale 195 Beaufort Sea March 2005**

- Stipulation No. 1. Protection of Biological Resources
- Stipulation No. 2. Orientation Program
- Stipulation No. 3. Transportation of Hydrocarbons
- Stipulation No. 4. Industry Site-Specific Bowhead Whale-Monitoring Program
- Stipulation No. 5. Conflict Avoidance Mechanisms to Protect Subsistence Whaling and Other Subsistence-Harvesting Activities
- Stipulation No. 6. Pre-Booming Requirements for Fuel Transfers
- Stipulation No. 7. Lighting of Lease Structures to Minimize Effects to Spectacled and Steller's Eider

***Stipulation No. 1. Protection of Biological Resources.*** If biological populations or habitats that may require additional protection are identified in the lease area by the Regional Supervisor, Field Operations (RS/FO), the RS/FO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RS/FO shall give written notification to the lessee of the RS/FO's decision to require such surveys.

Based on any surveys that the RS/FO may require of the lessee or on other information available to the RS/FO on special biological resources, the RS/FO may require the lessee to:

- (1) Relocate the site of operations;
- (2) Establish to the satisfaction of the RS/FO, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist;
- (3) Operate during those periods of time, as established by the RS/FO, that do not adversely affect the biological resources; and/or
- (4) Modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RS/FO and make every reasonable effort to preserve and protect the biological resource from damage until the RS/FO has given the lessee direction with respect to its protection.

The lessee shall submit all data obtained in the course of biological surveys to the RS/FO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RS/FO provides written directions to the lessee with regard to permissible actions.

**Stipulation No. 2. Orientation Program.** The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.203 and 250.204 a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the RS/FO. The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns that relate to the sale and adjacent areas. The program shall address the importance of not disturbing archaeological and biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals and provide guidance on how to avoid disturbance. This guidance will include the production and distribution of information cards on endangered and/or threatened species in the sale area. The program shall be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating. The orientation program shall also include information concerning avoidance of conflicts with subsistence, commercial fishing activities, and pertinent mitigation.

The program shall be attended at least once a year by all personnel involved in onsite exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors.

The lessee shall maintain a record of all personnel who attend the program onsite for so long as the site is active, not to exceed 5 years. This record shall include the name and date(s) of attendance of each attendee.

**Stipulation No. 3. Transportation of Hydrocarbons.** Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to recommendations of any advisory groups and Federal, state, and local governments and industry.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of an emergency.

Determinations as to emergency conditions and appropriate responses to these conditions will be made by the RS/FO.

**Stipulation No. 4. Industry Site-Specific Bowhead Whale-Monitoring Program.** Lessees proposing to conduct exploratory drilling operations, including seismic surveys, during the bowhead whale migration will be required to conduct a site-specific monitoring program approved by the RS/FO; unless, based on the size, timing, duration, and scope of the proposed operations, the RS/FO, in consultation with the North Slope Borough (NSB) and the Alaska Eskimo Whaling Commission (AEWC), determine that a monitoring program is not necessary. The RS/FO will provide the NSB, AEWC, and the State of Alaska a minimum of 30 but no longer than 60 calendar days to review and comment on a proposed monitoring program prior to approval. The monitoring program must be approved each year before exploratory drilling operations can be commenced.

The monitoring program will be designed to assess when bowhead whales are present in the vicinity of lease operations and the extent of behavioral effects on bowhead whales due to these operations. In designing the program, lessees must consider the potential scope and extent of effects that the type of operation could have on bowhead whales. Experiences relayed by subsistence hunters indicate that, depending on the type of operations, some whales demonstrate avoidance behavior at distances of up to 35 miles. The program must also provide for the following:

- (1) Recording and reporting information on sighting of other marine mammals and the extent of behavioral effects due to operations;
- (2) Inviting an AEWC or NSB representative to participate in the monitoring program as an observer;
- (3) Coordinating the monitoring logistics beforehand with the MMS Bowhead Whale Aerial Survey Project (BWASP);
- (4) Submitting daily monitoring results to the MMS BWASP;
- (5) Submitting a draft report on the results of the monitoring program to the RS/FO within 60 days following the completion of the operation (the RS/FO will distribute this draft report to the AEWC, the NSB, the State of Alaska, and the National Oceanic and Atmospheric Administration-Fisheries [NOAA]); and
- (6) Submitting a final report on the results of the monitoring program to the RS/FO (the final report will include a discussion of the results of the peer review of the draft report and the RS/FO will distribute this report to the AEWC, the NSB, the State of Alaska, and the NOAA Fisheries).

Lessees will be required to fund an independent peer review of a proposed monitoring plan and the draft report on the results of the monitoring program. This peer review will consist of independent reviewers who have knowledge and experience in statistics, monitoring marine mammal behavior, the type and extent of the proposed operations, and an awareness of traditional knowledge. The peer reviewers will be selected by the RS/FO from experts recommended by the NSB, the AEWC, industry, NOAA Fisheries, and MMS. The results of

these peer reviews will be provided to the RS/FO for consideration in final approval of the monitoring program and the final report, with copies to the NSB, AEWC, and the State of Alaska.

In the event the lessee is seeking a Letter of Authorization (LOA) or Incidental Harassment Authorization (IHA) for incidental take from the NOAA Fisheries, the monitoring program and review process required under the LOA or IHA may satisfy the requirements of this stipulation. Lessees must advise the RS/FO when it is seeking an LOA or IHA in lieu of meeting the requirements of this stipulation and provide the RS/FO with copies of all pertinent submittals and resulting correspondence. The RS/FO will coordinate with the NOAA Fisheries and advise the lessee if the LOA or IHA will meet these requirements.

This stipulation applies to the following blocks for the time periods listed and will remain in effect until termination or modification by the Department of the Interior, after consultation with the NOAA Fisheries and the NSB.

**Spring Migration Area: April 1 through June 15**

**OPD: NR 05-01, Dease Inlet.** Blocks included:

6102-6111	6302-6321	6508-6523	6717-6723
6152-6167	6354-6371	6560-6573	
6202-6220	6404-6423	6610-6623	
6252-6270	6455-6473	6659-6673	

**OPD: NR 05-02, Harrison Bay North.** Blocks included:

6401-6404	6501-6506	6601-6609	6701-6716
6451-6454	6551-6556	6651-6659	

**Central Fall Migration Area: September 1 through October 31**

**OPD: NR 05-01, Dease Inlet.** Blocks included:

6102-6111	6354-6371	6610-6623	6856-6873
6152-6167	6404-6423	6659-6673	6908-6923
6202-6220	6455-6473	6706-6723	6960-6973
6252-6270	6508-6523	6756-6773	7011-7023
6302-6321	6560-6573	6806-6823	7062-7073
			7112-7123

**OPD: NR 05-02, Harrison Bay North.** Blocks included:

6401-6404	6601-6609	6801-6818	7001-7023
6451-6454	6651-6659	6851-6868	7051-7073
6501-6506	6701-6716	6901-6923	7101-7123
6551-6556	6751-6766	6951-6973	

**OPD: NR 05-03, Teshekpuk.** Blocks included:

6015-6024                      6067-6072

**OPD: NR 05-04, Harrison Bay.** Blocks included:

6001-6023                      6157-6173                      6309-6324                      6461-6469  
6052-6073                      6208-6223                      6360-6374                      6513-6519  
6106-6123                      6258-6274                      6410-6424                      6565-6566

**OPD: NR 06-01, Beechey Point North.** Blocks included:

6901-6911                      6951-6962                      7001-7012                      7051-7062  
7101-7113

**OPD: NR 06-03, Beechey Point.** Blocks included:

6002-6014                      6202-6220                      6401-6424                      6618-6624  
6052-6064                      6251-6274                      6456-6474                      6671-6674  
6102-6114                      6301-6324                      6509-6524                      6722-6724  
6152-6169                      6351-6374                      6569-6574                      6773

**OPD: NR 06-04, Flaxman Island.** Blocks included:

6301-6303                      6451-6459                      6601-6609                      6751-6759  
6351-6359                      6501-6509                      6651-6659                      6802-6809  
6401-6409                      6551-6559                      6701-6709                      6856-6859

**Eastern Fall Migration: August 1 through October 31**

**OPD: NR 06-04, Flaxman Island.** Blocks included:

6360-6364                      6560-6574                      6760-6774                      6961-6974  
6410-6424                      6610-6624                      6810-6824                      7013-7022  
6460-6474                      6660-6674                      6860-6874                      7066-7070  
6510-6524                      6710-6724                      6910-6924                      7118-7119

**OPD: NR 07-03, Barter Island.** Blocks included:

6401-6405                      6601-6605                      6801-6803                      7012-7013  
6451-6455                      6651-6655                      6851-6853                      7062-7067  
6501-6505                      6701-6705                      6901-6903                      7113-7117  
6551-6555                      6751-6753                      6962-6963

**OPD: NR 07-05, Demarcation Point.** Blocks included:

6016-6022                      6118-6125                      6221-6226                      6324-6326  
6067-6072                      6169-6175                      6273-6276

**OPD: NR 07-06, Mackenzie Canyon.** Blocks included:

6201                                      6251                                      6301                                      6351

**Stipulation No. 5. Conflict Avoidance Mechanisms to Protect Subsistence Whaling and Other Subsistence-Harvesting Activities.** Exploration and development and production operations shall be conducted in a manner that prevents unreasonable conflicts between the oil and gas industry and subsistence activities (including, but not limited to, bowhead whale subsistence hunting).

Prior to submitting an exploration plan or development and production plan (including associated oil-spill contingency plans) to MMS for activities proposed during the bowhead whale migration period, the lessee shall consult with the directly affected subsistence communities, Barrow, Kaktovik, or Nuiqsut, the North Slope Borough (NSB), and the Alaska Eskimo Whaling Commission (AEWC) to discuss potential conflicts with the siting, timing, and methods of proposed operations and safeguards or mitigating measures which could be implemented by the operator to prevent unreasonable conflicts. Through this consultation, the lessee shall make every reasonable effort, including such mechanisms as a conflict avoidance agreement, to assure that exploration, development, and production activities are compatible with whaling and other subsistence hunting activities and will not result in unreasonable interference with subsistence harvests.

A discussion of resolutions reached during this consultation process and plans for continued consultation shall be included in the exploration plan or the development and production plan. In particular, the lessee shall show in the plan how its activities, in combination with other activities in the area, will be scheduled and located to prevent unreasonable conflicts with subsistence activities. Lessees shall also include a discussion of multiple or simultaneous operations, such as ice management and seismic activities, that can be expected to occur during operations in order to more accurately assess the potential for any cumulative affects. Communities, individuals, and other entities who were involved in the consultation shall be identified in the plan. The RS/FO shall send a copy of the exploration plan or development and production plan (including associated oil-spill contingency plans) to the directly affected communities and the AEWC at the time they are submitted to the MMS to allow concurrent review and comment as part of the plan approval process.

In the event no agreement is reached between the parties, the lessee, the AEWC, the NSB, the National Oceanic and Atmospheric Administration - Fisheries (NOAA), or any of the subsistence communities that could be affected directly by the proposed activity may request that the RS/FO assemble a group consisting of representatives from the subsistence communities, AEWC, NSB, NOAA Fisheries, and the lessee(s) to specifically address the conflict and attempt to resolve the issues before making a final determination on the adequacy of the measures taken to prevent unreasonable conflicts with subsistence harvests. Upon request, the RS/FO will assemble this group if the RS/FO determines such a meeting is warranted and relevant before making a final determination on the adequacy of the measures taken to prevent unreasonable conflicts with subsistence harvests.

The lessee shall notify the RS/FO of all concerns expressed by subsistence hunters during operations and of steps taken to address such concerns. Lease-related use will be restricted when the RS/FO determines it is necessary to prevent unreasonable conflicts with local subsistence hunting activities.

In enforcing this stipulation, the RS/FO will work with other agencies and the public to assure that potential conflicts are identified and efforts are taken to avoid these conflicts.

Subsistence whaling activities occur generally during the following periods:

**August to October:** Kaktovik whalers use the area circumscribed from Anderson Point in Camden Bay to a point 30 kilometers north of Barter Island to Humphrey Point east of Barter Island. Nuiqsut whalers use an area extending from a line northward of the Nechelik Channel of the Colville River to Flaxman Island, seaward of the Barrier Islands.

**September to October:** Barrow hunters use the area circumscribed by a western boundary extending approximately 15 kilometers west of Barrow, a northern boundary 50 kilometers north of Barrow, then southeastward to a point about 50 kilometers off Cooper Island, with an eastern boundary on the east side of Dease Inlet. Occasional use may extend eastward as far as Cape Halkett.

**Stipulation No. 6 - Pre-Booming Requirements for Fuel Transfers.** Fuel transfers (excluding gasoline transfers) of 100 barrels or more occurring 3 weeks prior to or during the bowhead whale migration will require pre-booming of the fuel barge(s). The fuel barge must be surrounded by an oil-spill-containment boom during the entire transfer operation to help reduce any adverse effects from a fuel spill. This stipulation is applicable to the blocks and migration times listed in the stipulation on Industry Site-Specific Bowhead Whale-Monitoring. The lessee's oil-spill-contingency plans must include procedures for the pre-transfer booming of the fuel barge(s).

**Stipulation No. 7. Lighting of Lease Structures to Minimize Effects to Spectacled and Steller's Eider.** In accordance with the Biological Opinion for the Beaufort Sea Lease Sale 186 issued by the U.S. Fish and Wildlife Service (FWS) on October 22, 2002, and FWS's subsequent amendment of the Incidental Take Statement on September 21, 2004, lessees must adhere to lighting requirements for all exploration or delineation structures so as to minimize the likelihood that migrating spectacled or Steller's eiders will strike these structures.

Lessees are required to implement lighting requirements aimed at minimizing the radiation of light outward from exploration/delineation structures to minimize the likelihood that spectacled or Steller's eiders will strike those structures. These requirements establish a coordinated process for a performance based objective rather than pre-determined prescriptive requirements. The performance based objective is to minimize the radiation of light outward from exploration/delineation structures. Measures to be considered include but need not be limited to the following:

- Shading and/or light fixture placement to direct light inward and downward to living and work structures while minimizing light radiating upward and outward;
- Types of lights;
- Adjustment of the number and intensity of lights as needed during specific activities.
- Dark paint colors for selected surfaces;
- Low reflecting finishes or coverings for selected surfaces; and
- Facility or equipment configuration.

Lessees are encouraged to consider other technical, operational and management approaches to reduce outward light radiation that could be applied to their specific facility and operation.

If further information on bird avoidance measures becomes available that suggests modification to this lighting protocol is warranted under the Endangered Species Act to implement the reasonable and prudent measures of the Biological Opinion, MMS will issue further requirements, based on guidance from the FWS. Lessees will be required to adhere to such modifications of this protocol. The MMS will promptly notify lessees of any changes to lighting required under this stipulation.

These requirements apply to all new and existing Outer Continental Shelf oil and gas leases issued between the 156<sup>0</sup> W longitude and 146<sup>0</sup> W longitude for activities conducted between May 1 and October 31. The MMS encourages operators to consider such measures in areas to the east of 146<sup>0</sup> W longitude because occasional sightings of eiders that are now listed have been made there and because such measures could reduce the potential for collisions of other, non-ESA listed migratory birds that are protected under the Migratory Bird Treaty Act.

Nothing in this protocol is intended to reduce personnel safety or prevent compliance with other regulatory requirements (e.g. U.S. Coast Guard or Department of Occupational Safety and Health) for marking or lighting of equipment and work areas.

Lessees are required to report spectacled and/or Steller's eiders injured or killed through collisions with lease structures to the Fairbanks Fish and Wildlife Field Office, Endangered Species Branch, Fairbanks, Alaska at (907) 456-0499. We recommend that you call that office for instruction on the handling and disposal of the injured or dead bird.

Lessees must provide MMS with a written statement of measures that will be or that have been taken to meet the objective of this stipulation. Lessees must also include a plan for recording and reporting bird strikes that occur during approved activities to the MMS. This information must be included with an Exploration Plan when the EP is submitted for regulatory review and approval pursuant to 30 CFR 250.203. Lessees are encouraged to discuss their proposed measures in a pre-submittal meeting with the MMS and FWS.

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# ***Leasing Activities Information***

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## **Information to Lessees Proposed Oil and Gas Lease Sale 195 Beaufort Sea March 2005**

- (a) Community Participation in Operations Planning
- (b) Kaktovikmiut Guide - "In This Place."
- (c) Nuiqsutmiut Paper
- (d) Availability of Bowhead Whales for Subsistence Hunting Activities
- (e) Importance of Cross Island to Nuiqsut Subsistence Whalers
- (f) Good Neighbor Policy
- (g) High-Resolution Geological and Geophysical Survey Activity
- (h) Bird and Marine Mammal Protection
- (i) River Deltas
- (j) Endangered Whales and MMS Monitoring Program
- (k) Polar Bear Interaction
- (l) Spectacled Eider and Steller's Eider
- (m) Sensitive Areas to Be Considered in the Oil-Spill Contingency Plans
- (n) Response Plans for Facilities Located Seaward of the Coast Line
- (o) Oil Spill Financial Responsibility for Offshore Facilities
- (p) Archaeological and Geological Hazards Reports and Surveys
- (q) Coastal Zone Management
- (r) Navigational Safety
- (s) Offshore Pipelines
- (t) Discharge of Produced Waters
- (u) Use of Existing Pads and Islands
- (v) Rentals/Minimum Royalties
- (w) MMS Inspection and Enforcement of Certain Coast Guard Regulations
- (x) Statement Regarding Certain Geophysical Data
- (y) Affirmative Action Requirements
- (z) Bonding Requirements

***(a) 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 contingency 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.

(b) **Kaktovikmiut Guide - "In This Place."** The people of Kaktovik, the Kaktovikmiut, have compiled "A Guide for Those Wishing to Work in The Country of the Kaktovikmiut." The guide's intent, in part, is to provide information that may promote a better understanding of their concerns. Lessees are encouraged to obtain copies of the guide and to incorporate it into their Orientation Program to assist in fostering sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which they will be operating. The guide is available on the MMS website.

(c) **Nuiqsutmiut Paper.** The people of Nuiqsut, the Nuiqsutmiut, have compiled a paper for people working in their country. The paper provides information that may promote a better understanding of their concerns. Lessees are encouraged to obtain copies of the paper and to incorporate it into their Orientation Program to assist in fostering sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which they will be operating. The paper is available on the MMS website.

(d) **Availability of Bowhead Whales for Subsistence Hunting Activities.** Lessees are advised that the National Oceanic and Atmospheric Administration (NOAA) - Fisheries issues regulations for incidental take of marine mammals, including bowhead whales. Incidental take regulations are promulgated only upon request and the NOAA Fisheries must be in receipt of a petition prior to initiating the regulatory 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 NOAA Fisheries 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 NOAA Fisheries 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 the NOAA Fisheries will establish procedures to coordinate results from site-specific surveys required by Stipulation No. 4 and NOAA Fisheries LOAs or IHAs to determine if further modification to lease operations are necessary.

(e) **Importance of Cross Island to Nuiqsut Subsistence Whalers.** The area around Cross Island

is of particular importance to the residents of Nuiqsut for subsistence whaling activities. The implementation of the stipulations and regulations that provide for mitigation of unreasonable conflicts with subsistence activities will be used to make determinations regarding the type and location of facilities and the timing of activities in this area. Lessees are advised that activities may be restricted or possibly prohibited if the Regional Supervisor, Field Operations (RS/FO) determines that such a restriction or prohibition is necessary to avoid unreasonable conflicts between the proposed activities and subsistence whaling activities. The RSFO will consider the results of the consultation process required by Stipulation No. 5, the use of mitigation measures that address unreasonable conflicts and any remaining unresolved issues related to the potential for conflicts prior to making a final decision regarding activities in this area.

Lessees are particularly reminded that Stipulation No. 5 applies equally to development and production operations, in addition to exploration activities. This would include the proposed placement of any permanent structure in the Cross Island area. An applicant must provide the information required by Stipulation 5 in a development and production plan (30CFR 250).

**(f) 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. 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 operator has 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.

**(g) High-Resolution Geological and Geophysical Survey Activity.** Lessees are advised of the potential effect of geological and geophysical (G&G) activity to bowhead whales and

subsistence hunting activities. High resolution G&G surveys are distinguished from 2-D and 3-D geophysical 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 G&G 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. The 2-D and 3-D geophysical surveys are typically conducted prior to lease sales.

Lessees are advised that all G&G survey activity conducted in the Beaufort Sea Planning Area, either under the pre-lease permitting regulations at 30 CFR 251, or as part of an approved exploration or development and production plan under 30 CFR 250, is subject to environmental and regulatory review by MMS. It is the intention of MMS to treat pre-lease G&G activities in a manner similar to the post-lease G&G activities. The MMS has standard mitigating measures which are applied to these activities, and lessees are encouraged to review these measures before developing their applications for G&G permits. Copies of the nonproprietary portions of all G&G permit applications will be provided by MMS to the NSB, the AEW, and directly affected subsistence communities for comment. 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 G&G surveys to minimize unreasonable conflicts between the G&G survey and subsistence whaling activities.

Lessees and applicants are advised that MMS will require any proposed G&G activity to be coordinated with directly affected subsistence communities, the NSB, and the AEW 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 directly affected subsistence communities, the NSB, and the AEW for comment.

***(h) 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 following laws, among others: the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.); the Endangered Species Act, 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 Endangered Species Act, the term “take” is defined to mean “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or to attempt to engage in such conduct.” Under the Marine Mammal Protection Act, “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 may be reported to the NOAA Fisheries or the Fish and Wildlife Service, as appropriate.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory requirements of the Marine Mammal Protection Act, the Endangered Species Act, or both are met, depending on the species that is taken. Section 101(a)(5) of the Marine Mammal Protection Act of 1972, 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 NOAA Fisheries 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.

Based on current guidance from the NOAA Fisheries's Office of Protected Resources website, 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, in order to receive authorization for the take, the applicant must obtain an LOA. The LOAs, require 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.

In 1994, section 101(a)(5) of the MMPA was amended to establish an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment, referred to as Incidental Harassment Authorizations or IHAs. Specific time limits for public notice and comment on any requests for authorization which would be granted under this new provision were established. According to the NOAA Fisheries Office of Protected Resources' small take website "In 1996 NOAA Fisheries published an interim final rule (50 CFR Part 216.101-108) implementing this aspect of the program. The interim rule will be amended and written upon completion of NOAA Fisheries' criteria for acoustic harassment" ([www.nmfs.noaa.gov/prot\\_res/PR2/Small\\_Take/smalltake\\_info.htm#LOA](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#LOA)).

Of those marine mammal species that occur in Alaskan waters, under the Marine Mammal Protection Act, the National Marine Fisheries Service is responsible for species of the order Cetacea (whales and dolphins) and the suborder Pinnipedia (seals and sea lions) except walrus; the Fish and Wildlife Service is responsible for polar bears, sea otters, and walrus. Thus, requests for incidental take authorization should be directed towards the appropriate agency. Procedural regulations implementing the provisions of the Marine Mammal Protection Act are found at 50 CFR Part 18.27 for the Fish and Wildlife Service and at 50 CFR Part 216 for the National Marine Fisheries Service.

If an applicant is requesting authorization for the incidental, but not intentional taking of a marine mammal that is the responsibility of NOAA Fisheries, he/she must submit a written request to the NOAA Fisheries Office of Protected Resources AND the appropriate NOAA Fisheries 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 the Fish and Wildlife Service, he/she must submit a written request 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](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake.info.htm)).

According to NOAA Fisheries Small Take website, most LOAs and IHAs 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 website 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](http://www.nmfs.noaa.gov/prot_res/PR2/Small_Take/smalltake_info.htm#applications)).

Section 7(b)(4) of the Endangered Species Act 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 Endangered Species Act, the requirements of both the Marine Mammal Protection Act and the Endangered Species Act 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 RS/FO. Lessees also are encouraged to confer with the Fish and Wildlife Service and NOAA Fisheries in planning transportation routes between support bases and lease holdings.

Lessees should also 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” (any such species are listed in ITL {j} below) or whose populations are believed to be in decline, such as the Yellow-billed loon.

Generally, behavioral disturbance of most birds and mammals found in or near the lease 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 vertical distance above known or observed wildlife concentration areas, such as bird colonies 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-foot 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.

(i) **River Deltas.** Lessees are advised that certain river deltas of the Beaufort Sea coastal plain (such as the Kongakut, Canning, and Colville) have been identified by the 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.

(j) **Endangered Whales and MMS Monitoring Program.** Lessees are advised that MMS intends to continue its area wide endangered bowhead whale monitoring program in the Beaufort Sea. The program 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 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 preliminary activities, as defined under 30 CFR 250.201, 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 250.168. Any such suspensions may be terminated when the RS/FO determines that circumstances which justified the ordering of suspension no longer exist.

(k) **Polar Bear Interaction.** 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 manner which will limit potential encounters and interaction between lease operations and polar bears. The FWS is responsible for the protection of polar bears under the provisions of the MMPA of 1972, as amended. Lessees are advised to contact the 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.”

The FWS must be in receipt of a petition for incidental take prior to initiating the regulatory process. Incidental takes of polar bears are allowed only if an LOA or an IHA is obtained from the FWS pursuant to the regulations in effect at the time. An LOA or an IHA must be requested annually.

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

***(l) 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 FWS and are protected by the ESA of 1973, as amended (16 U.S.C. 1531 et seq.).

Spectacled eiders and Steller’s eiders are present in the Chukchi and Beaufort seas 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. Onshore activities related to Outer Continental Shelf exploration, development, and production during the summer months (May-September) may affect nesting spectacled 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 and Steller’s eiders and their habitats are protected.

***(m) Sensitive Areas to Be Considered in the Oil-Spill Contingency Plans (OSCP).*** 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 OSCP. Identified areas and time periods of special biological and cultural sensitivity include:

- (1) the lead system off Point Barrow, April-June;
- (2) the salt marshes from Kogru Inlet to Smith Bay, June-September;
- (3) the Plover Islands, June-September;
- (4) the Boulder Patch in Stefansson Sound, June-October;
- (5) the Camden Bay area (especially the Nuvugag and Kaninniivik hunting sites), January, April-September, November;
- (6) the Canning River Delta, January-December;
- (7) the Barter Island - Demarcation Point Area, January-December;
- (8) the Colville River Delta, January-December;
- (9) the Cross, Pole, Egg, and Thetis Islands, June-October;
- (10) the Flaxman Island waterfowl use and polar bear denning areas, January-December; (Leffingwell Cabin, a National Historic Site, is located on Flaxman Island);

- (11) the Jones Island Group (Pingok, Spy, and Leavitt Islands) and Pole Island are known polar bear denning areas, November-April; and
- (12) the Sagavanirktok River delta, January-December.

These areas are among areas of special biological and cultural sensitivity to be considered in the OSCP required by 30 CFR 250.300. Lessees are advised that they have the primary responsibility for identifying these areas in their OSCPs and for providing specific protective measures. Additional areas of special biological and cultural sensitivity may be identified during review of exploration plans and development and production plans.

Industry should consult with FWS 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 OSCP.

Consideration should be given in an OSCP as to whether use of dispersants is an appropriate defense in the vicinity of an area of special biological and cultural sensitivity. Lessees are advised that prior approval must be obtained before dispersants are used.

***(n) Response Plans for Facilities Located Seaward of the Coast Line.*** The regulations at 30 CFR 254 Subpart D implements the facility response planning provision of the Oil Pollution Act. The rule superseded an interim rule in effect since February 18, 1993, and 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.

***(o) 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, facilities 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.

**(p) Archaeological and Geological Hazards Reports and Surveys.** Following is a list of specific blocks in the Beaufort Sea Planning Area which, based on the Archaeological Resource analysis in Section III.C.4.a. of the FEIS, may contain archaeological resources, and for which an archaeological report will be required:

OPD: NR 05-01, Dease Inlet: Blocks: 6604-6606, 6654-6657, 6704-6709, 6754-6761, 6804-6812, 6856-6864, 6909-6915, 6960-6969, 7011-7023, 7062-7073, 7113-7123

OPD: NR 05-02, Harrison Bay North; Blocks: 7001-7007, 7051-7059, 7101-7112

OPD: NR 05-03, Teshekpuk: Blocks: 6015-6024, 6067-6072

OPD: NR 05-04, Harrison Bay: Blocks: 6001-6015, 6052-6066, 6106-6115, 6157-6168, 6208-6223, 6258-6274, 6309-6324, 6360-6374, 6410-6424, 6461-6471, 6513-6519, 6565-6566

OPD: NR 06-03, Beechey Point: Blocks: 6202-6207, 6251-6257, 6301-6308, 6351-6361, 6401-6417, 6456-6469, 6509-6520, 6561-6570, 6612-6614, 6616, 6618-6623, 6664-6674, 6717-6724, 6768-6771, 6819-6822, 6870-6871

OPD: NR 06-04, Flaxman Island: Blocks: 6651, 6701-6702, 6751-6754, 6802-6808, 6857-6860, 6910-6912, 6920-6924, 6961-6974, 7013-7022, 7066-7070, 7118-7119

OPD: NR 07-03, Barter Island: Blocks: 6853-6855, 6901-6909, 6958-6960, 7010-7011, 7061-7063, 7113-7114

OPD: NR 07-05, Demarcation Point: Blocks: 6016-6017, 6067-6069, 6118-6120, 6169-6170, 6222-6223, 6273-6275, 6324-6325

The regulations at 30 CFR 250.203(b)(1)(ix) 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, for the blocks listed above, lessees must include an archaeological resources report as required by 30 CFR 250.203(b)(15) with any EP or DPP submitted to MMS for completeness review. Lessees are encouraged to combine surveys whenever feasible.

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: collection of required data, obtaining of any necessary permits and coastal consistency certification, and the initiation of operations including mobilization and set down of the facility at location. Lessees are encouraged to plan accordingly.

**(q) 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 OCS activities to determine whether they will be conducted in a manner consistent with 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, 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, NOAA revised the regulations at 15 CFR 930 implementing the Federal consistency provisions of the CZMA effective January 8, 2001. These revised regulations were published in the Federal Register on December 8, 2000, at 65 FR 77124, et. seq.

The Alaska Coastal Management Plan includes statewide standards found in 6 AAC 80 and enforceable policies found within approved coastal district programs. For the Beaufort Sea OCS mineral lease sales, the enforceable policies of the NSB Coastal Management Program and the statewide standards are applicable.

**(r) 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.

**(s) 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 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.

**(t) 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 Environmental Protection Agency, and may also

include a zero-discharge requirement on Federal tracts within the ten-meter contour.

(u) **Use of Existing Pads and Islands.** During the review and approval process for exploration and development and production plans, MMS will encourage lessees to use existing pads and islands wherever feasible.

(v) **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 Proposed 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.

(w) **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.

(x) **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.

(y) **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.

(z) **Bonding Requirements.** The MMS general bonding requirements are found at 30 CFR 256 Subpart I. Please be advised that Section 30 CFR 256.58, "Termination of the period of liability and cancellation of a bond" was amended on December 3, 2001 and became effective on January 2, 2002. This amendment 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.

# Leasing Activities Information



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

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## Royalty Suspension Provisions

### Proposed Oil and Gas Lease Sale 195 Beaufort Sea March 2005

In accordance with applicable regulations at 30 CFR 260, the following royalty suspension provisions apply to leases issued as a result of Beaufort Sea Oil and Gas Lease Sale 195. The zones in which blocks are indicated on the Block List and the map included in the Notice of Sale package are available from the MMS Alaska Region office.

**These Royalty Suspension Provisions apply to Oil Production. In addition, refer to 30 CFR 218.151 and applicable parts of 260.120-260.124 for regulations on royalty suspensions and rental obligations that will apply to your lease.**

1. A lease in the Beaufort Sea, depending on surface area and zone, will receive a royalty suspension volume (RSV) as follows:

<b>Lease Size Hectares</b>	<b>Zone A Million Barrels RSV</b>	<b>Zone B Million Barrels RSV</b>
Less than 771	10	15
771 to less than 1541	20	30
1541 or more	30	45

2. The RSV applies only to liquid hydrocarbon production, i.e., oil and condensates. Natural gas volumes that leave the lease are subject to original lease-specified royalties. The market value of natural gas will be determined by MMS's Minerals Revenue Management (MRM) office. The MRM will value the natural gas from Sale 195 based on its potential uses and applicable market characteristics at the time the gas is produced.
3. Each lessee must pay royalty on production of oil that might otherwise receive royalty relief (in 30 CFR Part 260) for any calendar year during which the actual New York Mercantile Exchange (NYMEX) annual price of oil exceeds the "ceiling" price threshold (adjusted for inflation) for oil in that year. Such production will be deducted from the remaining RSV.

The actual NYMEX annual price of oil is defined as the arithmetic average of the daily closing prices for the “**nearby delivery month**” on the NYMEX for oil (light sweet crude) in a calendar year. The actual NYMEX annual price of oil is calculated by averaging the daily closing prices of oil for each month in the year, and then averaging the 12 monthly averages.

- a) The ceiling price threshold for oil in any year, say  $t$ , is determined by inflating the base year 2004 oil price of \$39 per barrel. This base year price is modified by the percentage change in the implicit price deflator as reported by the U.S. Department of Commerce, Bureau of Economic Analysis, for the interval between 2004 and year  $t$ , resulting in the adjusted oil price ceiling for year  $t$ . For example, if the deflator indicates that inflation is 1.6 percent in 2005, then the price ceiling in calendar year 2005 would become \$39.62 per barrel for oil. Therefore, royalty on **all** oil production in calendar year 2005 would be due if the 2005 actual NYMEX oil price as calculated above exceeds \$39.62 per barrel. (See exception in item 5 below.)
  - b) Royalties on oil production, when the actual NYMEX annual price of oil exceeds the ceiling price in any calendar year, must be paid no later than 90 days after the end of that calendar year. (See 30 CFR 260.122(b)). Also, when the actual NYMEX annual price of oil exceeds the ceiling price in any calendar year, royalties on oil production must be provisionally paid in the following calendar year. (See 30 CFR 260.122(c)).
4. If the actual NYMEX quarterly price of oil is at or below the fixed “floor” price threshold of \$21 per barrel (the price will not be adjusted for inflation) in any calendar quarter, then oil produced during that calendar quarter would be royalty free and would not count against the lease’s remaining RSV. However, if the actual NYMEX quarterly price of oil is at or below the floor price after the RSV has been fully used, the lessee receives no additional royalty-free production

The actual NYMEX quarterly price of oil is defined as the arithmetic average of the daily closing prices for the “**nearby delivery month**” on the NYMEX for oil in the calendar quarter. The applicable calendar year quarters are January-March, April-June, July-September, and October-December. The actual NYMEX quarterly price of oil is calculated by averaging the daily closing prices of oil for each month in the quarter, and then averaging the 3 monthly averages.

5. Within the same calendar year, the actual NYMEX quarterly price of oil could be equal to or less than the price floor in one or more quarters, but the actual NYMEX annual price of oil could be greater than the ceiling price. If that were to occur, and the original RSV for the lease has not been exhausted, the consequences of the actual NYMEX annual price of oil exceeding the price ceiling for the year would apply only to oil production during those quarters of the year in which the actual NYMEX quarterly price of oil are above the floor price. For example, assume that oil production from a lease is 8 million barrels in a calendar year, and the actual NYMEX annual price of oil is greater than the ceiling price. Assume further that the production of oil from that lease is 2 million barrels during a quarter of that same calendar year, and the actual NYMEX quarterly price of oil for that quarter is equal to or less than the floor price. In this situation, no royalties would be due on that quarter’s oil production, and the remaining RSV for the lease would be unchanged for that quarter. Royalties, however, would be due on the 6 million barrels of oil produced during the other 3 quarters of that year, and the RSV remaining for the lease at the end of the year would be 6 million barrels less than it was at the beginning of the year.

6. For purposes of the RSV, a Sale 195 lease that is part of an approved unit agreement can only apply allocated production from the unit against the lease's RSV if that lease is included in an approved participating area. The RSV will be applied to each lease consistent with the production allocation schedule approved by the MMS for the participating area. Participating area means all or parts of unit tracts described and designated as a Participating Area under the unit agreement for the purposes of allocating one or more unitized substances produced from a reservoir.
7. Price thresholds apply throughout those periods (calendar year for the ceiling and quarter of the year for the floor) that commence with some RSV remaining unused.
8. A lessee must resume paying full royalties on the first day of the month following the month in which the RSV is exhausted. Lessees do not owe royalties for the remainder of the month in which the RSV is exhausted, unless the actual NYMEX annual price of oil exceeds the ceiling price threshold for that year.
9. The MMS will provide notice when the actual NYMEX annual price of oil is above the ceiling price threshold, or when the actual NYMEX quarterly price of oil is equal to or below the floor price threshold. Information on actual and threshold oil prices can be found at the MMS website ([www.mms.gov/econ](http://www.mms.gov/econ)).