



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

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Mr. Michael A. Celata, Regional Director
Bureau of Ocean Energy Management
Gulf of Mexico OCS Region (GM 670)
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394

Mr. Lars Herbst, Regional Director
Bureau of Safety and Environmental Enforcement
Gulf of Mexico OCS Region (GM 670)
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394

Dear Mr. Celata and Mr. Herbst:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the Essential Fish Habitat Assessment (EFH Assessment) for the Gulf of Mexico prepared in association with the Environmental Impact Statement (EIS) for the Outer Continental Shelf (OCS) Oil and Gas Leasing Program in the Gulf of Mexico for 2017-2022.

BACKGROUND

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. §1801 *et seq.*) requires Federal agencies to consult with the Secretary of Commerce, through NOAA's National Marine Fisheries Service (NMFS), with respect to "any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat (EFH) identified under this Act." 16 U.S.C. § 1855(b)(2). Under the Outer Continental Shelf Lands Act (OCSLA; 43 U.S.C. § 1331 *et seq.*), the Bureau of Ocean Energy Management (BOEM) is responsible for activities related to leasing tracts of the OCS for oil and gas exploration, development, and production. Certain OCS activities authorized by BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) may result in adverse impacts to EFH, and therefore require EFH consultation. Actions taken by BOEM and BSEE under the OCSLA are evaluated through National Environmental Policy Act (NEPA). BOEM, BSEE (formerly the Minerals Management Service and Bureau of



Ocean Energy Management, Regulation, and Enforcement) and NMFS cooperatively developed modified procedures to incorporate EFH consultation into existing NEPA processes by findings letters dated March 17, 2000, and March 12, 2002. Our agencies consulted on a programmatic level by letters dated June 4, 1999, July 1, 1999, and August 12, 1999, to address EFH issues related to operational activities, including pipeline rights-of-way, plans for exploration and production, and platform removal in the Gulf of Mexico Central and Western Planning Areas. That programmatic EFH consultation was subsequently amended by a letter dated July 19, 2007, to also include operational activities within a small portion of the Eastern Planning Area.

Following the Mississippi Canyon Block 252 spill event in April 2010, BOEM requested re-initiation of Endangered Species Act consultation with both the U.S. Fish and Wildlife Service and NMFS. NMFS responded by letter dated September 24, 2010, requesting a periodic review of the EFH consultation as well. Regional NMFS and BOEM staff agreed to procedures which would incorporate a new programmatic EFH consultation in concurrence with the EIS prepared for each five-year multi-lease sale program beginning with the 2012-2017 program. BOEM's EFH Assessment describes OCS development activities, analyzes effects of those activities, provides BOEM's views on those effects, and identifies proposed mitigation measures.

PROPOSED ACTIONS

The federal actions addressed in BOEM's EFH Assessment are proposed OCS Lease Sales 249, 250, 251, 252, 253, 254, 256, 257, 259, and 261 in the Gulf of Mexico (GOM) and related pre- and postlease activities that include geological and geophysical activities, and BSEE managed decommissioning activities. The BOEM is responsible for managing, regulating, and monitoring oil and gas exploration, development, and production operations on the federal OCS. Measures are implemented through lease stipulations, operating regulations, Notice to Lessees (NTLs), and project-specific requirements or approval conditions to address concerns such as endangered and threatened species, geologic and manmade hazards, military warning and ordnance disposal areas, archaeological sites, air quality, oil-spill response planning, chemosynthetic communities, artificial reefs, operations in hydrogen sulfide prone areas, and shunting of drill effluents in the vicinity of biologically sensitive features.

ESSENTIAL FISH HABITAT ASSESSMENT

The BOEM EFH Assessment provides a summary of the effects of routine operations and accidental events as well as cumulative effects on EFH which are more fully analyzed in the BOEM's GOM OCS Oil and Gas Lease Sales: 2017-2022 GOM Lease Sales 249, 250, 251, 252, 253, 254, 256, 257, 259, and 261 Final Environmental Impact Statement (OCS EIS/EA BOEM 2016-018), the GOM OCS Proposed Geological and Geophysical (G&G) Activities Western, Central, and Eastern Planning Areas Draft Programmatic EIS (OCS EIS/EA BOEM 2016-049), and the Structure-Removal Operations on the GOM OCS Programmatic Environmental Assessment (OCS EIS/EA MMS 2005-013). The EFH Assessment also provides the views of BOEM of those effects and proposed mitigation measures to avoid and minimize the potential for adverse effects to EFH. Mitigation measures in the form of lease stipulations are added to lease terms and are therefore enforceable as part of the lease. Conditions of approval are also applied on individual permits and approval letters to avoid or minimize impacts to EFH from

authorized industry activities. BOEM and BSEE also utilize adaptive management strategies to afford the most appropriate protections to EFH with regards to specific actions.

The EFH Assessment and supporting NEPA documents, in combination with NMFS review of OCS exploration and production activities and impacts, are the basis for our determination that a Programmatic Consultation provides an appropriate mechanism to evaluate EFH impacts of BOEM and BSEE Gulf of Mexico Region OCS program activities. To ensure adverse impacts to EFH and federally managed fisheries from activities managed by the Gulf of Mexico OCS Region are avoided, minimized, and offset, the implementation of EFH conservation measures is necessary. Accordingly, for this programmatic consultation agreement, we adopt the following BOEM/BSEE mitigation measures as:

ESSENTIAL FISH HABITAT CONSERVATION RECOMMENDATIONS

1. NTL 2009-G39; Biologically-Sensitive Underwater Features and Areas including the Topographic Features and Live-Bottom (Pinnacle Tread) Stipulations. This NTL protects and minimizes impacts to sensitive topographic features, pinnacle trend features, and low relief, potentially sensitive features through avoidance and exclusion zones.
 - a. The Topographic Features Stipulation minimizes potential impacts on topographic features from bottom-disturbing activities (structure removal and emplacement) and operational discharges associated with the proposed action through avoidance, by requiring individual activities to be located at specified distances from the feature or zone.
 - b. The Live Bottom (Pinnacle Trend) Stipulation minimizes the potential impacts from oil and gas operations, including accidental oil spills and blowouts, on the biota of Pinnacle Trend features by increasing the distance of such events from the features.
2. NTL 2009-G40 Deepwater Benthic Communities. This NTL greatly reduces the risk of physical impacts by requiring the avoidance of potential chemosynthetic communities. It includes requirements to avoid potential chemosynthetic communities identified on required geophysical survey records or photo-documentation to establish the absence of potential hard-bottom communities prior to approval of the structure emplacement.
3. NTL 2015-G03 Marine Trash and Debris Awareness and Elimination. This NTL describes BSEE requirements for prevention of marine debris from oil- and gas-related activities and outlines annual training and reporting requirements.
4. NTL 2009-G04 Significant OCS Sediment Resources of the Gulf of Mexico. This NTL identifies BOEM's responsibility as stewards of significant sand resources on the OCS and provides guidance for the avoidance and protection of significant OCS sediment resources essential to coastal restoration initiatives in the BOEM Gulf of Mexico OCS Region. Additionally, this NTL discourages abandoning pipelines in areas with significant sediment resources. OCS sediment resources are necessary for coastal

resiliency and restoration projects and programs which can protect and restore EFH.

5. Activity specific mitigation deemed necessary for support vessel mobilization/demobilization, progressive transport, site-clearance trawling, and explosive-severance activities as described in Appendix F of the Structure-Removal Operations on the GOM OCS Programmatic Environmental Assessment (OCS EIS/EA MMS 2005-013) and applicable mitigation measures resulting from Marine Mammal Protection Act (MMPA) rulemaking and an Endangered Species Act (ESA) consultation integrated as conditions of approval.
6. Activity specific mitigation deemed necessary (e.g., ramp up) as described in Appendix B of the GOM OCS Proposed Geological and Geophysical (G&G) Activities Western, Central, and Eastern Planning Areas Draft Programmatic EIS (OCS EIS/EA BOEM 2016-049) and applicable mitigation measures resulting from MMPA rulemaking and an ESA consultation integrated as conditions of approval.

Additional EFH Conservation Recommendations:

7. BOEM provide NMFS with yearly summaries describing the number and type of permits issued in each planning area each year and describing the number and type of activities located in the Live Bottom (Pinnacle Trend) and Topographic Features blocks for that year.
8. BSEE provide NMFS with yearly summaries describing the decommissioning activities completed in Live Bottom (Pinnacle Trend) and Topographic Features blocks for that year.
9. BOEM provide NMFS with yearly summaries of the number of seismic surveys proposing to utilize ocean-bottom surveys that year.
10. BOEM provide NMFS with yearly summaries of the number of and/or miles of decommissioned pipelines including the number of waivers granted for the burial requirement thereby allowing self-burial that year. Decommissioned pipelines have the potential to interfere with coastal resiliency and restoration projects and programs in areas containing sand resources suitable for coastal restoration initiatives as described in NTL 2009-G04.

Project Specific Consultation

The Gulf of Mexico OCS Region Program policies contain provisions for waivers to certain conditions that may not be addressed adequately by programmatic EFH conservation recommendations. Specifically, NMFS is concerned if:

1. Shorter separation distance is proposed for seafloor disturbing activities near potential deepwater chemosynthetic communities as outlined in the policy contained in NTL 2009-G40 Deepwater Benthic Communities. Therefore, BOEM Gulf of Mexico Region

shall initiate project-specific EFH consultation with NMFS whenever a shorter separation distance is proposed for seafloor disturbing activities and BOEM determines this may result in adverse effects to EFH.

Review and Revision

It is the intent of the NMFS this Programmatic EFH Consultation be in effect for the 2017-2022 Gulf of Mexico OCS Region Oil and Gas Lease Sales and related pre- and post-lease activities. NMFS advises BOEM that at this time the Gulf of Mexico Fishery Management Council (GMFMC) and the NMFS Highly Migratory Species Management Branch are undergoing reviews of their respective EFH information pursuant to 50 CFR 600.815(a)(10). Additionally, the GMFMC is identifying previously unmapped areas of deepwater corals for potential designation as EFH Habitat Areas of Particular Concern (EFH-HAPC). At this time we do not foresee any changes to EFH or EFH-HAPCs would require mitigative measures in addition to those identified above. However, if new or additional information affecting EFH conservation recommendations becomes available, the NMFS will consider whether to request additional consultation with BOEM and/or provide additional EFH conservation recommendations.

If any modifications are made to BOEM or BSEE programs, site and activity specific review procedures, lease stipulations, and NTLs described in the EFH Assessment that result in changes to potential adverse effects on EFH, the BOEM Gulf of Mexico OCS Region should notify the NMFS Southeast Region Habitat Conservation Division to initiate discussions regarding the necessity to modify this Programmatic EFH Consultation. NMFS specifically requests notification regarding proposed modification and/or renewals or extensions to any of the following NTLs which may affect protective measures for essential fish habitats:

1. NTL 2009-G39 Biologically-Sensitive Underwater Features and Areas.
2. NTL 2009-G40 Deepwater Benthic Communities.
3. NTL 2015-G03 Marine Trash and Debris Awareness and Elimination. This NTL provides guidance to prevent intentional and/or accidental introduction of debris into the marine environment.
4. NTL 2009-G04 Significant OCS Sediment Resources in the Gulf of Mexico.
5. NTL 2009-G27 Submitting Exploration Plans and Development Operations Coordination Documents. This NTL provides policy regarding revising OCS plans when operators propose to change approved anchor patterns or anchor areas.
6. NTL 2009-G34 Ancillary Activities. This NTL provides guidance on conducting ancillary activities in the Gulf of Mexico OCS that disturb the seafloor.
7. NTL 2008-G05 Shallow Hazards Program. The objective of the shallow hazard assessment is to identify, map, and delineate seafloor, shallow subsurface geologic features, and man-caused obstructions that may impact proposed oil and gas operations,

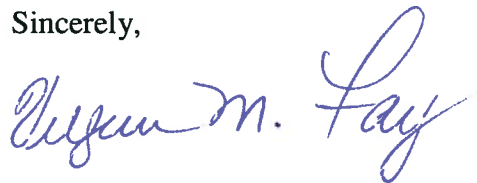
which include the following:

- a. seafloor geologic hazards such as fault scarps, gas vents, unstable slopes, and reefs;
 - b. shallow subsurface geologic hazards such as faults, gas hydrates and gas-charged sediments, buried channels, and abnormal pressure zones; and
 - c. synthetic hazards such as pipelines, wellheads, shipwrecks, military ordnance (offshore disposal sites), and debris from oil and gas operations.
8. NTL 2006-G21 Regional and Subregional Oil Spill Response Plans. This NTL provides guidance on the review and update of Oil Spill Response Plans.
 9. NTL 98-26 Minimum Interim Requirements for Site Clearance (and Verification) of Abandoned Oil and Gas Structures in the GOM. This NTL ensures that any object (i.e., wellheads, platforms, etc.) installed on an OCS lease is properly removed and the site cleared so as not to conflict with other uses of the OCS.

Absent any of the circumstances described above, the NMFS Southeast Region anticipates the next review of this programmatic EFH consultation with the BOEM Gulf of Mexico OCS Region to occur during the preparation of NEPA analysis for the subsequent five-year program.

Thank you for your consideration of these recommendations. If we can be of further assistance, please do not hesitate to contact David Dale of my staff at 727-824-5317 or by email at david.dale@noaa.gov.

Sincerely,



Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc: (w/encl.) via electronic mail
F/SER4 – Swafford
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