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DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM-2010-0036]

Notice of Intent to Conduct a Review of Categorical Exclusions for Outer Continental Shelf Decisions

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of Intent to Conduct a Review of BOEMRE Outer Continental Shelf (OCS) Categorical Exclusions under the National Environmental Policy Act (NEPA).

SUMMARY: The Department of the Interior (DOI), Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is announcing its intent to conduct a broad review of its categorical exclusions (CEs) for Outer Continental Shelf (OCS) decisions. This review is being conducted in accordance with Section 102 of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. § 4332; the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, 40 C.F.R. Parts 1500-1508 (Nov. 1978); the CEQ Draft Guidance on Establishing and Applying Categorical Exclusions under NEPA (February 18, 2010); and consistent with recommendations provided by CEQ in their “Report Regarding the Minerals Management Service’s National Environmental Policy Act Policies, Practices, and Procedures as They Relate to Outer Continental Shelf Oil and Gas Exploration and Development” (August 16, 2010). Furthermore, this notice provides the public an opportunity to comment on the issues that should be addressed by BOEMRE during the review of its CEs and their application to OCS decisionmaking. The BOEMRE will use and coordinate a commenting process to ensure public involvement.

AUTHORITY: The National Environmental Policy Act (NEPA) of 1969, as amended, established a national policy to protect the environment and also established the President's Council on Environmental Quality (CEQ). CEQ regulations at 40 CFR § 1507.3 require Federal agencies to adopt procedures to implement NEPA, to consult with CEQ during their development, to provide an opportunity for public review, and to revise procedures as necessary to ensure full compliance with the purposes and provisions of the Act. The CEQ regulations are available at http://ceq.hss.doe.gov/nepa/regs/ceq/toc_ceq.htm.

The Department of the Interior NEPA procedures were promulgated as regulations and published in the *Federal Register* on October 15, 2008 (73 FR 61292). They can be found at (<http://www.doi.gov/oepc/nepafr/docs/Federal%20Register%20October%2015,%202008%20NEPA.pdf>). These regulations identify categories of actions taken throughout the Department that under normal circumstances do not have, and are not expected to have, significant individual or cumulative environmental impacts; therefore, the Bureau is not required to prepare an environmental assessment or environmental impact statement. These regulations also identify the extraordinary circumstances which nullify the use of the CE in particular circumstances. The CEQ regulations define “categorical exclusion” at 40 C.F.R. § 1508.4:

“Categorical exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures

under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

The Minerals Management Service (MMS, now BOEMRE) identified additional categories of actions designated as CEs, which include those related specifically to OCS activities. BOEMRE's CEs (Departmental Manual at 516 DM 15.4) can be found at http://elips.doi.gov/app_dm/act_getfiles.cfm?relnum=3625 and are listed below:

A. General.

(1) Inventory, data, and information collection, including the conduct of environmental monitoring and nondestructive research programs.

(2) Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.

B. Internal Program Initiatives.

(1) All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.

(2) Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.

(3) Acquisition of existing geological or geophysical data from otherwise private exploration ventures.

- (4) Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.
- (5) Establishment and installation of any research/monitoring devices.
- (6) Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.
- (7) Insignificant revisions to the approved 5-year leasing program.
- (8) Prelease planning steps such as the Call for Information and Area Identification.

C. Permit and Regulatory Functions.

- (1) Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators. Guidelines and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.
- (2) Approval of production measurement methods, facilities, and procedures.
- (3) Approval of off-lease storage in existing facilities.
- (4) Approval of unitization agreements, pooling, or communitization agreements.
- (5) Approval of commingling of production.
- (6) Approval of suspensions of operations and suspensions of production.

(7) Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.

(8) Administration decisions and actions and record keeping such as:

(a) Approval of applications for pricing determinations under the Natural Gas Policy Act.

(b) Approval of underground gas storage agreements from a presently or formerly productive reservoir.

(c) Issuance of paying well determinations and participating area approvals.

(d) Issuance of drainage determinations.

(9) Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.

(10) Approval of an offshore lease or unit exploration. development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR 250.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas, or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or

established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.

(11) Approval of minor revisions of or minor variances from activities described in an approved offshore exploration or development/production plan, including pipeline applications.

(12) Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.

(13) Preliminary activities conducted on a lease prior to approval of an exploration or development/production plan or a Development Operations Coordination Plan. These are activities such as geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan, development/production plan, or Development Operations Coordination Plan.

(14) Approval of Sundry Notices and Reports on Wells.

(15) Rights-of-ways, easements, temporary use permits, and any revisions thereto that do not result in a new pipeline corridor to shore.

D. Royalty Functions. – Does not apply.

PURPOSE OF THIS REVIEW OF OCS CATEGORICAL EXCLUSIONS: MMS reviewed and revised its CEs several times since their development dating back to the late 1970s and now

BOEMRE is initiating another cycle of review as proposed herein. To ensure full compliance with NEPA and the regulations implementing NEPA, BOEMRE is announcing its intent to conduct a broad review of its CE's for OCS decisions. This notice requests the public as well as Federal, State, and local government agencies, and other interested parties to comment on the appropriateness of and suggest revisions to existing BOEMRE CE's, as well as highlight issues that should be addressed by BOEMRE during the review of its CE's and their application to OCS decisionmaking. The BOEMRE will use and coordinate a commenting process to ensure public involvement.

DATE: Submit written comments no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public as well as Federal, State, and local government agencies, and other interested parties are requested to send their written comments regarding issues that should be addressed by BOEMRE during the review of its CE's and their application to decisionmaking for OCS activities in one of the following ways:

1. In written form enclosed in an envelope labeled "Comments on the Review of Categorical Exclusions for Outer Continental Shelf Decisions" and mailed (or hand carried) to James F. Bennett, Chief, Environmental Assessment Branch, Environmental Division (MS 4042), Bureau of Ocean Energy, Regulation and Enforcement, Headquarters, 381 Elden Street, Herndon, Virginia 20170.
2. Electronically: go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter docket ID BOEM-2010-0036 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information submitted, will be made publicly available.

FOR FURTHER INFORMATION CONTACT: For more information on the review of BOEMRE CEs for OCS activities, you may contact James F. Bennett, Chief, Environmental Assessment Branch, Environmental Division (Mail Stop 4042), Bureau of Ocean Energy, Regulation and Enforcement, Headquarters, 381 Elden Street, Herndon, Virginia 20170. You may also contact Mr. Bennett by telephone at (703) 787-1660.

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Energy and Minerals Management

September 20, 2010

Date

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