

Submitted electronically via regulations.gov September 18, 2017

Hon. Ryan Zinke
Secretary, Department of the Interior
1849 C St. NW Washington, DC 20240

Re: Notice of request for comments on regulatory reform in the Department of the Interior pursuant to Executive Order 13777

Dear Secretary Zinke:

NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of both traditional and renewable energy resources on the U.S. OCS. The NOIA membership comprises roughly 300 companies engaged in a variety of business activities, including production, drilling, engineering, marine and air transport, offshore construction, equipment manufacturing and supply, telecommunications, finance and insurance, and renewable energy.

NOIA highlights the following regulatory items within BOEM's jurisdiction for your consideration.

Five Year Outer Continental Shelf (OCS) Leasing Program

The recently implemented Final 2017-2022 Program restricts offshore leasing, as follows: eliminates all Arctic leasing and withdraws significant Arctic acreage; repeals a previously proposed Atlantic lease sale in 2021 offshore Virginia, North Carolina, South Carolina, and Georgia; includes no consideration or evaluation of the eastern Gulf of Mexico.

BOEM's previous justification for cancelling the Atlantic sale was inaccurate and based on faulty information. Namely, BOEM discounted the following realities: potential conflicts with DOD and other ocean users are routinely resolved in the Gulf of Mexico; ample Atlantic port and related infrastructure currently exists and can be tailored and improved as future activity becomes more certain; local coastal opposition to Atlantic leasing amounted to roughly three percent of the total population of Virginia, North Carolina, South Carolina and Georgia.

Relatedly, following intense pressure from the environmental lobby, on December 21, 2016, President Obama, using the Section 12(a) authority in the Outer Continental Shelf Lands Act (OCSLA), withdrew 115 million acres of the Arctic Ocean (entire Chukchi and majority of the Beaufort Seas) and 3.8 million acres in the North and Mid-Atlantic from oil and natural gas leasing. Proponents claim 12(a) withdrawals to be "permanent" based on OCSLA's lack of language explicitly allowing for reversal of such withdrawals. This claim conflicts with OCSLA's mandate for "expeditious and orderly development" of the OCS and the preferred role of coastal state Governors under OCSLA; and past instances show that a future president has power to modify a 12(a) withdrawal.

We therefore appreciate the Administration's previous action to modify withdrawals under OCSLA section 12(a) and begin the multi-year process of establishing a new Five Year Program to consider Arctic and Atlantic leasing. We strongly urge the Administration to also consider future eastern Gulf of Mexico activities while coordinating closely with the Department of Defense to identify areas suitable for each Department's respective mission and taking into consideration technological advancements within industry.

Geological & Geophysical (Including Seismic) Activities

BOEM recently issued a Final Programmatic Environmental Impact Statement (PEIS), for Gulf of Mexico OCS Proposed Geological and Geophysical (G&G) Activities. The PEIS is based upon an unrealistic scenario in which G&G activities are projected to result in supposed effects to marine mammals that BOEM admits are unrealistic overestimates of impact. The supposed adverse effects of this worst case hypothetical scenario are then addressed in the PEIS with burdensome and unsupported mitigation measures. This approach is contrary to the best available scientific information and applicable law. The overly burdensome mitigation measures contemplated in BOEM's Gulf DPEIS should be rejected in favor of a scientifically supported permitting framework allowing for the continuation of responsible Gulf surveying and robust Gulf development. As to the alternatives presented in the PEIS, NOIA finds Alternative A to be the only reasonable alternative because it presents the option that is most consistent with the best available science, operational feasibility, and applicable law.

We appreciate the ongoing reconsideration of the rejected Atlantic G&G survey applications; and strongly endorse the President's instructions for BOEM and NMFS to more closely coordinate to expedite consideration of ITA requests, including IHA's and LOA's. Such coordination may spur NMFS to meet their statutory requirements with regard to consideration of permit applications, both with regard to timelines and reliance upon scientific evidence. We strongly support the development and implementation of a streamlined permitting approach for seismic surveys as detailed in EO 13795 and DOI Secretarial Order 3350.

Offshore Air Quality Control, Reporting and Compliance

NOIA appreciates the Administration's ongoing reconsideration of the Offshore Air Quality Control, Reporting and Compliance Rule, for which we feel BOEM lacked justification in proposing. OCSLA authorizes the Secretary of the Interior to promulgate regulations for compliance with the National Ambient Air Quality Standards (NAAQS) to the extent that activities authorized under OCSLA significantly affect the air quality of any state. This requirement has not been met as Alaska and Gulf of Mexico coastal state air quality plans (State Implementation Plans) conclude that emission sources from the OCS do not have a significant affect on onshore air quality or otherwise prevent NAAQS compliance. BOEM's existing air quality regulatory program has worked successfully for more than 30 years to fulfill this narrow mandate defined by OCSLA. Furthermore, BOEM has initiated air quality studies designed to determine if OCS emissions significantly affect onshore quality in Alaska and in the Gulf Coast states. However, these studies have not yet been completed. BOEM should not promulgate new air quality regulations until the studies are completed and if a determination is made that OCS emissions do significantly affect onshore air quality.

The proposed rule will have no beneficial impact on air quality while adding unnecessary financial and data collection burden to the industry, including service companies. The rule could materially impair the ability to maintain current production operations and reduce future development and production, thus reducing income to the governments through royalties, sales, income, and ad valorem tax. BOEM's Initial Regulatory Impact Analysis (IRIA) estimated that the ten-year net present value of the proposed regulation is negative \$97 million using a discount rate of three percent - which indicates that the cost of the regulation will exceed the benefit. This represents a government policy that is doing more harm than good.

BOEM should not proceed with the expansive overhaul of the air quality regulatory program without a demonstration that OCS sources significantly affect onshore air quality and jeopardize compliance with the NAAQS. BOEM must complete its air quality studies and make them available for external review. If the study results determine new air quality regulations are warranted, BOEM should first issue an Advanced Notice of

Proposed Rulemaking (ANPR) to gather necessary information from the oil and gas industry and other stakeholders.

Royalty Relief

We applaud the Administration’s decision to reduce shallow water royalties to 12.5% for newly issued leases from the most recent Gulf of Mexico lease sale. We encourage BOEM to consider expanding this policy change to include new leases in all water depths issued in future OCS lease sales. A 12.5% royalty on all new leases would go a long way to encourage the continued investment in the exploration and development of offshore oil and natural gas resources.

We also encourage BOEM to examine the current administrative application process for End-of-Life Royalty Relief which can be offered regardless of water depth. This relief is available to OCS lessees as an incentive to continue to produce leases that are nearing the end of their economic life. While many operators may be aware of the option for relief, the current process is entirely too arbitrary and subject to far too much discretion at the regional level. We encourage BOEM to revisit this process and propose clear economic and production conditions under which relief would apply to reduce the arbitrary nature of the current application based end-of-life royalty relief program.

In addition, we encourage BOEM to reexamine the conditions for Special Case Relief, a discretionary program which may be utilized when other relief incentive programs do not fit the needs of BOEM or operators. In addressing reform of special case relief, BOEM should consider streamlining the application process and formalizing a specific set of circumstances under which applicants may qualify. This formality would begin to remove the uncertainty operators face in seeking special case relief to promote domestic production.

Thank you for your consideration of these items.

Sincerely,



Jeffrey L. Vorberger
National Ocean Industries Association
Vice President, Policy & Government Affairs