

DEPARTMENT OF THE INTERIOR**Minerals Management Service****Agency Information Collection
Activities: Submitted for Office of
Management and Budget (OMB)
Review; Comment Request**

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension and revision of an information collection (1010-0154).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is notifying the public that it has submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements under the Endangered Species Act Biological Opinions, issued by the Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) and is titled: "Notices to Lessees and Operators Numbers 2003-G08, 2003-G10, and 2003-G11." This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by October 30, 2003.

ADDRESSES: You may submit comments either by fax (202) 395-6566 or e-mail (OIRA_DOCKET@omb.eop.gov) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010-0154). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170-4817.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team, at (703) 787-1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the Notices to Lessees that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: Notices to Lessees and Operators Numbers 2003-G08, 2003-G10, and 2003-G11.

OMB Control Number: 1010-0154.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease.

Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

The Department of the Interior, MMS, as a Federal agency, has a continuing affirmative duty to comply with the Endangered Species Act (ESA). This includes a substantive duty to carry out any agency action in a manner that is not likely to jeopardize protected species as well as a procedural duty to consult with the FWS and NOAA Fisheries before engaging in a discretionary action that may affect a protected species.

The MMS follows these procedural requirements by conducting formal consultations with FWS and NOAA Fisheries prior to lease sales. Consultations on OCS lease sales 181, 184, and the 5-year multisale (2002-2007) program in the Central and Western Planning Areas of the Gulf of Mexico (GOM) resulted in no-jeopardy biological opinions from the FWS and NOAA Fisheries. In their biological opinions, NOAA Fisheries determined that some activities associated with the proposed action (lease sale and related exploration, development, and production activities) may adversely affect (harm) sperm whales and sea turtles in the action area and that certain reasonable and prudent measures are necessary to minimize the potential for incidental take of these animals. To be exempt from the prohibitions of Section 9 of the ESA (which prohibits taking listed species), MMS must implement and enforce nondiscretionary terms and conditions. The ESA also requires monitoring and reporting. Monitoring programs resulting from ESA interagency consultations are designed to (1) detect adverse effects resulting from a proposed action, (2) assess the actual level of incidental take in comparison with the level of anticipated incidental take documented in the biological opinion, (3) detect when the level of anticipated take is exceeded, and (4) determine the effectiveness of reasonable and prudent alternatives and their implementing terms and conditions.

To provide supplementary guidance and procedures, MMS issues Notices to Lessees and Operators (NTLs) on a regional or national basis. Regulation 30

CFR 250.103 allows MMS to issue NTLs to clarify, supplement, or provide more detail about certain requirements. To implement the nondiscretionary terms and conditions of these biological opinions, the MMS issued three NTLs, as follows (note that these NTLs have been renumbered and reissued):

- NTL 2003-G08—Implementation of Seismic Survey Mitigation Measures and Protected Species Observer Program
- NTL 2003-G10—Vessel Strike Avoidance and Injured/Dead Protected Species Reporting

- NTL 2003-G11—Marine Trash and Debris Awareness and Elimination

The MMS will use the information collected to report annually to NOAA Fisheries the effectiveness of mitigation, any adverse effects of the proposed action, and any incidental take, in accordance with 50 CFR 402.14(i)(3). MMS engineers, geologists, geophysicists, environmental scientists, and other Federal agencies (FWS, NOAA Fisheries, *etc.*) also will analyze the information and data collected under these NTLs to better evaluate the potential impacts to listed species and to plan operations in a manner that will further reduce and/or avoid adverse impacts to protected species in the OCS.

On March 26, 2003, the OMB approved MMS's request under emergency processing procedures to collect the information required by these NTLs and assigned OMB Control Number 1010-0154. Since the "emergency" processing of this information collection, MMS has worked with representatives from NOAA Fisheries, American Petroleum Institute, and the Offshore Operators Committee to fully develop these programs and has revised and renumbered the NTLs as follows:

- NTL 2003-G08, "Implementation of Seismic Survey Mitigation Measures and Protected Species Observer Program" (previously NTL 2002-G07 with Addendum 1), has been revised to include the entire Protected Species Observer Program section, adding criteria for visual observers, observer training, and methods of observing and reporting observations. It also provides for an experimental (voluntary) passive acoustic monitoring program.

- NTL 2003-G10, "Vessel Strike Avoidance and Injured/Dead Protected Species Reporting" (previously NTL 2003-G07), has been revised to list specific guidelines operators should follow to avoid death or injury to marine mammals and sea turtles in lieu of a formal observer program.

- NTL 2003-G11, "Marine Trash and Debris Awareness and Elimination" (previously NTL 2003-G06), has been