

Comment 1: OOC states that the reporting and compliance requirements used in the **Federal Register** notice are underestimated. OOC notes that no hour burden has been calculated for conducting the required observations; training the observers; and then reviewing, approving, and filing the reports with the MMS. *MMS Response:* Because the protected species observer program is now fully developed and constitutes a new requirement from the biological opinions from NOAA Fisheries, all observation time is now calculated into the burden. Time spent training observers to do the required tasks is also included, as well as time for industry review and approval of required reports. As a result of discussions, these three NTLs have been revised, and the total information collection burden has been adjusted to 22,305 hours.

Comment 2: OOC is especially concerned about original NTL 2003–G06, Marine Trash and Debris Awareness and Elimination (now revised to be NTL 2003–G11) and states that the recordkeeping requirements of this NTL are overly burdensome and unnecessary, that the hourly burden is underestimated, and that existing regulations and programs adequately address elimination of marine debris, placarding of facilities, and training of personnel. OOC states that NOAA Fisheries wants feedback from MMS on the effectiveness of existing programs rather than creation of new programs. *MMS Response:* MMS received biological opinions from NOAA Fisheries on Western Gulf of Mexico (GOM) Lease Sale 184, as well as on the multi-lease sale proposal for the Central and Western GOM. These opinions contain “nondiscretionary terms and conditions” requiring MMS to implement additional programs to eliminate marine trash and debris. Implementation of such programs is required in order for MMS to proceed with its proposed Federal action of holding lease sales. However, in the future, MMS will facilitate earlier dialogue with affected parties on such issues as addressed in these biological opinions; we will open discussion on ways to satisfy NOAA Fisheries requirements while working with affected industry.

After extensive meetings and discussions with OOC, industry, and NOAA Fisheries representatives, MMS had revised the original NTL. The revised NTL in this submission significantly reduces the burdens by allowing lessees and operators to use a slide show in conjunction with annual training and to certify compliance with

these requirements by submitting an annual report to MMS that describes their training process and that they have followed this process for the previous calendar year.

Comment 3: OOC states that the time and cost of meeting the training and recordkeeping requirements are substantial. In addition, OOC states that there are “non-hour cost” burdens associated with these requirements. *MMS Response:* OOC refers to additional time incurred in the review, approval, and file keeping aspects of the reports. As stated above, MMS has revised the NTLs and has incorporated the training and recordkeeping aspects into the burden. MMS has also calculated the time for industry to review and approve required information. OOC also refers to “non-hour cost” burdens to generate, maintain, and disclose this information. Comments were not specific enough to include as an element of burden in this submission.

Comment 4: OOC is concerned with the NTL process in general and notes that the NTLs have been revised at least twice during the last 7 months. OOC states that these revisions have caused additional work to industry. OOC believes these NTLs exceed the scope of MMS regulations and create compliance requirements on industry without an opportunity to provide comments on the new requirements. *MMS Response:* MMS recognizes industry concerns about the use of NTLs and their associated burdens; however, the requirements in these NTLs are necessary because of the biological opinions issued. In the future, MMS will work with affected groups early in the process. We understand the burden these requirements place on industry. However, MMS has a continuing duty to comply with the ESA, including a substantive duty not to carry out any agency action that is likely to jeopardize protected species as well as a procedural duty to consult with the Services (FWS and NOAA Fisheries) before engaging in a discretionary action that may affect a protected species. Lessees and operators in the GOM also must comply with the ESA.

Prior to OCS Lease Sales 181, 184 and 185, the MMS followed these procedural requirements by conducting a formal consultation with FWS and NOAA Fisheries, after which both Services issued biological opinions. The biological opinions issued by NOAA Fisheries for Sale 184 and Sale 185 advised the MMS that the proposed action (lease sale and related exploration, development, and production activities) was expected to

impact (harm) sperm whales and sea turtles in the action area as a result of such OCS activities and that certain 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, MMS must comply with the nondiscretionary terms and conditions, which outline required reporting and monitoring requirements. In order to monitor the impact of incidental take, the MMS must report the progress of the action and its impact on the species to NOAA.

These three NTLs were issued in an effort to comply with the biological opinions and thus enable MMS and industry to proceed with OCS Lease Sale 184 as well as others in a timely manner. MMS has met often with representatives of OOC, industry, and NOAA Fisheries to address their concerns about these NTLs. Although all concerns were not resolved, changes were made to the subject NTLs. The majority of the revisions of the NTLs resulted from feedback from industry and MMS’s effort to allow time and flexibility for lessees and operators to comply with NOAA’s requirements.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 30, 2003.

Public Comment Policy: MMS’s practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law. However, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Federal Register Liaison Officer: Denise Johnson, (202) 208–3976.

Dated: September 8, 2003.

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[FR Doc. 03–24654 Filed 9–29–03; 8:45 am]

BILLING CODE 4310–MR–P