

## **Beaufort Sea Lease Sale Mitigation Measures and Lessee Advisories**

AS 38.05.035(e) and the departmental delegation of authority provide the director, Division of Oil and Gas (DO&G) (“director”), with the authority to impose conditions or limitations, in addition to those imposed by statute, to ensure that a resource disposal is in the state’s best interests.

Consequently, to mitigate the potential adverse social and environmental effects of specific lease-related activities, DO&G has developed mitigation measures and will condition plans of operation, exploration, or development and other permits based on these mitigation measures.

Lessees must obtain approval of a detailed plan of operations from the director before conducting exploration, development, or production activities. A plan of operations must identify the sites for planned activities and the specific measures, design criteria, construction methods, and operational standards to be employed to comply with the restrictions listed below. It must also address any potential geophysical hazards that may exist at the site.

These measures were developed after considering terms imposed in earlier competitive lease sales and comments and information submitted by the public, local governments, environmental organizations, and other federal, state, and local agencies. Additional measures will likely be imposed when lessees submit a proposed plan of operations.

Lessees must comply with all applicable local, state, and federal codes, statutes, and regulations, as amended, as well as all current or future ADNR area plans and recreation rivers plans; and ADF&G game refuge plans, critical habitat area plans, and sanctuary area plans within which a lease area is located. Lease activities must be consistent with the enforceable policies of the Alaska Coastal Management Program (ACMP), including statewide standards and the enforceable policies of an affected coastal district with a plan in effect.

The director may grant exceptions to these mitigation measures. Exceptions will only be granted upon a showing by the lessee that compliance with the mitigation measure is not practicable or that the lessee will undertake an equal or better alternative to satisfy the intent of the mitigation measure. Requests and justifications for exceptions must be included in the plan of operations. The decision whether to grant an exception will be made during the public review of the plan of operations.

Except as indicated, the mitigation measures do not apply to geophysical exploration on state lands; geophysical exploration activities are governed by 11 AAC 96. Lessees or non-lessee companies may propose various operations, which include seismic surveys, in the sale area. Lessees may not have control over those activities not contracted by them. However, post-lease seismic surveys conducted or contracted by the lessee, are considered lease-related activities. Restrictions on geophysical exploration permits, whether lease-related or not, will depend on the size, scope, duration, and intensity of the proposed project and on the reasonably foreseeable effects on important species, specifically marine mammals.

Studies indicate that some geophysical activities may have an impact on the behavior of bowhead whales. Measures may be imposed on geophysical exploration permits in the vicinity of bowhead

whale migratory routes during spring or fall migrations. See the subsistence mitigation measures. The extent of effects on marine mammals varies depending on the type of survey and gear used.

Copies of the non-proprietary portions of all Geophysical Exploration Permit Applications will be made available to the North Slope Borough, Alaska Eskimo Whaling Commission, and potentially affected subsistence communities for comment.

Agency abbreviations are:

Abbreviation	Agency Name
ADF&G	Alaska Department of Fish and Game
ADEC	Alaska Department of Environmental Conservation
ADNR	Alaska Department of Natural Resources
AEWC	Alaska Eskimo Whaling Commission
DMLW	Division of Mining, Land, and Water (ADNR)
DO&G	Division of Oil and Gas (ADNR)
DPOR	Division of Parks and Recreation
NMFS	National Marine Fisheries Service
NSB	North Slope Borough
USFWS	U.S. Fish and Wildlife Service

## A. Mitigation Measures

### 1. Facilities and Operations

- a. A plan of operations must be submitted and approved before conducting exploration, development, or production activities, and must describe the lessee's plans to avoid or minimize impacts on residential, commercial, and recreational areas, Native allotments and subsistence use areas. At the time of application, lessee must submit a copy of the proposed plan of operations to all surface owners whose property will be entered.
- b. Facilities must be designed and operated to avoid or minimize sight and sound impacts in areas of high residential, commercial, recreational, and subsistence use and important wildlife habitat. Methods may include providing natural buffers and screening to conceal facilities, sound insulation of facilities, or by using alternative means approved by the director, in consultation with ADF&G and the NSB.
- c. To the extent practicable, the siting of facilities, other than docks, roads, utility, and pipeline crossings will be prohibited within 500 feet of all fish-bearing streams and water bodies and 1,500 feet from all current surface drinking water sources. Additionally, to the extent practicable, the siting of facilities will be prohibited within one-half mile of the banks of the main channel of the Colville, Canning, Sagavanirktok, Shaviotvik, Kadleroshilik, and

Kuparuk rivers. Facilities may be sited within these buffers if the lessee demonstrates to the satisfaction of the director, in consultation with ADF&G, that site locations outside these buffers are not practicable or that a location inside the buffer is environmentally preferred. Road, utility, and pipeline crossings must be consolidated and aligned perpendicular or near perpendicular to watercourses.

- d. Impacts to identified wetlands must be minimized to the satisfaction of the director, in consultation with ADF&G and ADEC. The director will consider whether facilities are sited in the least sensitive areas. Further, certain activities within wetlands require permission from the U.S. Army Corps of Engineers (see Lessee Advisories).
- e. Exploration facilities must be temporary and must be constructed of ice unless the director determines that no practicable alternative exists. Use of gravel structures may be permitted on a case-by-case basis by the director, after consultation with DMLW, and ADF&G. Approval for use of existing structures will depend on the extent and method of restoration needed to return these structures to a usable condition.
- f. Pipelines must utilize existing transportation corridors where conditions permit. Pipelines and gravel pads must be designed to facilitate the containment and cleanup of spilled fluids. Where practicable, onshore pipelines must be located on the upslope side of roadways and construction pads unless DMLW determines that an alternative site is environmentally acceptable. Wherever possible, onshore pipelines must be buried where soil and geophysical conditions permit. All pipelines, including flow and gathering lines, must be designed, constructed and, maintained to assure integrity against climatic conditions, geophysical hazards, corrosion and other hazards as determined on a case-by-case basis.
- g. Onshore pipelines shall be designed and constructed to minimize alteration of caribou and other large ungulate movement and migration patterns. At a minimum, above-ground pipelines shall be elevated 7 feet, as measured from the ground to the bottom of the pipe, except where the pipeline intersects a road, pad, or a ramp installed to facilitate wildlife passage. Lessees shall consider increased snow depth in the sale area in relation to pipe elevation to ensure adequate clearance for wildlife. ADNR may, after consultation with ADF&G, require additional measures to mitigate impacts to wildlife movement and migration.
- h. All pipelines, including flow and gathering lines, must be designed and constructed to provide adequate protection from water currents, storm and ice scouring, subfreezing conditions, coastal erosion, permafrost thawing, and other hazards as determined on a case-by-case basis.
- i. Offshore oil and gas transportation pipelines will be encouraged if the director determines that the laying of such pipelines is technically feasible and environmentally preferable to transport by oil tanker or other means.

j. Following the installation of a pipeline of sufficient capacity, no crude oil will be transported by surface vessel from offshore production sites, except in an emergency. The director will evaluate the emergency and determine an appropriate response to the condition.

k. Causeways

i. Continuous-fill causeways are prohibited. Environmentally preferred alternatives for field development include use of buried pipelines, onshore directional drilling, or elevated structures. Non-continuous-fill causeways must be designed, sited, and constructed to prevent significant changes to nearshore oceanographic circulation patterns and water quality characteristics (e.g., salinity, temperature, suspended sediments) that exceed water quality criteria, and must maintain free passage of marine and anadromous fish.

ii. Causeways and docks shall not be located in river mouths or deltas. Artificial gravel islands and bottom founded structures shall not be located in river mouths or active stream channels on river deltas, except as provided for in measure iii below.

iii. Each proposed structure will be reviewed on a case-by-case basis. Causeways, docks, artificial gravel islands, and bottom-founded structures may be permitted if the director, in consultation with ADF&G, ADEC, and the NSB determines that a causeway or other structures are necessary for field development and that no practicable alternatives exist. A monitoring program may be required to address the objectives of water quality and free passage of fish, and mitigation shall be required where significant deviation from objectives occurs. (See also Lessee Advisories regarding U.S. Army Corps of Engineers requirements.)

l. Dismantlement, Removal and Rehabilitation (DR&R): Upon abandonment of material sites, drilling sites, roads, buildings, or other facilities, such facilities must be removed and the site rehabilitated to the satisfaction of the director, unless the director, in consultation with DMLW, ADF&G, ADEC, NSB, and any non-state surface owner, determines that such removal and rehabilitation is not in the state's interest.

m. Gravel mining sites required for exploration and development activities will be restricted to the minimum necessary to develop the field efficiently and with minimal environmental damage. Where practicable, gravel sites must be designed and constructed to function as water reservoirs for future use. Gravel mine sites required for exploration activities must not be located within an active floodplain of a watercourse unless DMLW, after consultation with ADF&G, determines that there is no practicable alternative, or that a floodplain site would enhance fish and wildlife habitat after mining operations are completed and the site is closed.

Mine site development and rehabilitation within floodplains must follow the procedures outlined in McLean, R. F. 1993, North Slope Gravel Pit Performance Guidelines, ADF&G Habitat and Restoration Division Technical Report 93-9, available from ADF&G.

## 2. Habitat, Fish, and Wildlife

- a. Detonation of explosives will be prohibited in open water areas of fish-bearing streams and lakes. Explosives must not be detonated beneath, or in proximity to fish-bearing streams and lakes if the detonation of the explosive produces a pressure rise in the water body of greater than 2.7 pounds per square inch, or unless the water body, including its substrate, is solidly frozen. Detonation of explosives within or in close proximity to a fish spawning bed during the early stages of egg incubation must not produce a peak particle velocity greater than 0.5 inches per second. Blasting criteria have been developed by ADF&G and are available upon request from ADF&G. The location of known fish-bearing waters within the project area can also be obtained from ADF&G.

The lessee will consult with the NSB before proposing the use of explosives for seismic surveys. The director may approve the use of explosives for seismic surveys after consultation with the NSB.

- b. Removal of water from fish-bearing rivers, streams, and natural lakes shall be subject to prior written approval by DMLW and ADF&G. Water intake pipes used to remove water from fish-bearing water bodies must be surrounded by a screened enclosure to prevent fish entrainment and impingement. Screen mesh size shall be no greater than 1 mm (0.04 inches), unless another size has been approved by ADF&G. The maximum water velocity at the surface of the screen enclosure may be no greater than 0.1 foot per second, unless an alternative velocity has been approved by ADF&G
- c. Removal of snow from fish-bearing rivers, streams, and natural lakes shall be subject to prior written approval by ADF&G. Compaction of snow cover overlying fish-bearing water bodies is prohibited except for approved crossings. If ice thickness is not sufficient to facilitate a crossing, ice or snow bridges may be required.
- d. Bears:
  - i. Lessees are required to prepare and implement a human-bear interaction plan designed to minimize conflicts between bears and humans. The plan should include measures to:
    - A. minimize attraction of bears to facility sites, including garbage and food waste;
    - B. organize layout of buildings and work areas to minimize interactions between humans and bears such as including the use of electric fencing;
    - C. warn personnel of bears near or on facilities and the proper actions to take;
    - D. if authorized, deter bears from the drill site;
    - E. provide contingencies in the event bears do not leave the site;
    - F. provide for proper storage and disposal of materials that may be toxic to bears; and
    - G. document and communicate the sighting of bears onsite or in the immediate area to all shift employees.

- ii. Before commencement of any activities, lessees shall consult with ADF&G to identify the locations of any known brown bear den sites that are occupied in the season of proposed activities. Exploration and development activities started between September 20 and May 15 may not be conducted within one-half mile of known occupied brown bear dens, unless alternative mitigation measures are approved by ADF&G. A lessee who encounters an occupied brown bear den not previously identified by ADF&G must report it to the Division of Wildlife Conservation, ADF&G, within 24 hours. Mobile activities shall avoid such discovered occupied dens by one-half mile unless alternative mitigation measures are approved by DO&G with concurrence from ADF&G. Non-mobile facilities will not be required to relocate.
- iii. Before commencement of any activities, lessees shall consult with the USFWS to identify the locations of known polar bear den sites. Operations must avoid known polar bear dens by 1 mile. A lessee who encounters an occupied polar bear den not previously identified by USFWS must report it to the USFWS within 24 hours and subsequently avoid the new den by 1 mile. If a polar bear should den within an existing development, off-site activities shall be restricted to minimize disturbance.
- e. Permanent, staffed facilities must be sited to the extent practicable outside identified brant, white-fronted goose, snow goose, tundra swan, king eider, common eider, Steller's eider, spectacled eider, and yellow-billed loon nesting and brood rearing areas.
- f. Due to high concentrations of staging and molting brant and other waterbirds within the coastal habitats along the Teshekpuk Lake Special Area (TLSA) and other areas, operations that create high levels of disturbance, including but not limited to dredging, gravel washing, and boat and barge traffic along the coast, will be prohibited from June 20 to September 15 within one-half mile of coastal salt marshes, specifically tracts 187, 209, 320, 483-485, 493, 494, 496, 497, 500-514, 517-519, 524, and 530. In addition, tracts 228 and 231, and tracts 521-526 are subject to the same restrictions between May 15 and July 30 to protect large concentrations of breeding snow geese. The construction and siting of facilities within one mile of these areas may be allowed on a case-by-case basis if the director and ADF&G determine that no other feasible and prudent location exists.
- g. To protect hauled-out spotted seals, boat and barge traffic will be prohibited between July 15 and October 1 within one-half mile of the Piasuk River delta and Oarlock Island.

### **3. Subsistence, Commercial, and Sport Harvest Activities**

- a. i. Before submitting a plan of operations for either onshore or offshore activities that have the potential to disrupt subsistence activities, the lessee shall consult with the potentially affected subsistence communities, the AEWC, and the NSB (collectively "parties") to discuss the siting, timing, and methods of proposed operations and safeguards or mitigating measures that could be implemented by the operator to prevent unreasonable conflicts. The parties shall also discuss the reasonably foreseeable effect on subsistence activities of any other operations in the area that they know will occur during the lessee's proposed operations. Through this consultation, the lessee shall make reasonable

efforts to assure that exploration, development, and production activities are compatible with subsistence hunting and fishing activities and will not result in unreasonable interference with subsistence harvests. In order to avoid conflicts with subsistence, commercial, and sport harvest activities, restrictions may include alternative site selection, requiring directional drilling, seasonal drilling restrictions, and other technologies deemed appropriate by DO&G.

- ii. A discussion of resolutions reached or not reached during the consultation process and any plans for continued consultation shall be included in the plan of operations. The lessee shall identify who participated in the consultation and send copies of the plan to participating communities and the NSB when it is submitted to the division.
  - iii. If the parties cannot agree, then any of them may request that the commissioner of ADNR or his/her designee to intercede. The commissioner may assemble the parties or take other measures to resolve conflicts among the parties.
  - iv. The lessee shall notify the director of all concerns expressed by subsistence hunters during operations and of steps taken to address such concerns.
- b. Traditional and customary access to subsistence areas shall be maintained unless reasonable alternative access is provided to subsistence users. "Reasonable access" is access using means generally available to subsistence users. Lessees will consult the NSB, nearby communities, and native organizations for assistance in identifying and contacting local subsistence users.
- c. Whale Harvest Protection:
- i. Permanent facility siting on Cross Island will be prohibited unless the lessee demonstrates to the satisfaction of the NSB, in consultation with the AEWC, that the development will not preclude reasonable access to whales as defined in Section A8 and as may be determined in a conflict avoidance agreement, if required by the NSB. With the approval of the NSB, the director may authorize permanent facilities.
  - ii. Permanent facility siting in state waters within 3 miles of Cross Island will be prohibited unless the lessee demonstrates to the satisfaction of the director, in consultation with the NSB and the AEWC, that the development will not preclude reasonable access to whales as defined in Section A8 and as may be determined in a conflict avoidance agreement if required by the NSB.
  - iii. Permanent facility siting in state waters between the west end of Arey Island and the east end of Barter Island (Tracts 40 through 45) will be prohibited unless the lessee demonstrates to the satisfaction of the director, in consultation with the NSB and the AEWC, that the development will not preclude reasonable access to whales as defined in Section A8 and as may be determined in a conflict avoidance agreement if required by the NSB.
- d. Any tract or portion thereof in the Beaufort Sea Areawide lease sale area may be subject to seasonal drilling restrictions in conjunction with the submission of a plan of operations permit application by the lessee.

- i. Exploratory Drilling From Bottom-founded Drilling Structures and Natural and Gravel Islands: Subject to measure iii below, exploratory drilling operations and other downhole operations from bottom-founded drilling structures and natural and gravel islands are allowed year-round in the Central Subsistence Whaling Zone (SWZ).<sup>1</sup> In the Eastern SWZ, drilling is prohibited upon commencement of the fall bowhead whale migration until whaling quotas have been met.
- ii. Exploratory Drilling Operations from Floating Drilling Structures: Subject to measure iii below, exploratory drilling below a predetermined threshold depth and other downhole operations from floating drilling structures is prohibited throughout the Beaufort Sea upon commencement of the fall bowhead whale migration until the whale migration mid-point.<sup>2</sup>

In addition to the above restriction, exploratory drilling above and below a predetermined threshold depth in the Eastern SWA from floating drilling structures is prohibited upon commencement of the fall bowhead whale migration until the whaling quotas have been met.

In the Central and Western SWZ, exploratory drilling above and below a predetermined threshold depth may be prohibited on a case-by-case basis until the whaling quotas have been met.<sup>3</sup> The following criteria will be used to evaluate these operations: 1) proximity of drilling operations to active or proposed whaling areas, 2) drilling operation type and feasible drilling alternatives, 3) number of drilling operations in the same area, 4) number of whaling crews in the area, and 5) the operator's plans to coordinate activities with the whaling crews in accordance with Mitigation Measure A3a.

All non-essential activities associated with drilling are prohibited in the Central SWZ during the whale migration until whaling quotas have been met. Essential support activity associated with drilling structures occurring within active whaling areas shall be coordinated with local whaling crews in accordance with Mitigation Measure A3a.

"Essential activities" include those necessary to maintain well control, maintain physical integrity of the drilling structure, and scheduled crew changes. Support craft include

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1 Subsistence Whaling Zones:

Eastern SWZ is that area within 20 nautical miles of the shoreline between 141° and 144° W longitude.  
Central SWZ is that area within 20 nautical miles of the shoreline between 144° and 151° W longitude.  
Western SWZ is that area within 20 nautical miles of the shoreline between 154° and 157° W longitude.

2 Migration Dates:

Eastern SWZ - September 1 - October 10 with the midpoint of the migration on September 20.  
Central SWZ and Western SWZ - September 10 - October 20 with the midpoint of the migration on September 28.  
Outside SWZ - Seaward of the Eastern SWZ - September 1 - October 10 with the midpoint of the migration on September 20; Seaward and west of the Central SWZ - September 10 - October 20 with the midpoint of migration on September 28. The midpoint of the migration is when 50 percent of the whales have been deemed to have passed the drill site.

- 3 If upon review of the proposed operation using the above described criteria, the state determines that conflict with subsistence whaling activities may occur, additional drilling restrictions, similar to those imposed for the Eastern SWZ, may be imposed in the Central and Western SWZ's. In the Eastern SWZ, drilling is prohibited upon commencement of the fall bowhead migration until whaling quotas have been met.

aircraft, boats, and barges. “Non-essential activity,” by exclusion, are those activities that do not fit the definition of essential activities. Both types of activities must be described by the operators in their exploration plans submitted for state review. To the extent feasible, mobilization or demobilization of the drilling structures should not occur during the whale migration. If operators propose to mobilize or demobilize during the whale migration, they must describe the activity in their exploration plan and must demonstrate why the activity must occur during the migration period.

- iii. Exploratory Drilling in Broken Ice: Lessees conducting drilling operations during periods of broken ice must:
  - A. be trained and qualified in accordance with Minerals Management Service standards pertaining to well-control equipment and techniques; and
  - B. have an oil spill contingency plan approved by the state that includes requirements for in situ igniters, fire resistant boom, relief well plans, and a decision process for igniting an uncontrolled release of oil;
  - C. participate in an oil spill research program.
- e. Exploration, development and production activities located on lease tracts 1 through 26 shall be conducted in a manner that prevents unreasonable conflicts between oil and gas activities and subsistence whale hunting.
  - i. Before submitting a plan of operations for activities on lease tracts 1 through 26, the lessee shall consult with the NSB, the AEW, and the community of Kaktovik to discuss how the siting, timing, and methods of proposed operations can be planned and carried out to avoid potential conflicts with subsistence whale hunting. Through this consultation, which may include the negotiation of a conflict avoidance agreement, the lessee shall make every reasonable effort to ensure that their activities will not result in unreasonable interference with subsistence whale hunting.
  - ii. A plan of operations for activities on lease tracts 1 through 26 shall include a discussion of the consultation process and any resulting conflict avoidance agreements. In the event that no agreement is reached, the lessee, the NSB, the AEW, or the community of Kaktovik may request that ADNR call a meeting of representatives of the NSB, the AEW, the community of Kaktovik, and the lessee to discuss the potential conflict caused by the proposed activities, and attempt to resolve the issues. If the parties are still unable to reach an agreement, then ADNR will make a final determination of the measures proposed to be taken to prevent unreasonable interference with subsistence whale hunting.

#### **4. Fuel, Hazardous Substances, and Waste**

- a. Secondary containment (see definition) shall be provided for the storage of fuel or hazardous substances.
- b. Containers with a storage capacity larger than 55 gallons that contain fuel or hazardous substances shall not be stored within 100 feet of a water body, or within 1,500 feet of a current surface drinking water source.

- c. During equipment storage or maintenance, the site shall be protected from leaking or dripping fuel and hazardous substances by the placement of drip pans or other surface liners designed to catch and hold fluids under the equipment, or by creating an area for storage or maintenance using an impermeable liner or other suitable containment mechanism.
- d. During fuel or hazardous substance transfer, secondary containment or a surface liner must be placed under all container or vehicle fuel tank inlet and outlet points, hose connections, and hose ends. Appropriate spill response equipment, sufficient to respond to a spill of up to 5 gallons, must be on hand during any transfer or handling of fuel or hazardous substances. Trained personnel shall attend transfer operations at all times.
- e. Vehicle refueling shall not occur within the annual floodplain, except as addressed and approved in the plan of operations. This measure does not apply to water-borne vessels.
- f. All independent fuel and hazardous substance containers shall be marked with the contents and the lessee's or contractor's name using paint or a permanent label.
- g. A fresh water aquifer monitoring well, and quarterly water quality monitoring, may be required down gradient of a permanent above-ground liquid hydrocarbon storage facility.
- h. Waste from operations must be reduced, reused, or recycled to the maximum extent practicable. Garbage and domestic combustibles must be incinerated or disposed of at an approved site in accordance with 18 AAC 60. (See also Section B2, below.)
- i. New solid waste disposal sites will not be approved or located on state property during the exploration phase. Exceptions may be provided for drilling waste if the facility will comply with the applicable provisions of 18 AAC 60.
- j. Wherever practicable, the preferred method for disposal of muds and cuttings from oil and gas activities is by underground injection. Other methods of disposal shall be allowed only upon approval by the director, in consultation with ADEC and ADF&G.
- k. Proper disposal of garbage and putrescible waste is essential to minimize attraction of wildlife. The lessee must use the most appropriate and efficient method to achieve this goal. The primary method of garbage and putrescible waste disposal is prompt, on-site incineration in compliance with state air quality control regulations (18 AAC 50). The secondary method of disposal is on-site frozen storage in animal-proof containers with backhaul to an approved waste disposal facility. The tertiary method of disposal is on-site non-frozen storage in animal proof containers with backhaul to an approved waste disposal facility. Daily backhauling of non-frozen waste must be achieved unless safety considerations prevent it.

## **5. Access**

- a. Except for approved off-road travel, exploration activities must be supported only by ice roads, winter trails, existing road systems or air service. Wintertime off-road travel across tundra and wetlands may be approved in areas where snow and frost depths are sufficient to protect the ground surface. Summertime off-road travel across tundra and wetlands may be authorized

subject to time periods and vehicle types approved by DMLW. Exceptions may be granted by DMLW, and the director, if an emergency condition exists; or, if it is determined, after consulting with ADF&G that travel can be accomplished without damaging vegetation or the ground surface.

- b. Public access to, or use of, the lease area may not be restricted except within the immediate vicinity of drill sites, buildings, and other related facilities. Areas of restricted access must be identified in the plan of operations. Lease facilities and operations shall not be located so as to block access to or along navigable or public waters as defined in AS 38.05.965.

## **6. Prehistoric, Historic, and Archaeological Sites**

- a. Before the construction or placement of any gravel, or other structure, road, or facility resulting from exploration, development, or production activities, the lessee must conduct an inventory of prehistoric, historic, and archaeological sites within the area affected by an activity. The inventory must include consideration of literature provided by the NSB, nearby communities, Native organizations, and local residents; documentation of oral history regarding prehistoric and historic uses of such sites; evidence of consultation with the Alaska Heritage Resources Survey and the National Register of Historic Places; and site surveys. The inventory must also include a detailed analysis of the effects that might result from the activity.
- b. The inventory of prehistoric, historic, and archaeological sites must be submitted to the director and to DPOR Office of History and Archaeology who will coordinate with the NSB for review and comment. If a prehistoric, historic, or archaeological site or area could be adversely affected by a lease activity, the director, after consultation with DPOR Office of History and Archaeology and the NSB, will direct the lessee as to the course of action to take to avoid or minimize adverse effects.
- c. If a site, structure, or object of prehistoric, historic, or archaeological significance is discovered during lease operations, the lessee must report the discovery to the director as soon as possible. The lessee must make reasonable efforts to preserve and protect the discovered site, structure, or object from damage until the director, after consultation with DPOR Office of History and Archaeology and the NSB, has directed the lessee as to the course of action to take for its preservation.

## **7. Local Hire, Communication, and Training**

- a. Lessees are encouraged to employ local and Alaska residents and contractors, to the extent they are available and qualified, for work performed in the lease area. Lessees shall submit, as part of the plan of operations, a proposal detailing the means by which the lessee will comply with the measure. The proposal must include a description of the operator's plans for partnering with local communities to recruit, hire and train local and Alaska residents and contractors. The lessee is encouraged, in formulating this proposal, to coordinate with employment and training services offered by the State of Alaska and local communities to train and recruit employees from local communities.

- b. A plan of operations application must describe the lessee's past and prospective efforts to communicate with local communities and interested local community groups.
- c. A plan of operations application must include a training program for all personnel including contractors and subcontractors. The program must be designed to inform each person working on the project of environmental, social, cultural, health, and safety concerns that relate to that person's job. The program must use methods to ensure that personnel understand and use techniques necessary to preserve geological, archaeological, and biological resources. In addition, the program must be designed to help personnel increase their sensitivity and understanding of community values, customs, and lifestyles in areas where they will be operating.

## 8. Definitions

**Facilities** means any structure, equipment, or improvement to the surface, whether temporary or permanent, including, but not limited to, roads, pads, pits, pipelines, power lines, generators, utilities, airstrips, wells, compressors, drill rigs, camps and buildings.

**Hazardous substance** means (A) an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or (B) a substance defined as a hazardous substance under 42 USC 9601 - 9675 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); "hazardous substance" does not include uncontaminated crude oil or uncontaminated refined oil (AS 46.09.900).

**Identified wetlands** are those areas that have been identified as wetlands by the U. S. Army Corps of Engineers under Section 404 of the Clean Water Act.<sup>4</sup>

**Minimize** means to reduce adverse impacts to the smallest amount, extent, duration, size, or degree reasonable in light of the environmental, social, or economic costs of further reduction.

**Plan of operations** means a lease plan of operations under 11 AAC 83.158 and a unit plan of operations under 11 AAC 83.346.

**Practicable** means feasible in light of overall project purposes after considering cost, existing technology, and logistics of compliance with the standard.

**Reasonable access** means access using means generally available to subsistence users.

**Secondary containment** means an impermeable diked area or portable impermeable containment structure capable of containing 110 percent of the volume of the largest independent container. Double walled tanks do not qualify as Secondary Containment unless an exception is granted for a particular tank.

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<sup>4</sup> **Wetlands** means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas (40 CFR Parts 122.2, 230.3, and 232.2).

Temporary means no more than 12 months.

## **B. Other Regulatory Requirements (Lessee Advisories)**

Lessees must comply with all applicable local, state, and federal codes, statutes, and regulations, as amended. Lessee Advisories alert lessees to additional restrictions that may be imposed at the permitting stage of a proposed project or activity where entities other than DO&G have regulatory, permitting, or management authority.

### **1. Alaska Department of Natural Resources, Division of Coastal and Ocean Management**

- a. Pursuant to AS 46.40, projects are required to comply with all policies and enforceable standards of the Alaska Coastal Management Program, including the District Coastal Management Plans.

### **2. Alaska Department of Environmental Conservation**

- a. Pursuant to AS 46.04.030, lessees are required to have an approved oil discharge prevention and contingency plan (C-Plan) before commencing operations. The plan must include a response action plan to describe how a spill response would occur, a prevention plan to describe the spill prevention measures taken at the facility, and supplemental information to provide background and verification information.
- b. Pursuant to state regulations administered by ADEC and the Clean Air Act administered by EPA, lessees are required to obtain air quality permits before construction and operation. The permits will include air quality monitoring, modeling, and emission control obligations.
- c. Unless authorized by an ADEC permit, surface discharge of reserve pit fluids and produced waters is prohibited.
- d. Unless authorized by National Pollutant Discharge Elimination System or state permits, disposal of wastewater into freshwater bodies is prohibited.

### **3. Alaska Department of Fish and Game**

- a. Under the provisions of Title 16 of the Alaska Statutes, the measures listed below may be imposed by ADF&G below the ordinary high water mark to protect designated anadromous water bodies and to ensure the free and efficient passage of fish in all fish-bearing water bodies. Specific information on the location of anadromous water bodies in and near the area may be obtained from ADF&G.
  - i. Alteration of riverbanks may be prohibited.

- ii. The operation of equipment, excluding boats, in open water areas of rivers and streams may be prohibited.
  - iii. Bridges or non-bottom founded structures may be required for crossing fish spawning and important rearing habitats.
  - iv. Culverts or other stream crossing structures must be designed, installed, and maintained to provide free and efficient passage of fish.
- b. Removal of water from fish-bearing water bodies is subject to the regulations for the Appropriation and Use of Water (11 AAC 93.035-.147) and Fish and Games statutes AS 16.05.841 and AS 16.05.871.
  - c. The director, in consultation with ADF&G, may impose seasonal restrictions on activities located in, or requiring travel through or overflight of, important caribou or other large ungulate calving and wintering areas during the plan of operations approval stage.
  - d. The director, in consultation with ADF&G, may impose seasonal restrictions on activities located in and adjacent to important waterfowl and shorebird habitat during the plan of operations approval stage.
  - e. To minimize impacts on Dolly Varden (arctic char) overwintering areas, permanent, staffed facilities must be sited to the extent practicable outside identified Dolly Varden overwintering areas.
  - f. Lessees are encouraged in planning and design activities to consider the recommendations of oil field design and operations in the final report to the Alaska Caribou Steering Committee: Cronin, M. et al., 1994. "Mitigation of the Effects of Oil Field Development and Transportation Corridors on Caribou." LGL Alaska Research Associates, Inc., July.
  - g. Lessees must comply with the provision of Appendix B of the "Yellow-billed Loon Conservation Agreement," dated July 31, 2006, between ADF&G, ADNR, USFWS, Bureau of Land Management, and the National Park Service.

#### **4. Alaska Department of Labor and Workforce Development**

- a. The Lessee shall facilitate Alaska resident hire monitoring by reporting project wages on a quarterly basis for each individual employed by the Lessee in the lease area, through electronic unemployment insurance reporting, and by requiring the same of the lessee's contractors and subcontractors.

#### **5. U.S. Army Corps of Engineers**

- a. A U.S. Army Corps of Engineers permit is required when work is anticipated on, in, or affects navigable waters or involves wetland-related dredge or fill activities. A Section 10 permit is required for construction, excavation, or deposition of material in, over, or under navigable waters, or for any work which would affect the course, location, condition, or capacity of navigable waters, or for any work which would affect the course, location, condition, or capacity of navigable waters (33 USC 403). Oil and gas activities requiring this type of permit include, but are not limited to, exploration drilling from a jackup drill rig, installation of a production platform, or construction of a causeway. A Section 404 permit (33 USC 404)

authorizes the discharge of dredged and fill material into waters and wetlands of the United States. The process and concerns are similar for both permits and, at times, both may be required.

## 6. Pipeline and Hazardous Materials Safety Administration

- a. Lessees are advised that any pipeline used for transportation of gas or hazardous liquids may be subject to Federal Pipeline Safety Laws (49 USC 60101 et seq.) and regulations (49 CFR 190-195) under the jurisdiction of the U.S. DOT – Pipeline and Hazardous Materials Safety Administration.

## 7. U.S. Fish and Wildlife Service and National Marine Fisheries Service

- a. Lessees are advised that the Endangered Species Act of 1973 (ESA), as amended (16 USC 1531-1544) protects endangered and threatened species and candidate species for listing that may occur in the lease sale area. Lessees shall comply with the Recommended Protection Measures developed by the USFWS to ensure adequate protection for all endangered, threatened and candidate species. Lessees are also advised that on December 7, 2010, the USFWS designated critical habitat for polar bears in the Beaufort Sea and North Slope Areawide lease sale areas. The following endangered or threatened species occur in or adjacent to the lease sale area:

Common Name	ESA Status
Bowhead whale	Endangered
Spectacled eider	Threatened
Steller's eider (Alaska breeding population)	Threatened
Polar bear	Threatened

- b. Lessees are advised of the need to comply with the Migratory Bird Treaty Act (MBTA; 16 USC 703) which is administered by the USFWS. Under the MBTA, it is illegal to "take" migratory birds, their eggs, feathers or nests. "Take" is defined (50 CFR 10.12) to include "pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting." The MBTA does not distinguish between "intentional" and "unintentional" take. Migratory birds include songbirds, waterfowl, shorebirds, and raptors. In Alaska, all native birds except grouse and ptarmigan (which are protected by the State of Alaska) are protected under the MBTA.

In order to ensure compliance with the MBTA, it is recommended that lessees survey the project area before construction, vegetation clearing, excavation, discharging fill or other activities which create disturbance, and confirm there are no active migratory bird nests. It is recommended lessees contact the USFWS for assistance and guidance on survey needs, and other compliance issues under the MBTA. While the USFWS can recommend methods (such

as surveys and timing windows) to avoid unintentional take, responsibility for compliance with the MBTA rests with lessees.

- c. Lessees are advised that they must comply with the provisions of the Marine Mammal Protection Act of 1972, as amended (16 USC 1361-1407). USFWS shares authority for marine mammals with the NMFS.
- d. Peregrine falcon nesting sites are known to occur in the sale area. Lessees are advised that disturbing a peregrine falcon nest violates federal law. Lessees are required to comply with the federal resource recovery plan for the arctic peregrine falcon.
- e. Lessee are advised that the Magnuson-Stevens Fishery Conservation and Management Act requires identification of Essential Fish Habitat (EFH) for all species managed under a federal Fisheries Management Plan. Subsequent exploration and/or development activities associated with the lease sale may be subject to consultation under EFH. EFH information, consultation, guidance, and species life history information are available on the NMFS website at <http://www.fakr.noaa.gov/habitat>.

## **8. North Slope Borough**

- a. Lessees are advised that the NSB Assembly has adopted a comprehensive plan and land management regulations under Title 29 of the Alaska Statutes (AS 29.40.020-040). The NSB regulations require borough approval for all proposed uses, development, and master plans. The former NSBCMP policies are included as part of the NSB zoning regulations (Title 19) and all NSB permit approvals will require the proposal to be substantially consistent with these policies.
- b. Lessees are advised that restricting access to and use of fish camps and other subsistence use areas defined in the NSB Traditional Land Use Inventory, may violate the former NSBCMP and NSBMC subsistence harvest protection and land use regulations. Lessees are advised to consult with the NSB Planning Department and local communities during planning of operations.
- c. Lessees are encouraged to bring one or more residents of communities in the area of operations into their planning process. Local communities have a unique understanding of their environment and community activities. Involving local community residents in the earliest stages of the planning process for oil and gas activities can be beneficial to the industry and to the community. Community representation on management teams developing plans of operation, oil spill contingency plans, and other permit applications can help communities understand permitting obligations and help industry to understand community values and expectations for oil and gas operations being conducted in and around their area.
- d. In order to protect species that are sensitive to noise or movement, horizontal and vertical buffers will be required, consistent with aircraft, vehicle, and vessel operations regulated by NSB Code §19.70.050(I)(1), which codifies former NSBCMP policy 2.4.4.(a). Lessees are

encouraged to apply the following provisions governing aircraft operations in and near the sale area:

- i. From June 1 to August 31, aircraft overflights must avoid identified brant, white fronted goose, tundra swan, king eider, common eider, and yellow-billed loon nesting and brood rearing habitat, and from August 15 to September 15, the fall staging areas for geese, tundra swans, and shorebirds, by an altitude of 1,500 feet, or a lateral distance of 1 mile.
  - ii. To the extent practicable, all aircraft should maintain an altitude greater than 1,500 feet or a lateral distance of 1 mile, excluding takeoffs and landings, from caribou and muskoxen concentrations. A concentration means numbers of animals in excess of the general density of those animals found in the area.
  - iii. Human safety will take precedence over flight restrictions.
- e. Lessees are advised that certain areas are especially valuable for their concentrations of marine birds, marine mammals, fishes, or other biological resources; cultural resources; and for their importance to subsistence harvest activities. The following areas must be considered when developing plans of operation. Identified areas and time periods of special biological and cultural sensitivity include:
- i. the Boulder Patch in Stefansson Sound, year round;
  - ii. the Canning River Delta, January-December;
  - iii. the Colville River Delta, January-December;
  - iv. the Cross, Pole, Egg, and Thetis Islands, June-December;
  - v. the Flaxman Island waterfowl use and polar bear denning areas, including the Leffingwell Cabin national historic site located on Flaxman Island;
  - vi. the Jones Island Group (Pingok, Spy, and Leavitt Islands) and Pole Island are known polar bear denning sites, November-April; and
  - vii. the Sagavanirktok River delta, January-December.
  - viii. Howe Island supports a snow goose nesting colony, May-August.
- f. No lease facilities or operations may be located so as to block access to, or along, navigable and public waters as defined by AS 38.05.965(13) and (18).
- g. Subsistence whaling activities occur generally during the following periods:
- i. August to October: Kaktovik whalers use the area circumscribed from Anderson Point in Camden Bay to a point 30 km north of Barter Island to Humphrey Point east of Barter Island. Nuiqsut whalers use an area extending from a line northward of the Nechelik Channel of the Colville River to Flaxman Island, seaward of the Barrier Islands.

- ii September to October: Barrow hunters use the area circumscribed by a western boundary extending approximately 15 km off Cooper Island, with an eastern boundary on the east side of Dease Inlet. Occasional use may extend eastward as far as Cape Halkett.
- h. ADF&G reports that Howe Island may be one of only two significant known snow goose nesting colonies in the United States. (The other colony is in the Ikpikpuk River Delta; several small colonies occur in the area of Harrison Bay.) Lessees are advised that surface entry onto Howe Island will likely be prohibited.
- i. Lessees are advised that the NSB may, under its authorities, require the lessee to enter into a Conflict Avoidance Agreement with the AEWG before applying for a NSB rezoning or development permit for the siting of permanent facilities in state waters. If the director permits permanent facility siting in state waters within 3 miles of Cross Island, subject to the subsistence harvest protection and whale harvest protection mitigation measures, the NSB has advised the state they will require a Conflict Avoidance Agreement.

## **9. Alaska Department of Natural Resources, Division of Oil and Gas**

- a. The State of Alaska is in the process of reviewing and evaluating information from the Deepwater Horizon investigations and the Alaska Risk Assessment reports, and is determining which of the information and recommendations are applicable to Alaska, which recommendations to implement, and the next steps for implementing them. As this process develops, new or modified mitigation measures, lessee advisories, or other statutory or regulatory requirements addressing issues such as safety, environmental safeguards, risk management, and reporting standards may be forthcoming.