

The Secretarial Order highlights many of the rules and policies that API and our industry partners have addressed in extensive comments. Where appropriate we have attached the relevant comments that will help provide specific details of needed changes as DOI performs its reviews of the various regulations, proposed rules, and policy initiatives.

Specific regulatory effort identified in Secretarial Order 3350:

1. Development of a new Five-year OCS Leasing Program. For many years, API has advocated for opening additional OCS areas to oil and natural gas exploration. We believe that it is important that DOI's evaluation of OCS areas is all-inclusive (26 Planning Areas) and that this evaluation does not prematurely eliminate areas that have resource development potential. The multi-step program development process is designed to collect information from all stakeholders, to provide the opportunity for careful analysis and consideration of available information, and to allow the Secretary of the Interior to decide on what areas are best suited for future offshore exploration and development activities. Since the existing process does not allow an area that is removed from consideration at an early stage to be added back in at a later stage, it is important not to prematurely eliminate areas from consideration. One important consideration for DOI to keep in mind is that even though a lease sale is scheduled to be held as part of a Five-year Program, a decision on whether or not to have the sale is not made until the time the sale is scheduled. This allows DOI flexibility to include lease sales in areas that may be under a temporary moratorium (like the Eastern Gulf of Mexico) or where new data is being collected (like the Atlantic) and then make the ultimate decision to hold the sale or not at the time the sale is scheduled. The decisions made now will have long-lasting impacts on U.S. energy policy. API, our members and our industry partners will be involved at all stages of the Five-year Program development. As a trade association, we are not in a position to provide information on specific areas of interest to our members. Rather we can offer that the prospect of lease sales in any given area will spur industry exploration activity which will provide valuable information to the government on the oil and natural gas potential of an area.
2. Cooperate with National Marine Fisheries Service (NMFS) to expedite consideration of Incidental Take Authorization (ITA) requests, including Incidental Harassment Authorizations (IHA) and Letters of Authorization; and, develop and implement a streamlined permitting approach for seismic surveys. This action is long overdue. For over a decade, API and our industry partners have attempted to have DOI and NMFS work together to promulgate incidental take regulations for geological and geophysical (G&G) surveys in the Gulf of Mexico (GOM). Much to our frustration this process has been exceedingly slow in spite of countless industry efforts that have included staff-level and management-level engagements, letters, responses to comment requests, etc. With a looming September 25, 2017 deadline on the expiration of a stay in a lawsuit filed over industry G&G activities in the GOM, this has now reached a near-crisis level. In short, by September 25, 2017 DOI must finish the Programmatic Environmental Impact Statement (PEIS), NMFS must be compelled to propose and finalize incidental take regulations, and NMFS must complete the required consultation with DOI under the Endangered Species Act.

Completing the actions outlined above is complicated by previous agency work. In general, a fundamental flaw with the Draft PEIS was its establishment of an unrealistic scenario in which G&G activities are projected to result in supposed effects to marine mammals that DOI admits are unrealistic overestimates of impact. The supposed adverse effects of this worst case hypothetical scenario were then addressed in the Draft PEIS with burdensome and unsupported mitigation measures. This approach is contrary to both the best available scientific information and applicable law. For over 40 years, the federal government and academic scientists have studied the potential impacts of G&G activities on marine mammals, and have concluded that any such potential impacts are insignificant. The DPEIS's suggestion that such impacts are "moderate" (as opposed to insignificant) is not supported by the best available science and is made possible only by application of overly conservative estimates that DOI admits do not accurately reflect the actual anticipated impacts.

Many of the mitigation measures recommended in certain alternatives presented in the DPEIS are economically and operationally infeasible, will impose serious burdens on industry, and are highly unlikely to result in benefits to protected species. Industry can and will support mitigation measures that are grounded in the best available science and consistent with existing practices that are proven to be effective and operationally feasible. However, we cannot support mitigation measures with no basis in fact or science, which are intended to address presumed adverse effects that will not occur, and which will result in less offshore exploration. As to the alternatives presented in the DPEIS, API finds Alternative A to be the most reasonable because it presents the option that is most consistent with the best available science, operational feasibility, and applicable law.

Unless the faulty assumptions made in the Draft PEIS are corrected, NMFS will be forced to rely on that information to draft the proposed incidental take regulations, which in turn, will likely seek to impose unrealistic and unnecessary mitigation measures on industry. This is contrary to the stated goals of the EO and SO. Detailed industry comments on the DPEIS are attached for your reference.

3. Expedite consideration of Atlantic seismic survey permits. The decision to reverse the previous administration's unjust denial of these permits is welcome news. Subsequent action by the Interior Bureau of Land Appeals to remand the appeals of the denied permits back to the Bureau of Ocean Energy Management for further consideration paves the way for approval of those permits. However, NMFS must be compelled to complete its work on ITA permit applications for true progress to be made in this area.
4. Complete the review of Financial Assurance guidance found in NTL 2016-NO1. DOI has been working closely with the Offshore Operators Committee (OOC) and the OCS Advisory Board of the Petroleum Landman's Association to remedy the shortcomings of DOI's approach on the issues of risk management and financial assurance. API supports this approach and will be evaluating the suggested changes to the NTL that the industry work group is contemplating.
5. Cease activity to promulgate Offshore Air Quality Regulations. API and OOC have been actively engaged with DOI following the issuance of the proposed air quality rule. Based