OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Investigation

Unsubstantiated Allegations that a DOI Official Violated Federal Ethics Regulations

This is a revised version of the report prepared for public release.

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August 14, 2026

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

We investigated allegations that Matthew Giacona, Acting Director of the Bureau of Ocean Energy Management (BOEM),[1] violated Federal ethics rules by participating in particular matters that overlapped with his prior lobbying work for the National Ocean Industries Association (NOIA). In particular, we examined whether Giacona's participation in a 2025 draft biological opinion (2025 Gulf BiOp) issued under the Endangered Species Act (ESA) was inconsistent with Giacona's impartiality obligations under the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Ethical Conduct), 5 C.F.R. § 2635.502 (Section 502). Similarly, we also looked at whether Giacona's participation in an oil and gas lease sale proposed by BOEM (Lease Sale 262) was inconsistent with Giacona's impartiality obligations under Section 502. We also investigated allegations that Giacona provided nonpublic information to Chevron, an oil and gas company and NOIA member organization, in violation of 5 C.F.R. § 2635.703 (Section 703), when he communicated with a Chevron employee about the 2025 Gulf BiOp. Finally, we considered allegations that Giacona failed to comply with his recusal obligations by attending meetings with NOIA, NOIA members, and other entities.

We did not substantiate the allegations.

With respect to Giacona's impartiality obligations under Section 502, this provision requires that Giacona consider whether a reasonable person would question his impartiality before participating in a "particular matter involving specific parties" where an entity with whom Giacona has a "covered relationship" is or represents a party to the matter. Because we determined that neither the 2025 BiOp nor Lease Sale 262 constituted a "particular matter involving specific parties" as that term is defined under the regulation, Section 502 was not triggered. Thus, Giacona was not required to consider his appearance of impartiality under Section 502.

Even if the 2025 Gulf BiOp could be considered a "particular matter involving specific parties," Giacona complied with Section 502 by conducting the required impartiality inquiry. Moreover, we agreed with the Departmental Ethics Office's determination that Giacona had a "covered relationship" with NOIA but not its members and that, even if Lease Sale 262 could be considered a specific party matter, NOIA was not a party to any proposed lease sale and did not represent any parties to such a sale. As a result, Giacona did not have a "covered relationship" that would necessitate an impartiality analysis under Section 502.

We also did not substantiate that Giacona provided nonpublic information to Chevron in violation of Section 703 because the information he provided was available to other entities involved in the 2025 Gulf BiOp process. Finally, we did not substantiate that Giacona met with NOIA. His meetings with NOIA members and other entities were not improper because these engagements were not prohibited by law or regulation.

We are providing this report to the Director of the Office of Surface Mining Reclamation and Enforcement, Exercising the Delegated Authority of the Assistant Secretary – Land and Minerals Management, for any action deemed appropriate.

[1] At the time we published this report, Giacona no longer worked at BOEM.

II. RESULTS OF INVESTIGATION

A. Background: The Endangered Species Act Consultation Process

The Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544, as amended (ESA), provides a framework to conserve and protect endangered and threatened species and their habitats. Relevant here, the ESA requires Federal agencies to insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of the species' habitat.[2] The ESA requires that any Federal agency whose proposed action may affect protected species or a protected habitat must first consult with either the U.S. Fish and Wildlife Service (FWS), a bureau of the U.S. Department of the Interior (DOI), or the National Marine Fisheries Service (NMFS),[3] an office of the National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce (Commerce), before taking the proposed action.[4]

Non-Federal entities, such as private companies or other organizations, that require formal approval or authorization from a Federal agency to carry out an action that may impact a protected species or habitat can request "applicant status" from the FWS or NMFS.[5] Entities that are granted applicant status may participate in the consultation process by exchanging information with the Federal agency (as well as FWS or NMFS), about the proposed action. Such entities can also review and comment on the biological opinion discussed below.[6]

At the end of the consultation process, FWS or NMFS, as appropriate, must formulate a "biological opinion" (BiOp), which sets forth its opinion as to whether the Federal agency's proposed action is likely to jeopardize the continued existence of a protected species or result in the destruction or adverse modification of a protected habitat.[7] If the BiOp concludes that the proposed agency action will not jeopardize a protected species or protected habitat, the agency may proceed with its action. If, however, the BiOp concludes that the proposed agency action will have an adverse impact on a protected species or habitat, the BiOp must set forth reasonable and prudent measures necessary or appropriate to minimize the impact on the species or protected habitat.[8] The Federal agency proposing the action can then accept the reasonable and prudent measures proposed by FWS or NMFS, modify its proposed action, withdraw its proposed action, or seek an exemption.[9]

The Federal agency is responsible for ensuring that the actions it undertakes, funds, or authorizes other entities to take comply with the terms and conditions set forth in the BiOp.[10] The agency and other entities whose actions comply with the terms and conditions set forth in the BiOp will generally be protected from ESA liability if their actions end up causing harm to a protected species or protected habitat.[11]

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[2] 16 U.S.C. § 1536(a)(2).

[3] NMFS is also known as NOAA Fisheries but will be referred to as NMFS in this report.

[4] 16 U.S.C. § 1536(a); *see also* 50 C.F.R. § 402.14(a) (implementing the ESA's requirement for consultation where Federal agency action may affect a listed species or critical habitat). If the subject species is cited in 50 C.F.R. § 222.23(a) or 227.4, the Federal agency shall contact the NMFS; for all other listed species, the Federal agency shall contact FWS. 50 C.F.R. § 402.01(b).

[5] *See generally* 50 C.F.R. Part 402, Subpart B.

[6] *See generally* 50 C.F.R. Part 402, Subpart B (setting forth the consultation procedures).

[7] 16 U.S.C. § 1536(b)(3)(a); *see also* 50 C.F.R. § 402.14(g), (h).

[8] 50 C.F.R. § 402.14(h)-(i).

[9] 16 U.S.C. § 1536(b)-(h).

[10] 16 U.S.C. § 1536(b); NMFS Endangered Species Act Section 7 Biological and Conference Opinion, *Biological and Conference Opinion on Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement's Oil and Gas Program Activities in the Gulf of America*, ECO Number: OPR-2022-03526 (May 20, 2025) at 595.

[11] 16 U.S.C. § 1536(o)(2).

B. Facts

1. The 2020 Gulf BiOp and Related Litigation

On March 13, 2020, the NMFS issued a BiOp regarding the impact of oil and gas activities in Federal waters in the Gulf of America on protected marine species, in particular, the Rice's whale (the 2020 Gulf BiOp).[12] The 2020 Gulf BiOp established protocols to allow safe and compliant offshore energy development. The 2020 Gulf BiOp did not relate to a specific project. Instead, it related to all existing and future Federal oil and gas leases in the Gulf as well as other offshore oil and gas activities that could threaten protected species or habitats.[13] The 2020 Gulf BiOp did not grant any specific rights to, or address specific transactions with, specific parties.[14]

On October 10, 2020, multiple environmental advocacy nonprofit groups filed suit against NMFS in Federal court, alleging that the 2020 Gulf BiOp endangered marine wildlife in violation of the ESA and was arbitrary and capricious in violation of the Administrative Procedure Act (APA).[15] On January 25, 2021, organizations that represent the oil and gas industry moved to join the case as intervenor-defendants, arguing that the relief requested by the plaintiffs, which included the vacatur of the 2020 Gulf BiOp and unspecified injunctive relief, could have negative impacts on their members as they conduct oil and gas activities in the Gulf.[16] These intervenor-defendants included the National Ocean Industries Association (NOIA) and the American Petroleum Institute (API).[17]

On August 19, 2024, the court granted summary judgment in favor of the plaintiffs. In its decision, the court identified several ESA and APA violations; vacated the 2020 Gulf BiOp effective December 20, 2024; remanded the matter back to NMFS for further proceedings consistent with the court's opinion; and closed the case.[18] On October 24, 2024, the court amended its judgment at the request of the defendants and extended the date of the vacatur of the 2020 BiOp to May 21, 2025. In doing so, the court required the defendants to file status reports on the development of a new BiOp every 60 days.[19]

2. Giacona's Pre-Government Employment With NOIA

NOIA is a trade association that advocates for the interests of the offshore oil, gas, wind, and ocean minerals industries based on consensus positions of its approximately 200 member companies.[20] Prior to his employment at DOI, Giacona was the Vice President of Government Affairs at NOIA. In that role, Giacona did not provide individual services to NOIA members and did not advocate for individual members' interests. Giacona acted as NOIA's "lead on policy" and "lead on congressional relations."[21] Specifically, he conducted "intelligence gathering, market analysis, political analysis, and . . . translating complex policy back to [NOIA's] member companies."[22] With regard to the court's decision to vacate the 2020 Gulf BiOp, Giacona told us that, in his role with NOIA, he acted as a liaison between Congress and NOIA member companies regarding the need to develop a new BiOp to avoid a shutdown of oil and gas activity across the Gulf. In this role, Giacona stated that he educated congressional staff about how a BiOp affects oil and gas leasing. Giacona also told us

[12] National Marine Fisheries Service Endangered Species Act Section 7 Biological Opinion, *Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico,* Consultation Tracking number: FPR-2017-9234 (Mar. 13, 2020).

[13] *Id.*

[14] *Id.*

[15] Compl., *Sierra Club v. NMFS*, No. 8:20-cv-03060-DLB (D. Md. Oct. 21, 2020), ECF No. 1.

[16] Mot. to Intervene, *Sierra Club v. NMFS*, No. 8:20-cv-03060-DLB (D. Md. Jan. 21, 2021), ECF No. 19.

[17] *Id.*

[18] *Sierra Club v. NMFS*, 797 F. Supp. 3d 440 (D. Md. Aug. 19, 2024).

[19] *Sierra Club v. NMFS,* Case 8:20-cv-03060-DLB, Document 220 (Oct. 21, 2024).

[20] NOIA, *About Us*, https://www.noia.org/.

[21] Giacona Tr. (Dec. 16, 2025) at 2:56–57.

[22] *Id.* at 3:57-58.

that he is not a lawyer and did not participate in the litigation involving the 2020 Gulf BiOp when he was working for NOIA.

3. Giacona's Employment With DOI and Federal Ethics Guidance

On March 24, 2025, Giacona began his employment at DOI as Senior Advisor to the Secretary. That same day, he received training from the Departmental Ethics Office (DEO) regarding ethics requirements for political appointees, including guidance on impartiality, covered relationships, screening and recusals, misuse of position, and the definitions of different types of particular matters. On March 27, 2025, the DEO provided Giacona with interim ethics guidance relating to his recusal obligations.[23] The interim ethics guidance included a reminder that relevant Federal regulations, namely, Section 502 of the Standards of Ethical Conduct, required Giacona to consider the appearance of his participation in certain official matters before participating in those matters.[24] In particular, the interim ethics guidance advised Giacona that he had a "covered relationship" with respect to Section 502 with "[a]ny person for whom you have, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee."[25]

In June 2025, Giacona was appointed as the Acting Director of BOEM. On July 25, 2025, the DEO provided Giacona his final ethics guidance on recusal obligations.[26] That guidance again advised Giacona of his obligations under Section 502 and, this time, specifically identified NOIA as a party with which he had a covered relationship.[27] The DEO advised Giacona that, based on its review of Federal ethics regulations and opinions from the Office of Government Ethics (OGE) and Department of Justice Office of Legal Counsel, he "has a covered relationship with NOIA" but that "covered relationship does not extend to the members of NOIA."[28] Also on July 25, 2025, Giacona signed his list of recusals and screening arrangement.[29] That document identified the BOEM Chief of Staff as his ethics screener and stated that Giacona should not participate in particular matters involving specific parties in which NOIA is a party or represents a party but did not extend that requirement to NOIA's individual members.[30]

4. The 2025 Gulf BiOp Consultation

Following the court's order vacating the 2020 Gulf BiOp, NMFS began to develop a new BiOp consistent with the court's opinion. In developing what would become the 2025 Gulf BiOp, NMFS conducted the consultation process required under the ESA as set forth in governing regulations.[31] This consultation included a "programmatic consultation" with DOI bureaus, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE),[32] which are both involved in the management and regulation of ongoing and future oil and gas-related activities in the Gulf.[33] Like the 2020 Gulf BiOp, the 2025 Gulf BiOp did not relate to any specific party, project, or transaction. Instead, it applied broadly to all existing and future Federal oil and gas leases as well as other offshore oil and gas activities that could threaten protected species or habitats.

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[23] Memorandum from DEO Attorney to Matthew Giacona, *Interim Ethics Guidance on Recusal Obligations*, Mar. 27, 2025.

[24] *Id.*at 3–4.

[25] *Id.*at 3 n.2. (citing 5 C.F.R. § 2635.502(b)(iv)).

[26] Memorandum from Heather Gottry to Matthew Giacona, *Ethics Guidance on Recusal Obligations*, July 25, 2025.

[27] *Id.* at 4.

[28] *Id.*

[29] Memorandum from Heather Gottry to Matthew Giacona, *Ethics Recusals & Screening Arrangement*, July 25, 2025.

[30] *Id.*

[31] *See* 50 C.F.R. § 402.14 (outlining the requirement for formal consultation and the applicable procedures).

[32] A programmatic consultation is a consultation addressing an agency's multiple actions on a program, region, or other basis. 50 C.F.R. §402.02.

[33] *See* National Marine Fisheries Service Endangered Species Act Section 7 Biological and Conference Opinion, *Biological and Conference Opinion on Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement's Oil and Gas Program Activities in the Gulf of America (*May 20, 2025) at 16.

After the court vacated the 2020 Gulf BiOp, Chevron and oil and gas industry representatives requested to participate in the consultation process for the 2025 Gulf BiOp.[34] On March 10, 2025, prior to Giacona's employment with DOI, BOEM and BSEE granted applicant status to Chevron and several oil and gas industry associations, including NOIA and API. This designation allowed the applicants to participate in the consultation process for the 2025 Gulf BiOp.[35]

The Assistant Solicitor for the Branch of Conventional Ocean Resources in the Division of Mineral Resources, Office of the Solicitor (Assistant Solicitor), told us that, while applicant status is often given when "there's a project already in play," in the case of the 2025 Gulf BiOp, there was no specific project or operation at issue. Instead, BOEM and BSEE agreed to grant applicant status to specific oil and gas companies and associations that represented those companies because industry members "w[ould] eventually be . . . project proponents . . . and the idea is the applicant has the technical knowledge that . . . would be relevant to the impacts on the species . . . to say what's technically feasible or not."[36] The Assistant Solicitor also told us that API served as the lead applicant for the trade association applicants and that comments on the draft 2025 Gulf BiOp were transmitted to BOEM and BSEE through API.

5. Giacona's Participation in the 2025 Gulf BiOp

BOEM participated in the development of the 2025 Gulf BiOp by providing information to NMFS about proposed actions in the Gulf that could affect protected species and habitats and by providing comments to NMFS on the draft BiOp. Giacona's participation in the 2025 Gulf BiOp began in March 2025 after he joined DOI. The evidence showed that Giacona reviewed DOI memoranda related to BOEM's comments on the draft 2025 Gulf BiOp, attended meetings with DOI officials to discuss the draft 2025 Gulf BiOp, and participated in conference calls with Commerce officials regarding the draft 2025 Gulf BiOp. At the time Giacona did this, Giacona told us that he was not aware that NOIA was an applicant in the 2025 Gulf BiOp consultation process.[37] Giacona also stated that he did not meet with NOIA personally or in his official capacity since joining the DOI in March 2025.[38] We did not find evidence contradicting Giacona's statements.

6. Chevron's Meeting Request

On April 2, 2025, while the 2025 Gulf BiOp was still being drafted and applicants were providing input on the draft, Giacona received a text message on his personal phone from the Manager of Federal Government Affairs at Chevron (Chevron Government Affairs Manager).[39] The Chevron Government Affairs Manager asked Giacona for his email address at BOEM, telling him that she would "like to request a meeting with you today or tomorrow on the BiOp with [another Chevron employee] who is in town for NOIA."[40] Giacona replied that "I'm still waiting for my ethics paperwork to clear and can't really do external meetings until the solicitor's office clears me. I finished it [ethics paperwork] Monday so any day now they should be giving me back a memo on who/what issues I can meet with/on."[41] The Chevron Government Affairs Manager asked, "Is there someone else we could talk to today or tomorrow?"[42] Giacona responded, "Yes let me get you my chief of staff's email and she can put everyone on a chain/find the best."[43] He then provided the Chevron Government Affairs Manager with his Chief of Staff's email address and told the Chevron Government Affairs Manager that he

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[34] The following oil and gas industry representatives requested applicant status: EnerGeo Alliance, API, NOIA, and Offshore Operators Committee.

[35] NMFS Endangered Species Act Section 7 Biological and Conference Opinion, *Biological and Conference Opinion on Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement's Oil and Gas Program Activities in the Gulf of America*, ECO Number: OPR-2022-03526 (May 20, 2025) at 5-6.

[36] Assistant Solicitor Tr. at 4:5–13; 5:9-12.

[37] Giacona Tr. (Jun. 5, 2026) at 17:50-60.

[38] Giacona Tr. (Dec. 16, 2025) at 6:30-31.

[39] As discussed below, Giacona told us that the Chevron Government Affairs Manager had his personal cell phone number because they were friends.

[40] Text message exchange between Chevron Government Affairs Manager and Matthew Giacona, Apr. 2, 2025.

[41] *Id.*

[42] *Id.*

[43] *Id.*

expected to be briefed on a draft of the 2025 Gulf BiOp the following Friday morning after a meeting between NMFS and the applicants. That same day, Giacona emailed screenshots of his text messages with the Chevron Government Affairs Manager to his DOI email address with the subject line "Fed records."[44]

Later on April 2, the Chevron Government Affairs Manager and another Chevron representative met with BOEM officials and the Office of the Solicitor regarding the draft 2025 Gulf BiOp. The purpose of this meeting was to allow Chevron to express its concerns regarding some of the provisions and requirements contained in the draft 2025 Gulf BiOp. Giacona did not attend this meeting.

7. NMFS Issues the 2025 Gulf BiOp and Environmental Groups Challenge It in Court

NMFS issued the 2025 Gulf BiOp on May 20, 2025. That same day, environmental advocacy nonprofit groups filed a Federal lawsuit against NMFS challenging the 2025 Gulf BiOp.[45] NOIA joined the litigation as an intervenor-defendant on July 24, 2025.[46] Giacona told us that he did not participate in the litigation involving the 2025 Gulf BiOp as a DOI employee, and we did not find evidence that contradicted his statement.

8. Giacona's Participation in Proposed Lease Sale 262

On June 25, 2025, BOEM announced a proposed notice of sale for an oil and gas lease sale in the Gulf of America (Lease Sale 262). Lease Sale 262 would offer approximately 15,000 unleased blocks covering roughly 80 million acres across the Gulf's Western, Central, and Eastern Planning Areas. In furtherance of Lease Sale 262, Giacona participated in meetings with DOI officials and reviewed and commented on documents related to Lease Sale 262, including talking points and briefing presentations. Giacona also approved the proposed Federal Register notice before BOEM published it in the Federal Register on June 27, 2025.[47]

In August 2025, before BOEM issued a Final Notice of Sale, the DOI deferred Lease Sale 262 in response to passage of the One Big Beautiful Bill Act.[48] Thus, no bids were submitted by NOIA or any other party.[49]

C. Analysis

1. Because the Gulf BiOp Is Not a Particular Matter Involving Specific Parties, Giacona Was Not Required to Consider His Appearance of Impartiality Under Section 502

Giacona had a covered relationship with NOIA, not with NOIA's members.[50] Thus, Giacona was only required to consider his appearance of impartiality under Section 502 before he became involved in a "particular matter involving specific parties" in which NOIA was a party or represented a party.

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[44] Email from Matthew Giacona's personal email address to his BOEM email address, Apr. 2, 2025. To comply with the Federal Records Act, an employee who uses a personal account to engage in official business must copy an official account or forward their message to an official account within 20 days. 44 U.S.C. § 2911(a).

[45] Compl., *Sierra Club v. NMFS*, No. 8:25-cv-01627-LKG (D. Md. May 20, 2025), ECF No. 1.

[46] Mot. to Intervene, *Sierra Club v. NMFS*, No. 8:25-cv-01627-LKG (D. Md. July 24, 2025), ECF No. 18.

[47] *See* 90 Fed. Reg. 27675, Notice of Availability of the Proposed Notice of Sale for Gulf of America Outer Continental Shelf Oil and Gas Lease Sale 262 (Jun. 27, 2025) (describing the proposed size, timing, and location of the sale including lease stipulations, terms and conditions, minimum bids, royalty rates, and rental rates and providing governors of the affected states and the executive of any affected local government an opportunity to comment on proposed sale).

[48] *See* U.S. Dept. of the Interior, Bureau of Ocean Energy Management, Lease Sale 262, *What's New?* Lease Sale 262 | Bureau of Ocean Energy Management. BOEM would have issued the Final Notice of Sale for Lease Sale 262 finalizing the terms, stipulations and bidding requirements at least 30 days before the scheduled bid opening, which had been set for December 10, 2025. 90 Fed. Reg. 27675 (Jun. 27, 2025).

[49] NOIA is a trade association and does not bid on leases or represent parties in their bids on leases.

[50] Section 502 states that a "covered relationship" exists between a Federal employee and "[a]ny person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee." *Id*. § 2635.502(b)(1)(iv). As summarized previously, the DEO's July 25, 2025, ethics guidance specifically stated that, with respect to Section 502, Giacona had a covered relationship with NOIA but that this "covered relationship" did not extend to NOIA's members. *See* Mem. from Heather Gottry to Matthew Giacona, *Ethics Guidance on Recusal Obligations*, July 25, 2025 at 3-4. We agree with this analysis.

Section 502 requires a Federal employee to consider whether a reasonable person would question the Federal employee's impartiality before participating in a "particular matter involving specific parties" where an entity with which the employee has a "covered relationship" is or represents a party to the matter.[51] A "particular matter involving specific parties" is defined as including "any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties."[52] The regulation continues to state that "[t]he term typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties."[53]

In order to determine whether Giacona was required to consider his appearance of impartiality under Section 502 prior to participating in the Gulf BiOp, we first had to determine whether the Gulf BiOp was "a particular matter involving specific parties" as that term is defined under the regulation. Because we found that the Gulf BiOp is a particular matter of general applicability, not a particular matter involving specific parties, we concluded that Giacona's participation in the Gulf BiOp did not trigger the requirements of Section 502.

It is uncontested that, after joining DOI in March 2025, Giacona participated in the development of the new Gulf BiOp. It is also uncontested that Giacona had a "covered relationship" with NOIA—his former employer—through March 2026[54] and that NOIA was involved in the development process for the Gulf BiOp as an "applicant."[55] The relevant question, though, is whether the GulfBiOp was a "particular matter involving specific parties." If so, Giacona would have been required under Section 502 to consider whether "a reasonable person with knowledge of the relevant facts" would question his impartiality. We determined, however, that the Gulf BiOp was *not* a particular matter involving specific parties, and thus, that the consideration requirement of Section 502 did not apply to Giacona's participation in the matter.

The term "particular matter involving specific parties" generally involves "a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties."[56] Examples of particular matters involving specific parties may "include contracts, grants, licenses, product approval applications, investigations, and litigation" among other matters taken with regard to, or on behalf of, a party.[57] The term "reflects a deliberate effort to impose a more limited ban and to narrow the circumstances in which the ban is to operate," and "does not cover particular matters of general applicability, such as rulemaking, legislation, or policy-making of general applicability."[58]

OGE has declined to extend the requirements of Section 502 to particular matters beyond those involving the immediate and specific parties to those matters themselves; a party's interest in or relation to a specific party matter is not enough to make a person a party to that matter for purposes of Section 502.[59] Accordingly, this office has consistently found that Section 502 is not so broad as to apply to an official's participation in any issue area relating to their former employment; instead, it is limited to the narrow confines of particular matters involving specific parties as that term is defined in the regulations and interpreted by OGE.[60]

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[51] 5 C.F.R. § 2635.502(a)(2).

[52] *Id.* § 2635.502(b)(3) (referencing definition at 5 C.F.R. § 2640.102(l)).

[53] *Id.* § 2640.102(l).

[54] Mem. from Heather Gottry to Matthew Giacona, *Ethics Guidance on Recusal Obligations*, July 25, 2025.

[55] Giacona did not have a "covered relationship" with either API or Transocean and was not required to consider the appearance of his impartiality under Section 502 prior to meeting with them even if the meeting involved a specific party matter.

[56] 5 C.F.R. § 2640.102(l).

[57] Memorandum from Robert I. Cusick, Director, OGE to Designated Agency Ethics Officials, *"Particular Matter Involving Specific Parties," "Particular Matter," and "Matter,"* DO-06-029, at 4 (Oct. 4, 2006).

[58] *Id.* at 3-4 (internal quotation omitted).

[59] ***See*** Letter from Stephen D. Potts, Director, OGE to a Departmental Acting Assistant Secretary, 94 x 10(1) (Mar. 30, 1994); Letter from Stephen D. Potts, Director, OGE to a Designated Agency Ethics Official, 95 x 5, at 4–5 (May 22, 1995).

[60] *See, e.g.*, DOI OIG, *Alleged Ethics Violations, DOI, DC* at 6–7, Case No. OI-SI-22-0932-I (June 18, 2024); DOI OIG, *Bureau of Land Management Official Did Not Comply With the Federal Ethics Pledge* at 6–7, Case No. 21-0728 (Aug. 18, 2022); DOI OIG, *Allegations of Ethics Violations by Former U.S. Department of the Interior Secretary Were Not Substantiated,* at 19-20, Report Number: 19-0313 (Jan. 19, 2023).

We determined that the Gulf BiOp is a particular matter of general applicability, not a specific party matter because the Gulf BiOp is not a specific contract, grant, license, lease, permit application, enforcement action, adjudication, or similar matter involving an identified party or parties. Instead, it is a formal, science-based opinion issued by NMFS "focused on the interests of a discrete and identifiable class of persons,"[61] namely, oil and gas companies and associated industries operating in the Gulf of America. The Gulf BiOp was issued following broad, programmatic consultation with numerous stakeholders, including representatives from the oil and gas industry and Federal agencies. The BiOp evaluates how oil and gas activities regulated by BOEM and BSEE may affect protected species and habitats in the Gulf of America. The BiOp's provisions apply broadly to all oil and gas activities conducted in the Gulf. It does not, in and of itself, affect the legal rights of specific, identified parties.

When we spoke with the Assistant Solicitor, she confirmed that the Gulf BiOp consultation process included industry parties as applicants—including NOIA, API, and Chevron—because it would affect many potential future oil and gas industry projects and operations, not because of any specific project with specific, identified parties. Such matters that "focus on the interests of a discrete and identifiable class of persons"—in this case, members of the oil and gas industry operating in the Gulf—are by definition "matters of general applicability."[62] Accordingly, Giacona's participation in the Gulf BiOp did not trigger the restrictions of Section 502.

In contrast, the lawsuits involving the different iterations of the Gulf BiOp are particular matters involving specific parties. While Giacona's former employer, NOIA, was a party to both lawsuits, we did not find evidence that he participated in the litigation surrounding either the 2020 Gulf BiOp or the 2025 Gulf BiOp. We reviewed Giacona's files and electronic communications and did not find any indication that Giacona attended meetings where such litigation was discussed, that he discussed the litigation with the U.S. Department of Justice or representatives of any involved party, or that he contributed to or reviewed the status reports required by the court in the 2020 Gulf BiOp litigation. Moreover, when we asked Giacona whether he participated in either lawsuit, he stated that he had not, and as summarized above, we found no evidence to the contrary.[63]

In limited circumstances, participation in a particular matter of general applicability can raise an issue under Section 502 where such participation might also be considered participation in an underlying specific party matter.[64] We do not, however, address the issue of whether Giacona's participation in developing the 2025 Gulf BiOp—on its own, a particular matter of general applicability—also constituted participation in the 2020 Gulf BiOp litigation that compelled the creation of a new BiOp and in which NOIA was a party. This is because Giacona stated that, before he participated in developing the new Gulf BiOp, he considered whether a reasonable person with knowledge of the relevant facts would have reason to question his impartiality considering NOIA's involvement and concluded that they would not. Giacona explained that he came to this conclusion because the BiOp affected the entire Gulf region and every interested party rather than having any specific effect on NOIA. Thus, even if Giacona's participation in the Gulf BiOp could be considered participation in a specific party matter involving his former employer, he nonetheless complied with Section 502 by conducting the required inquiry.

Accordingly, because we did not find that Giacona participated in particular matters involving specific parties in which NOIA was a party or represented a party, we did not substantiate the allegation that Giacona failed to comply with his impartiality obligations under Section 502. Moreover, even if the new Gulf BiOp was

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[61] 5 C.F.R. § 2640.102(m) (defining particular matters of general applicability).

[62] *See* Memorandum from Robert I. Cusick, Director, OGE to Designated Agency Ethics Officials, *"Particular Matter Involving Specific Parties," "Particular Matter," and "Matter,"* DO-06-029, at 4 n.3 (Oct. 4, 2006) (quotation omitted). *See also* 5 C.F.R. § 2640.102(m) (defining "particular matter of general applicability" as "a particular matter that is focused on the interests of a discrete and identifiable class of persons, but does not involve specific parties").

[63] Giacona Tr. (Jun. 5, 2026) at 6:38-57; 11:43-58; 12:1-29.

[64] *See* Letter to an Agency Ethics Official, OGE 96 x 7 (Mar. 27, 1996) (participation in agency rulemakings—typically particular matters of general applicability—could constitute participation in a related specific party matter where they were "carried out in a coordinated manner in furtherance of a single objective"); Letter to a Department General Counsel, OGE 80 x 10 at 6 (Dec. 8, 1980) (an agency's development of criteria in response to a court's order constituted a part of the same specific party matter as the underlying court case).

considered to be a particular matter involving specific parties, we found that Giacona complied with Section 502 by conducting the required impartiality inquiry, which is all that Section 502 requires.[65]

2. Giacona's Participation in Proposed Lease Sale 262 Did Not Implicate Section 502

With respect to Lease Sale 262, Giacona's participation in this matter did not implicate Section 502 because Lease Sale 262 was not a "particular matter involving specific parties" as that term is defined in the regulation.

As discussed above, Section 502 requires an employee to consider the appearance of his participation in a "particular matter involving specific parties" where the employee "knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question [his] impartiality in the matter."[66]

It is undisputed that Giacona participated in Lease Sale 262, in which BOEM issued a proposed notice to sell leases in the Gulf of America. It is also clear that a lease, or a bid on a lease, with specific, identifiable parties, could be a "particular matter involving specific parties."[67] Here, however, Lease Sale 262 was not a "particular matter involving specific parties" because DOI deferred the proposed lease sale in August 2025, before any bids were submitted by, and before any leases were issued to, specific parties. Thus, Lease Sale 262 never became or evolved into a "particular matter involving specific parties" triggering application of Section 502 and Giacona could participate in the matter without further restriction.[68]

3. Giacona Did Not Violate Section 703 With Respect to Chevron

We also investigated whether Giacona disclosed nonpublic information to Chevron in violation of Section 703 in his text message conversation with the Chevron Government Affairs Manager in connection with the 2025 Gulf BiOp. We concluded that he did not because Chevron had "applicant" status under the ESA consultation process for the 2025 Gulf BiOp. As an applicant, Chevron had a right to provide input and receive information relating to the draft Gulf BiOp under the ESA.[69]

Section 703 mandates that an employee may not "allow the improper use of nonpublic information to further their own private interests or those of another."[70] With respect to the April 2, 2025 meeting with Chevron that the Chevron Government Affairs Manager requested by text, Giacona told us that the Chevron Government Affairs Manager had his personal phone number because she was a friend. When she texted him to request a meeting for Chevron, Giacona responded that "I'm still waiting for my ethics paperwork to clear and can't really do external meetings until the solicitor's office clears me."[71] Giacona then directed the Chevron Government Affairs Manager to his Chief of Staff/ethics screener to organize a meeting and told the Chevron Government Affairs Manager that he expected to be briefed by BSEE/BOEM staff on a new Gulf BiOp draft the following Friday after "their meeting [with] NMFS [and the] applicants."[72] On the same day, Giacona emailed screenshots of this conversation to his BOEM email address with the subject line, "Fed records."

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[65] DOI OIG, *Alleged Ethics Violations, DOI, DC*, Case No.: OI-SI-22-0282-I at 7 (Jun. 30, 2023).

[66] 5 C.F.R. § 2635.502(a)(2).

[67] *See* 5 C.F.R. § 2640.102(l) (defining "particular matter involving specific parties").

[68] We further note that Section 502 is only triggered when an employee has a "covered relationship" with a party, or a representative of a party, in a specific party matter. Here, we found no evidence that NOIA—an industry trade association—itself holds leases or represents parties in their bids on leases.

[69] *See generally* 50 C.F.R. Part 402 (outlining the interagency cooperation process required by the ESA); *see also* 50 C.F.R. § 402.14 (addressing the formal consultation process and providing for applicant participation).

[70] 5 CFR § 2635.703(a).

[71] Text message exchange between Chevron Government Affairs Manager and Matthew Giacona, Apr. 2, 2025. As the DEO concluded in Giacona's July 25, 2025 ethics guidance, while Section 502 restricted Giacona's interactions with NOIA itself, Giacona was not prohibited from meeting with NOIA's member organizations.

[72] Text message exchange between Chevron Government Affairs Manager and Matthew Giacona, Apr. 2, 2025.

Officials familiar with the process told us that there is no formal mechanism for Gulf BiOp applicants to request a meeting and provide their feedback but that they can contact either the BOEM point of contact that is provided to all applicants or any BOEM staff with whom they have a professional, pre-existing relationship. The Assistant Solicitor also told us that applicants in the Gulf BiOp had regular biweekly meetings with BSEE/BOEM staff and NMFS to discuss technical issues and receive status updates relating to the BiOp; she explained that it was not unusual for Federal officials to provide timeline updates on when to expect new BiOp drafts. We therefore determined that Giacona did not provide nonpublic information to further Chevron's interests by telling the Chevron Government Affairs Manager that he expected to be briefed on a new draft BiOp or by directing her to his Chief of Staff/ethics screener to set up a meeting. This information and the ability to request a meeting was available to all Gulf BiOp applicants.

Accordingly, we concluded that Giacona did not violate Section 703 in his communications with the Chevron Government Affairs Manager.

4. Giacona's Meetings With Oil and Gas Industry Organizations Were Not Improper

To the extent that the complaint alleges that Giacona failed to comply with his recusal obligations by meeting with oil and gas industry advocates and organizations, including NOIA, its member companies—such as Chevron and Transocean—and API, we found that such engagements were not prohibited by law or regulation. As discussed above, Giacona was only required to recuse from participating in particular matters involving specific parties in which NOIA was a party or represented a party. Giacona told us he did not meet with NOIA while employed with DOI. We reviewed Giacona's calendar, emails, and other electronic communications and did not find evidence that Giacona met with NOIA or participated in particular matters involving specific parties in which NOIA was or represented a party. Moreover, because he did not have a "covered relationship" with industry advocates—including API—or NOIA member companies such as Chevron and Transocean, Giacona was not required under the Federal ethics rules to refrain from participating in meetings with these companies. Thus, we did not find that Giacona failed to comply with his recusal obligations when interacting with these companies.

III. CONCLUSION

We concluded that Giacona was not required to consider his impartiality under Section 502 because he did not participate in any particular matters involving specific parties in which his former employer, NOIA, was a party or represented a party. We also concluded that Giacona did not provide nonpublic information to Chevron in violation of Section 703. Finally, we did not substantiate that Giacona met with NOIA, and we concluded that his meetings with NOIA members and other entities were not improper because these engagements were not prohibited by law or regulation.

IV. SUBJECT

Matthew Giacona, Acting Director, Bureau of Ocean Energy Management

V. DISPOSITION

We are providing this report to the Director of the Office of Surface Mining Reclamation and Enforcement, Exercising the Delegated Authority of the Assistant Secretary – Land and Minerals Management, for any action deemed appropriate.

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