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Five-Year Program for Federal Offshore Oil and Gas Leasing: Status and Issues in Brief

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Under the Outer Continental Shelf Lands Act (OCSLA), as amended,[1] the Bureau of Ocean Energy Management (BOEM) must prepare and maintain forward-looking five-year plans—referred to by BOEM as *five-year programs*—for proposed public oil and gas lease sales on the U.S. outer continental shelf (OCS). On November 18, 2016, BOEM released its proposed final program for the period from mid-2017 through mid-2022. The history, legal and economic framework, and process for developing the program are discussed in CRS Report R44504, *The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Proposed Program for 2017-2022*. The following discussion briefly summarizes the status of the 2017-2022 program, discusses selected issues of congressional interest, and considers the role of Congress in shaping the program.

Status of the 2017-2022 Program

BOEM published its proposed final program (PFP) for 2017-2022 on November 18, 2016.[2] This was the agency's third and final version of the program, revised from a March 2016 proposed program (PP)[3] and a January 2015 draft proposed program (DPP).[4] The PFP schedules 11 lease sales on the OCS: 10 in the Gulf of Mexico region, 1 in the Alaska region, and none in the Atlantic or Pacific regions (see **Table 1**). Three sales proposed in earlier versions of the program—one in the Atlantic and two off of Alaska—were not ultimately included in the PFP.

Table 1. BOEM's Proposed Lease Sales, 2017-2022

	Year	Program Area	Sale No.
1.	2017	Gulf of Mexico	249
2.	2018	Gulf of Mexico	250
3.	2018	Gulf of Mexico	251
4.	2019	Gulf of Mexico	252
5.	2019	Gulf of Mexico	253
6.	2020	Gulf of Mexico	254
7.	2020	Gulf of Mexico	256
8.	2021	Gulf of Mexico	257
9.	2021	Alaska - Cook Inlet	258
10.	2021	Gulf of Mexico	259
11.	2022	Gulf of Mexico	261

Source: BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Final Program*, November 2016, at https://www.boem.gov/2017-2022-OCS-Oil-and-Gas-Leasing-PFP/ (hereinafter referred to as "2017-2022 PFP").

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[1] 43 U.S.C. §1331 ff.

[2] BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Final Program*, November 2016, at https://www.boem.gov/2017-2022-OCS-Oil-and-Gas-Leasing-PFP/, hereinafter referred to as "2017-2022 PFP." Along with the PFP, BOEM released a final programmatic environmental impact statement for the 2017-2022 program. For a full discussion of the stages of publication for BOEM's five-year programs, see CRS Report R44504, *The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Proposed Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann.

[3] BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Program*, March 2016, at http://www.boem.gov/2017-2022-Proposed-Program-Decision/, hereinafter referred to as "2017-2022 PP."

[4] BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Draft Proposed Program*, January 2015, at http://www.boem.gov/2017-2022-DPP/, hereinafter referred to as "2017-2022 DPP."

Under the OCSLA, the Secretary of the Interior must submit the PFP to the President and Congress for a period of at least 60 days, after which the Secretary may approve the program as final.[5] For the 2017-2022 PFP, the 60-day period will end during the current presidential term. The OCSLA does not provide for Congress to approve or disapprove the final program during the 60-day period. Instead, Congress could influence the program during or outside the 60-day period by enacting legislation to alter the program.[6]

Selected Issues for Congress

Under the OCSLA, BOEM must take into account economic, social, and environmental values in making its leasing decisions.[7] BOEM's assessments of the appropriate balance of these factors for leasing in the four OCS regions—the Atlantic, Pacific, Alaska, and Gulf of Mexico regions—are matters for debate in Congress and elsewhere in the nation.

The agency's leasing strategy for 2017-2022 differs for each region. In the Gulf of Mexico, the PFP would make available all unleased acreage except for that portion of the Eastern Gulf that the agency is prohibited from leasing pursuant to the Gulf of Mexico Energy Security Act of 2006 (GOMESA).[8] In the Alaska region, BOEM has proposed a targeted leasing strategy, focused on a single planning area that the agency identifies as best balancing economic, social, and environmental considerations. The PFP contains no sales in the Atlantic or Pacific regions, for various reasons specific to each region.[9]

Debate on the 2017-2022 program has focused on the total number of sales and acres offered under the program and on BOEM's lease sale decisions for particular regions, especially the Alaska and Atlantic regions.

Total Acreage Available for Leasing

The PFP would make available for leasing approximately 97 million offshore acres, out of a total of approximately 1.7 billion acres on the U.S. OCS.[10] The overall acreage available for leasing, and the overall number of lease sales planned in the program, has been controversial. Some Members of Congress, industry representatives, and others contend that the program is overly

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[5] 43 U.S.C. §1344(d)(2). The Secretary approves the program by publishing a record of decision.

[6] The options for an incoming Administration to alter a finalized five-year program are more constrained than those of Congress. The OCSLA authorizes the Secretary of the Interior to "revise and reapprove" the program at any time, but such revision must occur "in the same manner as originally developed" unless the revision is "not significant" (43 U.S.C. §1344(e)). Thus, the incoming Administration could change an OCS leasing program—for example, to provide for additional lease sales or to remove sales—by going through the full program development process, with its successive stages of review and analysis. Individual sales also may be canceled (but not added) during program implementation, on the basis of additional review that takes place under the BOEM process near the time of each sale.

[7] 43 U.S.C. §1344(a). Factors that the Secretary of the Interior must consider include the geographical, geological, and ecological characteristics of the regions; the relative environmental and other natural resource considerations of the regions; the relative interest of oil and natural gas producers in the regions; and the laws, goals, and policies of the states that would be affected by offshore exploration and production in the regions, among others. Leasing also must be conducted to ensure that the federal government receives fair market value for leased tracts.

[8] P.L. 109-432.

[9] For more information, see the section on "Proposed Leasing Schedule by Region" in CRS Report R44504, *The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Proposed Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann.

[10] Personal communication with the BOEM Office of Congressional Affairs, October 13, 2016. The total acreage proposed in the PFP consists of 1 million acres in the Alaska region and 96 million acres in the Gulf of Mexico.

restrictive, with a lower number of sales than previous five-year programs and an inadequate portion of U.S. waters available for leasing.[11] They argue that the program limits the potential of offshore oil and gas as a component of the nation's "all of the above" energy strategy and restricts job creation and economic growth. Additionally, they assert that BOEM should offer access to broader areas of the OCS because a wide range of options is needed for companies to find tracts that are economic to produce.[12]

Other stakeholders share the agency's view that BOEM's leasing schedule reflects an appropriate balance of economic, environmental, and social considerations. BOEM points out that although a relatively small percentage of the entire OCS is made available for leasing in the PFP, the tracts to be offered contain nearly half of all undiscovered technically recoverable oil and gas resources estimated to exist on the OCS.[13] Supporters emphasize that the program provides for a robust leasing schedule in the region with the most mature infrastructure, strong industry interest and state support, and the greatest resource potential (the Gulf of Mexico). They assert that BOEM's caution is appropriate in the other regions, where infrastructure may be weak, industry interest may be low, or states and their citizens may oppose leasing. With respect to the concern that fewer sales are offered in the PFP than in previous programs, BOEM points out that each Gulf of Mexico sale is proposed to be a combined, regionwide sale, whereas earlier five-year programs offered only a portion of the Gulf in each sale.[14]

Still others, including some environmental groups, advocate for less offshore oil and gas leasing than is provided for under the program. These stakeholders are concerned about the climate change implications of offshore oil and gas development. They question whether BOEM has adequately accounted for downstream carbon emissions and other indirect climate change effects of oil and gas development.[15] In addition to emissions concerns, these stakeholders raise the possibility of environmental damage from a catastrophic oil spill, such as the spill that took place

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[11] In comparison with the PFP's 11 lease sales, the numbers of lease sales scheduled under previous five-year programs have ranged from 15 to 42 sales. For more information, see CRS Report R44504, *The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Proposed Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann. For Members' views, see, e.g., U.S. Congress, House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, *Oversight Hearing on Examining the Future Impacts of President Obama's Offshore Energy Plan*, 114th Cong., 1st sess., April 15, 2015 (Washington: GPO, 2015), at https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg94270/pdf/CHRG-114hhrg94270.pdf; hereinafter cited as "House Natural Resources hearing April 2015."

[12] See, e.g., testimony of Mark Shuster, Shell Oil Company, in House Natural Resources hearing April 2015.

[13] 2017-2022 PFP, p. S-2. BOEM defines *undiscovered technically recoverable resources* as "oil and gas that may be produced as a consequence of natural pressure, artificial lift, pressure maintenance, or other secondary recovery methods, but without any consideration of economic viability" (BOEM, "Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2016," fact sheet, at http://www.boem.gov/National-Assessment-2016/).

[14] Earlier five-year programs contained separate sales for the Western, Central, and Eastern Gulf Planning Areas. For the 2017-2022 program, each Gulf sale will combine all three areas (excluding acreage subject to moratoria). The aim is "to provide greater flexibility to industry, including more frequent opportunities to bid on rejected, relinquished, or expired OCS lease blocks, as well as facilitating better planning to explore resources that may straddle the U.S.-Mexico boundary" (2017-2022 PP, p. S-5).

[15] See, e.g., Columbia Law School, "BOEM Ignores Downstream Emissions and Social Cost of Carbon in EIS for Outer Continental Shelf Leasing Program," *Climate Law Blog*, March 16, 2016, at http://blogs.law.columbia.edu/climatechange/2016/03/16/boem-ignores-downstream-emissions-and-social-cost-of-carbon-in-eis-for-outer-continental-shelf-leasing-program/. In response to August 2016 guidance from the White House Council on Environmental Quality (CEQ), BOEM revised its final programmatic environmental impact statement accompanying the PFP to more fully assess downstream emissions related to the processing, distribution, and consumption of OCS oil and gas. For more information on the CEQ guidance, see CRS Insight IN10554, *Overview of CEQ Guidance on Greenhouse Gases and Climate Change*, by Linda Luther.

in 2010 on the *Deepwater Horizon* oil platform in the Gulf of Mexico.[16] While industry representatives make the case that new government regulations and industry efforts have resulted in safety improvements since the 2010 spill, other stakeholders assert that the threat of major spills remains significant.

Projections of the effects of the PFP's leasing decisions are complicated by the fact that tracts leased under the program would not begin producing oil and gas for years or, in some cases, decades to come.[17] Given these long production timelines, tracts leased in the upcoming five-year period may be producing at a time when U.S. commitments to greenhouse gas emissions reductions require the nation's energy portfolio to be more heavily weighted toward renewable energy sources.[18] At the same time, U.S. energy data suggest that even significant growth in renewable energy production will still leave a large energy gap to be filled with conventional sources in the next several decades.[19] With this in mind, some contend that the United States must continue to pursue a robust offshore oil and gas program to ensure U.S. energy security and remain competitive with other nations.[20]

Gulf of Mexico Region

Almost all U.S. offshore oil and gas activity currently takes place in the Gulf of Mexico.[21] In addition to the broad debates discussed above, a particular issue in the region is leasing in the eastern Gulf close to the state of Florida. Under GOMESA, offshore leasing is prohibited through June 2022 in a defined area of the Gulf off the Florida coast.[22] Some Members of Congress and other stakeholders wish to extend this prohibition or make it permanent. They contend that leasing in Gulf waters around Florida could potentially damage the state's beaches and fisheries, which support strong tourism and fishing industries, and could jeopardize mission-critical defense activities connected with Pensacola's Eglin Air Force Base.[23] By contrast, others advocate for

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[16] For more information, see CRS Report R42942, *Deepwater Horizon Oil Spill: Recent Activities and Ongoing Developments*, by Jonathan L. Ramseur.

[17] For example, the National Petroleum Council estimated that 20-35 years would typically be required to explore, appraise, and develop a new oil field in the Alaska OCS (National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources*, March 2015, p. 2-11, at http://www.npcarcticpotentialreport.org/pdf/AR-Part_1-Final.pdf). For OCS projects in the Gulf of Mexico, BOEM estimated a timeline of 10 years or more from lease award to initial production (2017-2022 PP, p. 6-5).

[18] See, e.g., Reps. Ruben Gallego and Ted Lieu, "Arctic Drilling Is a Threat to America's National Security; Here's Why," *The Hill*, September 13, 2016, at http://thehill.com/opinion/op-ed/295764-arctic-drilling-is-a-threat-to-americas-national-security-heres-why. Also see Center for Biological Diversity et al., *Petition to End Federal Offshore Oil and Gas Leasing of the United States Outer Continental Shelf to Address Climate Change*, March 29, 2016, at http://www.eenews.net/assets/2016/03/29/document_pm_06.pdf. For more on U.S. greenhouse gas emissions reduction commitments, see CRS Report R44609, *Climate Change: Frequently Asked Questions about the 2015 Paris Agreement*, by Jane A. Leggett and Richard K. Lattanzio.

[19] See, e.g., Energy Information Administration, *Annual Energy Outlook 2016*, September 2016, at https://www.eia.gov/forecasts/aeo/index.cfm.

[20] See, e.g., testimony of Mark Shuster, Shell Oil Company, in House Natural Resources hearing April 2015.

[21] The Gulf accounts for about 97% of U.S. offshore production. BOEM, "Gulf of Mexico OCS Region," at http://www.boem.gov/Gulf-of-Mexico-Region/.

[22] P.L. 109-432. See BOEM, "Gulf of Mexico Energy Security Act (GOMESA)," at http://www.boem.gov/Revenue-Sharing/. Specifically, the law bans oil and gas leasing in that portion of the Eastern Gulf of Mexico Planning Area within 125 miles of the coast of Florida, all areas in the Gulf of Mexico east of a prescribed "Military Mission Line," and in the part of the Central Gulf of Mexico Planning Area that is within 100 miles of Florida, through June 30, 2022.

[23] See, e.g., Rep. David Jolly, "Rep. Jolly introduces House measure extending Florida's Gulf of Mexico drilling moratorium," June 4, 2015, at http://jolly.house.gov/rep-jolly-introduces-house-measure-extending-floridas-gulf-of-mexico-drilling-moratorium/; and "Rep. Jolly to introduce amendment to protect Florida's coastal communities," July (continued...)

shrinking the area covered by the ban or eliminating the ban before its scheduled expiration date. They emphasize the significance of the oil and gas resources off the Florida coast and contend that development would create jobs, strengthen the state and national economies, and contribute to U.S. energy security.[24]

Alaska Region

Congressional debate has been especially intense over BOEM's leasing decisions in the Alaska region. Interest in exploring for offshore oil and gas in the region has grown as decreases in the areal extent of summer polar ice make feasible a longer drilling season. Recent estimates of substantial undiscovered oil and gas resources in Arctic waters also have contributed to the increased interest.[25] However, the region's severe weather and perennial sea ice, and its lack of infrastructure to extract and transport offshore oil and gas, continue to pose challenges to new exploration. Among 15 BOEM planning areas in the region, the Beaufort and Chukchi Seas are the only two areas with existing federal leases, and only the Beaufort Sea has any producing wells in federal waters (from a joint federal-state unit). Stakeholders including the state of Alaska and some Members of Congress seek to expand offshore oil and gas activities in the region. Other Members of Congress and many environmental groups oppose offshore oil and gas drilling in the Arctic, due to concerns about potential oil spills and about the possible contributions of these activities to climate change.

The Obama Administration has at times expressed support for expanding offshore exploration in the Arctic, while also pursuing safety regulations that aim to minimize the potential for oil spills.[26] BOEM's originally proposed program for 2017-2022 included three Alaska sales—one each in the Beaufort Sea, Chukchi Sea, and Cook Inlet Planning Areas (**Figure 1**).[27] However, for the PFP, BOEM removed the sales for the Beaufort and Chukchi Seas and retained only the sale for Cook Inlet. BOEM stated that it weighed factors that favored the Beaufort and Chukchi sales, including the significant hydrocarbon resources in those waters and the support of the state of Alaska for the sales. Nonetheless, BOEM ultimately decided against the sales based on other factors, including "opportunities for exploration and development on [already] existing leases, the unique nature of the Arctic ecosystem, recent demonstration of constrained industry interest in undertaking the financial risks that Arctic exploration and development present, current market conditions, and sufficient existing domestic energy sources already online or newly accessible."[28]

(...continued)

12, 2016, at http://jolly.house.gov/rep-jolly-to-introduce-amendment-to-protect-floridas-coastal-communities/.

[24] See, e.g., American Petroleum Institute and National Ocean Industries Association, *The Economic Benefits of Increasing U.S. Access to Offshore Oil and Natural Gas Resources in the Eastern Gulf of Mexico*, November 2014, at http://www.noia.org/wp-content/uploads/2014/11/The-Economic-Benefits-of-Increasing-US-Access-to-Offshore-Oil-Natural-Gas-Resources-in-the-Eastern-GoM.pdf; and Senator Bill Cassidy, "Cassidy, Gulf State Senators Introduce Legislation to Expand Offshore Energy Access," May 12, 2015, at http://www.cassidy.senate.gov/newsroom/press-releases/cassidy-gulf-state-senators-introduce-legislation-to-expand-offshore-energy-access.

[25] For more information, see the section on "Oil, Gas, and Mineral Exploration" in CRS Report R41153, *Changes in the Arctic: Background and Issues for Congress*, coordinated by Ronald O'Rourke.

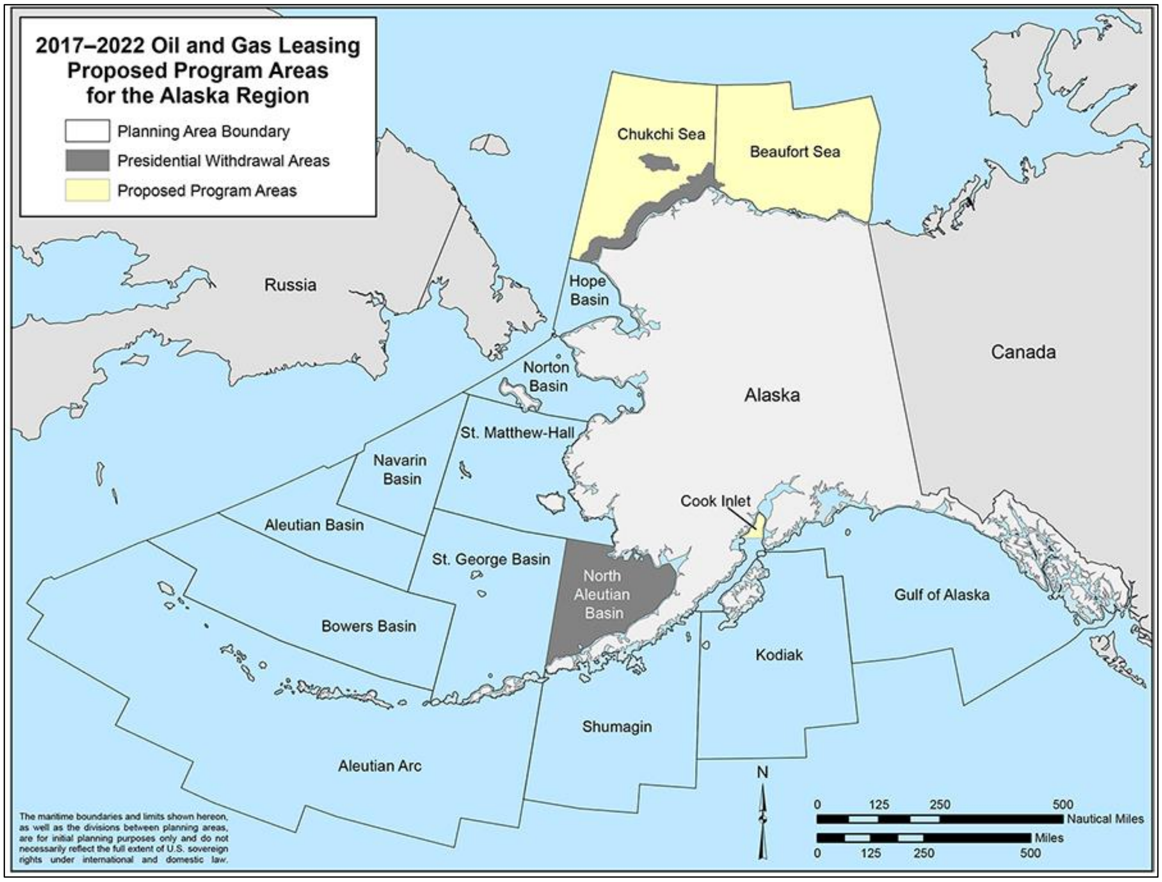
[26] DOI, "Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," final rule, 81 *Federal Register* 46477, July 15, 2016.

[27] BOEM's previous five-year program (for 2012-2017) also included lease sales in these three planning areas, but BOEM canceled the lease sales for the Beaufort and Chukchi seas, citing difficult market conditions and low industry interest. DOI, "Interior Department Cancels Arctic Offshore Lease Sales," press release, October 16, 2015, at https://www.doi.gov/pressreleases/interior-department-cancels-arctic-offshore-lease-sales.

[28] 2017-2022 PFP, p. S-3.

Figure 1. BOEM's Originally Proposed Program Areas for Offshore Oil and Gas Leasing in Alaska

(only Cook Inlet remains in final program)



Source: BOEM, 2017-2022 PP, "Maps," at http://www.boem.gov/Alaska-Program-Areas/.

BOEM's removal of the Beaufort and Chukchi lease sales from the PFP was viewed unfavorably by advocates for expanded leasing in the region, including the Alaska congressional delegation.[29] These stakeholders contend that growth in offshore oil and gas development is critical for Alaska's economic health, as the state's onshore oil fields mature and their production declines from peaks of previous decades.[30] More broadly, they assert that Arctic offshore energy development will play a growing role nationally by reducing U.S. dependence on oil and gas imports and allowing the United States to remain competitive with other nations, including Russia

[29] See, e.g., Alaska Congressional Delegation, "Alaska Delegation Slams Decision to Strip Arctic Leases from New OCS Plan," press release, November 18, 2016, at https://www.murkowski.senate.gov/press/release/alaska-delegation-slams-decision_to-strip-arctic-leases-from-new-ocs-plan. Also see earlier remarks by Senator Murkowski in U.S. Congress, Senate Energy and Natural Resources Committee, "Hearing to Examine the Bureau of Ocean Energy Management's 2017-2022 OCS Oil and Gas Leasing Program," May 19, 2016, at http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=110E5E8F-3A65-4BEC-9D25-5D843A0284D3, hereinafter cited as "Senate Energy and Natural Resources hearing May 2016."

[30] See, e.g., Alaska Development Council, "Alaska's Oil & Gas Industry," at http://www.akrdc.org/oil-and-gas; and Nick Cunningham, "Alaska Facing Tough Choices Without Arctic Oil," *OilPrice.com*, September 30, 2015, at http://oilprice.com/Energy/Crude-Oil/Alaska-Facing-Tough-Choices-Without-Arctic-Oil.html.

and China, that are pursuing economic interests in the Arctic.[31] These stakeholders feel that Arctic offshore activities can be conducted safely, and point to a history of successful well drilling in the Beaufort and Chukchi Seas in the 1980s and 1990s.[32]

Those who favor few or no Alaska lease sales, by contrast, are concerned that it would be extremely challenging to respond to a major oil spill in the region, because of the icy conditions and lack of spill-response infrastructure.[33] The Obama Administration's Arctic regulations focus on ways in which companies would need to compensate for the lack of spill-response infrastructure, such as by having a separate rig available at drill sites to drill a relief well in case of a loss of well control.[34] Opponents also are concerned that Arctic leasing represents a long-term investment in oil and gas as an energy source, which could slow national efforts to address climate change. They contend, too, that new leasing opportunities in the region are unnecessary, since industry has been pulling back on investing in the Arctic in the current climate of low oil prices. For example, BOEM states in the PFP that the number of active leases on the Arctic OCS declined by more than 90% between February 2016 and November 2016, as companies relinquished leases in the face of low oil prices and Shell Oil Company's disappointing exploratory drilling effort in the Chukchi Sea in 2015.[35] Others assert, however, that tepid industry interest in the region is due more to the overly demanding federal regulatory environment than to market conditions.[36]

Among those favoring expanded leasing in the region are some Alaska Native communities, who see offshore development as the best source of jobs and investment in localities that are struggling financially. Some other Alaska Native communities have opposed offshore leasing in the region, citing concerns about environmental threats to subsistence lifestyles. Alaska's governor supports offshore oil and gas development and had formally petitioned the President to keep the previously scheduled Alaska sales in the final program.[37]

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[31] See, e.g., National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources*, March 2015, at http://www.npc.org/reports/research.html.

[32] See, e.g., Senate Committee on Energy and Natural Resources, "Sen. Murkowski: Safe Production of Arctic Resources Benefits Alaska and the Nation," press release, June 30, 2016, at http://www.energy.senate.gov/public/index.cfm/republican-news?ID=46C1EC97-9A29-4D6D-9638-5BA0BEA96B39.

[33] For more information, see CRS Report R41153, *Changes in the Arctic: Background and Issues for Congress*, coordinated by Ronald O'Rourke, especially the sections on "Oil, Gas, and Mineral Exploration" and "Oil Pollution and Pollution Response."

[34] DOI, "Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," 81 *Federal Register* 46477, July 15, 2016.

[35] 2017-2022 PFP, p. S-7. Shell began exploratory drilling in summer 2015 but announced in late September 2015 that it would cease further exploration activity in offshore Alaska for the foreseeable future. Shell cited several reasons for the decision to halt its activity in the region, including insufficient indications of oil and gas at its Burger J well, the high costs associated with the project, and the "challenging and unpredictable" federal regulatory environment for offshore Alaska. Royal Dutch Shell, PLC, "Shell Updates on Alaska Exploration," press release, September 28, 2015, at http://www.shell.com/global/aboutshell/media/news-and-media-releases/2015/shell-updates-on-alaska-exploration.html.

[36] See, e.g., Senate Committee on Energy and Natural Resources, "Sen. Murkowski Calls for Adaptable Arctic Leasing Structure Recognizing Frontier Nature of Region," press release, December 1, 2015, at http://www.energy.senate.gov/public/index.cfm/republican-news?ID=FB7D4EB7-1569-4D49-AAAF-85FDB44C458F.

[37] Letter from Alaska Governor Bill Walker to Secretary of the Interior Sally Jewell, October 6, 2016, at http://gov.alaska.gov/wp-content/uploads/sites/5/20161006-Sally-Jewell-Nominations-for-2017-2022-OCS-Lease-Sale.pdf. The OCSLA (43 U.S.C. §1344(a)(2)(F)) requires BOEM to take into account the laws, goals, and policies of affected states, as identified by the governors of those states, in developing the five-year program.

Atlantic Region

The PFP for 2017-2022 also excludes an earlier-proposed lease sale in the Atlantic region.[38] If conducted, it would have been the first offshore oil and gas lease sale in the Atlantic since 1983.

The lack of oil and gas activity in the Atlantic region in the past 30 years was due in part to congressional bans on Atlantic leasing imposed in annual Interior appropriations acts from FY1983 to FY2008, along with presidential moratoria on offshore leasing in the region during those years. Starting with FY2009, Congress no longer included an Atlantic leasing moratorium in annual appropriations acts. In 2008, President George W. Bush also removed the long-standing administrative withdrawal for the region.[39] These changes meant that lease sales could potentially be conducted for the Atlantic. However, no Atlantic lease sale has taken place in the intervening years.[40]

Geological and Geophysical (G&G) Activities in the Atlantic Ocean

A complicating factor in consideration of oil and gas leasing in the Atlantic Ocean is uncertainty about the extent of resources in the region. Congressional and administrative moratoria on Atlantic leasing activities for most of the past 30 years prevented geological and geophysical (G&G) surveys of the region's offshore resources. Previous seismic surveys, dating from the 1970s, used older technologies that are considered less precise than recent survey methods.

BOEM issued a record of decision (ROD) in July 2014 to allow new G&G surveys to go forward. Federal agencies and coastal states are still reviewing applications from companies to conduct surveys under the ROD. The G&G permitting process takes place outside of the five-year program, which is specifically concerned with lease sales.

The House Energy and Natural Resources Committee held a hearing on Atlantic G&G testing in July 2015, during which some Members sought to expedite the permit-review process and others opposed letting G&G testing go forward. Witnesses differed in their evaluations of the potential harm to Atlantic marine mammals from seismic activities. BOEM had included in its ROD measures to mitigate the impacts of G&G activities on marine life, but some argued that the measures were inadequate. Members of the 114th Congress have introduced legislation addressing Atlantic G&G activities. Some bills (such as S. 1279) aim to facilitate G&G surveys, whereas others (such as S. 2841) would prohibit such activities either in certain areas or throughout the Atlantic.

For both the DPP and PP versions of the 2017-2022 program, BOEM analyzed a variety of factors for the Atlantic region, including the region's resource potential and infrastructure needs, ecological and safety concerns, competing uses of the areas, and state and local attitudes toward drilling, among others. The initial analysis for the DPP resulted in a planned lease sale in a combined portion of the Mid- and South Atlantic Planning Areas in 2021 (**Figure 2**). However, after the comment period and further analysis, BOEM removed the Atlantic sale in the PP. BOEM gave several reasons for the removal, including "strong local opposition, conflicts with other ocean uses, ... [and] careful consideration of the comments received from Governors of affected states."[41] BOEM further cited the broader U.S. energy situation as a factor in its decision not to hold an Atlantic lease sale in the 2017-2022 period. Given growth over the past decade in onshore

38 The Atlantic sale had been proposed in the first draft of the program—the DPP—and was removed in subsequent drafts.

39 President George W. Bush, "Memorandum on Modification of the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," *Weekly Compilation of Presidential Documents* 44 (July 14, 2008).

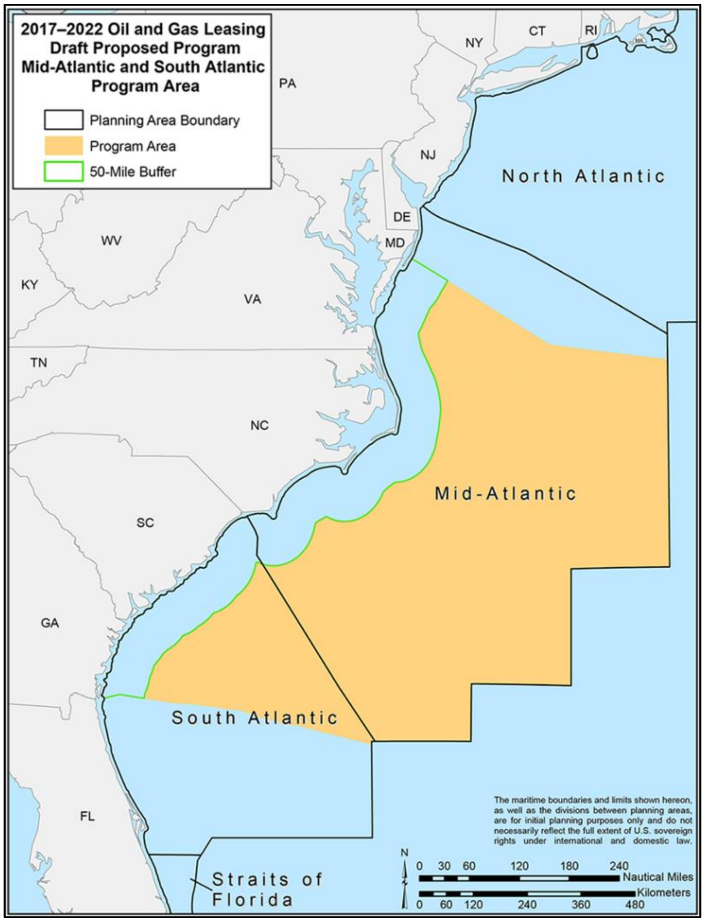
40 An Atlantic lease sale (Sale #220) was scheduled in the five-year program for 2007-2012, but it was canceled by then-Secretary of the Interior Ken Salazar following the April 2010 *Deepwater Horizon* oil spill. See BOEM, "Virginia Lease Sale 220 Information," at https://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Gulf-of-Mexico-Region/Lease-Sales/220/Virginia-Lease-Sale-220-Information.aspx.

41 2017-2022 PP, p. S-2.

energy development, BOEM stated, "domestic oil and gas production will remain strong without the additional production from a potential lease sale in the Atlantic."[42]

Figure 2. BOEM's Originally Proposed Program Area for Offshore Oil and Gas Leasing in the Atlantic

(subsequently removed from the five-year program)



Source: 2017-2022 PP, p. 4-12.

The Atlantic states, and stakeholders within each state, disagree about whether oil and gas drilling should occur in the Atlantic.[43] Supporters contend that oil and gas development in the region would lower energy costs for regional consumers, bring jobs and economic investment, and strengthen U.S. energy security.[44] Opponents express concerns that oil and gas development

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[42] Ibid., p. S-10. Specifically, BOEM estimated that U.S. oil production would be only 0.10% lower, and U.S. natural gas production 0.06% lower, without the production anticipated from a lease sale in the Mid- and South Atlantic Planning Areas.

[43] See summaries of state comments in the 2017-2022 DPP, pp. A-3 to A-6; and 2017-2022 PP, pp. A-11 to A-13. For conflicting views within some states, see comments from local governments in 2017-2022 DPP, pp. A-7 to A-11; and 2017-2022 PP, pp. A-13 to A-18.

[44] See, e.g., Quest Offshore, *The Economic Benefits of Increasing U.S. Access to Offshore Oil and Natural Gas Resources in the Atlantic*, study prepared for the American Petroleum Institute and the National Ocean Industries Association, December 2013, at http://www.api.org/~/media/files/oil-and-natural-gas/exploration/offshore/atlantic-ocs/executive-summary-economic-benefits-of-increasing-us-access-to-atlantic-offshore-resources.pdf.

would undermine national clean energy goals and that oil spills could threaten coastal communities. Also of concern for leasing opponents is the potential for oil and gas activities to damage the tourism and fishing industries in the Atlantic region and to conflict with military and space-related activities of the Department of Defense (DOD) and National Aeronautics and Space Administration (NASA).[45]

BOEM's Atlantic lease sale proposal in the DPP included a 50-mile buffer zone off the coast where leasing would not take place, in order to reduce conflicts with other uses of the OCS, including DOD and NASA activities.[46] However, on further analysis, BOEM assessed that the areas of DOD and NASA concern "significantly overlap the known geological plays and available resources," which contributed to its decision to remove the Atlantic sale altogether from the final program.[47]

Pacific Region

BOEM's decision not to hold any lease sales in the Pacific region for 2017-2022 has been less controversial than the decisions for the Atlantic and Alaska regions. No federal oil and gas lease sales have been held for the Pacific since 1984, although some active leases with production remain in the Southern California Planning Area. Like the Atlantic region, the Pacific region was subject to congressional and presidential leasing moratoria for most of the past 30 years.[48] These restrictions were lifted in FY2009, but the governors of California, Oregon, and Washington continue to oppose offshore oil and gas leasing in the region.

Congressional stakeholders disagree on whether leasing should occur in the Pacific. Members of the 114th Congress who favor broad leasing across the entire OCS have introduced legislation that would require BOEM to hold lease sales in the Pacific region.[49] Members concerned about environmental damage from oil and gas activities in the region have introduced legislation that would permanently prohibit Pacific oil and gas leasing.[50] Other issues concerning oil and gas activity in the Pacific—such as concerns about the use of hydraulic fracturing (fracking) in existing wells off the California coast—lie outside the scope of the five-year program.[51]

Role of Congress

Congress can influence the Administration's development of a five-year program in a number of ways. Members of Congress may convey their views on the Administration's proposal by submitting public comments on a draft program during the formal comment periods, and they

[45] 2017-2022 PP, p. S-9; and House Natural Resources hearing April 2015. In comments at earlier stages of the BOEM program, NASA expressed concerns about potential conflicts with activities at its Wallops Island flight facility, and DOD cited potential conflicts with certain training, testing, and operational activities. See https://www.regulations.gov/document?D=BOEM-2014-0059-1504 and https://www.regulations.gov/document?D=BOEM-2014-0059-1341.

[46] 2017-2022 DPP, pp. S-9 to S-10.

[47] 2017-2022 PP, p. S-10.

[48] Different portions of the Pacific region were subject to different restrictions during this period.

[49] See, e.g., H.R. 1487 and S. 791.

[50] See, e.g., H.R. 3927.

[51] For more information, see BOEM, "BSEE and BOEM Publish Joint Environmental Assessment on Use of Well Stimulation Treatments in Federal Waters off California," press release, May 27, 2016, at https://www.boem.gov/press05272016/; and Representative Lois Capps, "Capps Works to Block Additional Offshore Fracking in the Pacific," press release, July 14, 2016, at http://capps.house.gov/press-release/capps-works-block-additional-offshore-fracking-pacific.

may evaluate the program in committee oversight hearings. More directly, Members may introduce legislation to set or alter a program's terms.

The 114th Congress has pursued all these types of influence with respect to BOEM's proposed program for 2017-2022. For example, BOEM received 15 comments from Members of Congress on its initial request for information (RFI) for the program and 12 comments from Members on the DPP. Some of these comments came from one or a few Members, whereas others had many signers (in some cases, 150 Members or more). Some comments opposed the inclusion of certain regions in the program, whereas others supported the planned lease sales or sought an expansion of lease areas and a higher number of sales. BOEM took these public comments into account when developing successive drafts of the five-year program, in some cases by revising the program to partially or fully adopt a suggestion, and in other cases by explaining why it declined to do so.[52]

The House and Senate also held oversight hearings to evaluate the proposed five-year program. After BOEM released the DPP for 2017-2022, the House held a hearing on the program on April 15, 2015.[53] Members and witnesses addressed issues such as the overall number of lease sales proposed for the program, whether leasing should occur in the Atlantic and Arctic, and whether seismic surveying should occur in the Atlantic, among others. On May 19, 2016, the Senate Energy and Natural Resources Committee held a hearing on the PP version of the program.[54] Members and witnesses discussed, among other issues, the PP's proposal for targeted rather than area-wide lease sales in Alaska and the factors that contributed to BOEM's decision to remove its earlier-proposed Atlantic lease sale from the 2017-2022 program.

The 114th Congress also is considering directly modifying the 2017-2022 program through legislation. Some bills (H.R. 1487, H.R. 1663, H.R. 3682, H.R. 4749, S. 791, S. 1276, S. 1278, S. 1279, S. 2011, S. 3203) would provide for more leasing on the OCS than is planned by BOEM—for example, by mandating that certain specific lease sales be added to the BOEM program, or by requiring that the agency hold lease sales for all unleased OCS acreage that meets certain criteria for resource potential or industry interest. Some of these bills would deem such sales to be approved without further environmental review. The Senate Committee on Energy and Natural Resources held a hearing on S. 1276, S. 1278, and S. 1279 on May 19, 2015, and reported S. 2011 on September 9, 2015.

Other legislation in the 114th Congress aims to reduce the acreage that BOEM could lease under current or future programs. These bills (H.R. 1895, H.R. 2630, H.R. 3927, H.R. 4535, S. 1430, S. 2155, S. 2238) would place new moratoria on leasing in various parts of the OCS or extend existing moratoria. Some bills would permanently prohibit leasing in large areas, such as in all of the Pacific OCS or throughout the extent of the OCS.

As discussed above, Congress has a role under the OCSLA of reviewing each five-year program once it is finalized. However, the OCSLA does not provide for Congress to approve or disapprove the final program. The final program is submitted to Congress for a period of 60 days, after which the Secretary of the Interior can approve and implement the program.[55] During the 60-day period or outside that period, Members of Congress could introduce legislation or advance existing

[52] See, e.g., Appendix A of both the 2017-2022 DPP (summarizing comments on the RFI) and the 2017-2022 PP (summarizing comments on the DPP).

[53] House Natural Resources hearing April 2015.

[54] Senate Energy and Natural Resources hearing May 2015.

[55] 43 U.S.C. §1344(d)(2). The final program is also submitted to the President during this period.

legislation to alter the program. For example, in the 112th Congress, during the 60-day review period for the current five-year leasing program (for 2012-2017), Members introduced H.R. 6082 to replace the submitted program with a congressionally developed plan containing additional lease sales. The bill passed the House but did not become law. For the 2017-2022 program, Members could choose to act on one or more of the bills discussed above, could introduce new legislation, or could take no legislative action related to the program.

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