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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). Most recently, under the Obama Administration, BOEM released a final program for the period from mid-2017 through mid-2022.[2] The program schedules 11 lease sales on the OCS during the five-year period: 10 in the Gulf of Mexico region (occurring twice each year), 1 in the Cook Inlet planning area of the Alaska region (scheduled for 2021), and none in the Atlantic or Pacific regions. Three sales proposed in earlier versions of the program—one in the Atlantic and two off Alaska—were not ultimately included in the program.

The leasing decisions in BOEM's five-year programs may affect the economy and environment of individual coastal states and of the nation as a whole. Accordingly, Congress typically has been actively involved in planning and oversight of the five-year programs. The following discussion summarizes developments in the 2017-2022 program and considers selected congressional issues and actions related to the program. 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 Final Program for 2017-2022*.

The 115th Congress could influence the five-year program by enacting legislation to alter the program, as well as by conducting oversight. For example, Members could enact legislation to add new sales to the program (e.g., H.R. 1756 and S. 665 in the 115th Congress) or to remove scheduled sales. Congress also could mandate lease sales in previously unavailable areas by ending moratoria imposed by Congress or the President.[3] Alternatively, Congress could impose leasing moratoria on new areas; for example, H.R. 169, H.R. 728, H.R. 731, and S. 31 in the 115th Congress would prohibit oil and gas leasing in various parts of the Pacific or Atlantic regions.[4]

The options for the Trump Administration to alter the finalized five-year program are more constrained than those of Congress. The Administration could change the 2017-2022 leasing program—for example, to provide for additional lease sales or to remove sales—only by going through the full program development process, with its successive stages of review and analysis.[5] 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. Any revision of the five-year program by the Administration could not provide for sales in areas that remained under congressional moratorium or presidential withdrawal.

[1] 43 U.S.C. §1331-1356b.

[2] The Obama Administration's program was approved by former Secretary of the Interior Sally Jewell on January 17, 2017. Department of the Interior, *Record of Decision and Approval of the 2017-2022 Outer Continental Shelf Oil and Gas Leasing Program*, January 17, 2017, at https://www.boem.gov/2017-2022-Record-of-Decision/.

[3] These unavailable areas include most of the Eastern Gulf of Mexico and a small portion of the Central Gulf, which Congress placed under moratorium through June 2022 in the Gulf of Mexico Energy Security Act of 2006 (GOMESA; P.L. 109-432), as well as areas in the Arctic and Atlantic regions that President Obama withdrew from leasing consideration under authority provided in the OCSLA (43 U.S.C. §1341(a)). See footnote 12 for more information.

[4] Moratoria in these regions would not affect the 2017-2022 program, since no sales are scheduled for the Pacific or the Atlantic in this program, but they would affect the areas that could be considered for future leasing programs.

[5] 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)).

Recent Developments

On March 6, 2017, Secretary of the Interior Ryan Zinke announced the first lease sale in the 2017-2022 offshore oil and gas leasing program (Lease Sale 249), which will offer 73 million acres in the Gulf of Mexico.[6] The sale is to be held on August 16, 2017. Unlike previous lease sales in the Gulf of Mexico, which focused on a particular planning area (either the Western, Central, or Eastern Gulf), Lease Sale 249—along with the other Gulf sales in the 2017-2022 program—is a region-wide sale offering available blocks in all three planning areas combined.[7] The Obama Administration included this shift to a region-wide approach in the 2017-2022 program, largely to increase flexibility for companies that are also bidding on lease blocks in Mexican Gulf waters.[8]

Selected Issues for Congress

Under the OCSLA, BOEM must take into account economic, social, and environmental values in making its leasing decisions.[9] 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.

Congress may consider whether the 2017-2022 program approved by the Obama Administration strikes the appropriate balance or whether the program should be altered with an alternative leasing schedule. More broadly, Congress may consider whether the OCSLA parameters that shape agency leasing decisions are appropriate or should be changed. Bills in the 114th Congress, which were not enacted, would have addressed both the individual sales in the 2017-2022 program and the broader OCSLA planning criteria. Bills introduced in the 115th Congress are discussed in the "Role of Congress" section, below.

With respect to the leasing decisions in the 2017-2022 program, the Obama Administration's leasing strategy differed for each region. In the Gulf of Mexico, the final program makes available all unleased acreage except for areas that BOEM is prohibited from leasing.[10] In the

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6 Department of the Interior, "Secretary Zinke Announces Proposed 73-Million Acre Oil and Natural Gas Lease Sale for Gulf of Mexico," press release, March 6, 2017, at https://www.doi.gov/pressreleases/secretary-zinke-announces-proposed-73-million-acre-oil-and-natural-gas-lease-sale-gulf. Along with the announcement, BOEM released a proposed notice of sale, available at https://www.boem.gov/Proposed-Notice-of-Sale-249-Package/, and a final multisale environmental impact statement, available at https://www.boem.gov/BOEM-EIS-2017-009-v1/.

7 Blocks that are *not* available for leasing include those subject to the moratorium established by the Gulf of Mexico Energy Security Act of 2006 (P.L. 109-432), those that lie within the Flower Garden Banks National Marine Sanctuary, and those adjacent to or beyond the U.S. Exclusive Economic Zone in the "Eastern Gap" area of the Gulf.

8 BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Final Program*, November 2016, p. S-5, at https://www.boem.gov/2017-2022-OCS-Oil-and-Gas-Leasing-PFP/. The final program is published under the title "proposed final program," or PFP, because it must be reviewed by Congress and the President and then approved by the Secretary of the Interior. Given the approval of the program on January 17, 2017, this report typically refers to the PFP as the "final program," except in citations, where the short title "2017-2022 PFP" is used.

9 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.

10 These prohibited areas include large portions of the Eastern Gulf removed from leasing consideration through mid-2022 by the Gulf of Mexico Energy Security Act of 2006 (GOMESA; P.L. 109-432). Also unavailable are the smaller "Eastern Gap" area and a national marine sanctuary in the Gulf; see footnote 7 for more information.

Alaska region, BOEM chose a targeted leasing strategy, focused on a single planning area that the agency identified as best balancing economic, social, and environmental considerations. The final program contains no sales in the Atlantic or Pacific regions, for various reasons specific to each region.[11] In December 2016, after publication of the final program, President Obama withdrew much of the U.S. Arctic and parts of the Atlantic from leasing disposition for an indefinite time period.[12] The President's actions do not directly affect the 2017-2022 program, because the withdrawn areas were not scheduled for leasing, but they would affect the areas that can be considered for future five-year programs.

Congressional debate on the 2017-2022 program in the 114th Congress 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. The 115th Congress may continue to debate BOEM's decisions as it considers whether to make changes to the 2017-2022 program.

Total Acreage Available for Leasing

The 2017-2022 program makes available for leasing approximately 97 million offshore acres, out of a total of approximately 1.7 billion acres on the U.S. OCS. The available acreage consists of 96 million acres in the Gulf of Mexico and 1 million acres in the Alaska region.[13] The overall acreage available for leasing, and the overall number of lease sales planned in the program, were controversial. Some Members of Congress, industry representatives, and others contend that the program is overly restrictive, with a lower number of sales than previous five-year programs and an inadequate portion of U.S. waters available for leasing.[14] 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. For example, 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.[15]

Other stakeholders contend that the Obama Administration's leasing schedule reflects an appropriate balance of economic, environmental, and social considerations. The Obama Administration emphasized that although a relatively small percentage of the entire OCS is made available for leasing in the program, the tracts to be offered contain nearly half of all

[11] 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 Final Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann.

[12] Presidential Memorandum, "Withdrawal of Certain Areas Off the Atlantic Coast on the Outer Continental Shelf from Mineral Leasing," December 20, 2016, at https://www.whitehouse.gov/the-press-office/2016/12/20/presidential-memorandum-withdrawal-certain-areas-atlantic-coast-outer; Presidential Memorandum, "Withdrawal of Certain Portions of the United States Arctic Outer Continental Shelf from Mineral Leasing," December 20, 2016, at https://www.whitehouse.gov/the-press-office/2016/12/20/presidential-memorandum-withdrawal-certain-portions-united-states-arctic; Executive Order 13754, "North Bering Sea Climate Resilience," December 9, 2016, at https://www.gpo.gov/fdsys/pkg/FR-2016-12-14/pdf/2016-30277.pdf.

[13] Personal communication with the BOEM Office of Congressional Affairs, October 13, 2016.

[14] 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 Final 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."

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

undiscovered technically recoverable oil and gas resources estimated to exist on the OCS.[16] Supporters point out 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 the Obama Administration's caution was 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 2017-2022 program than in previous programs, supporters point out that each Gulf of Mexico sale is planned as a combined, region-wide sale, whereas earlier five-year programs offered only a portion of the Gulf in each sale.[17]

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 the 2017-2022 program adequately accounted for downstream carbon emissions and other indirect climate change effects of oil and gas development.[18] 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 in 2010 on the *Deepwater Horizon* oil platform in the Gulf of Mexico.[19] 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 program'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.[20] Given these long production timelines, tracts leased in the upcoming five-year period could be producing at a time when the nation's economic and environmental priorities and available technologies have changed. This could be the case, for instance, if U.S. commitments to greenhouse gas emissions reductions required the nation's energy portfolio to be more or less

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[16] 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/).

[17] 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).

[18] 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.

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

[20] 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).

weighted toward renewable energy sources. During development of the 2017-2022 program, some stakeholders contended that including more acreage in the program would be inconsistent with long-term energy goals and that offshore policies should focus instead on renewable energy development.[21] At the same time, U.S. energy data suggest that even significant growth in renewable energy production would still leave a large energy gap to be filled with conventional sources in the next several decades.[22] With this in mind, proponents of expanded program acreage contended 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.[23]

Gulf of Mexico Region

Almost all U.S. offshore oil and gas activity currently takes place in the Gulf of Mexico.[24] 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 the Gulf of Mexico Energy Security Act of 2006 (GOMESA), offshore leasing is prohibited through June 2022 in a defined area of the Gulf off the Florida coast.[25] 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.[26] By contrast, others advocate for shrinking the area covered by the ban or eliminating the ban before its scheduled expiration date. They emphasize the economic significance of 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.[27]

[21] 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.

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

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

[24] 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/.

[25] 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.

[26] 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 12, 2016, at http://jolly.house.gov/rep-jolly-to-introduce-amendment-to-protect-floridas-coastal-communities/.

[27] 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.

Alaska Region

Congressional debate has been especially intense over the Obama Administration'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.[28] 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 technical and financial 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 at times expressed support for expanding offshore exploration in the Arctic, while also pursuing safety regulations that aimed to minimize the potential for oil spills.[29] The Obama Administration'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**).[30] However, for the final program, the Administration removed the sales for the Beaufort and Chukchi Seas and retained only the sale for Cook Inlet. The Obama Administration 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, it 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."[31] Further, in December 2016, after publication of the final program, President Obama withdrew much of the U.S. Arctic from leasing disposition for an indefinite time period.

The Obama Administration's removal of the Beaufort and Chukchi lease sales from the program and President Obama's subsequent Arctic withdrawals were viewed unfavorably by advocates for expanded leasing in the region, including the Alaska congressional delegation of the 114th Congress.[32] These stakeholders contend that growth in offshore oil and gas development is critical

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[28] 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.

[29] 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. In the 115th Congress, H.J.Res. 34 would disapprove the Obama Administration's Arctic rule under the Congressional Review Act (5 U.S.C. §§801-808).

[30] 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.

[31] 2017-2022 PFP, p. S-3.

[32] 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; and "Alaska Delegation Reacts to Stunning Arctic Withdrawal," December 20, 2016, at https://www.murkowski.senate.gov/press/release/alaska-delegation-reacts-to-

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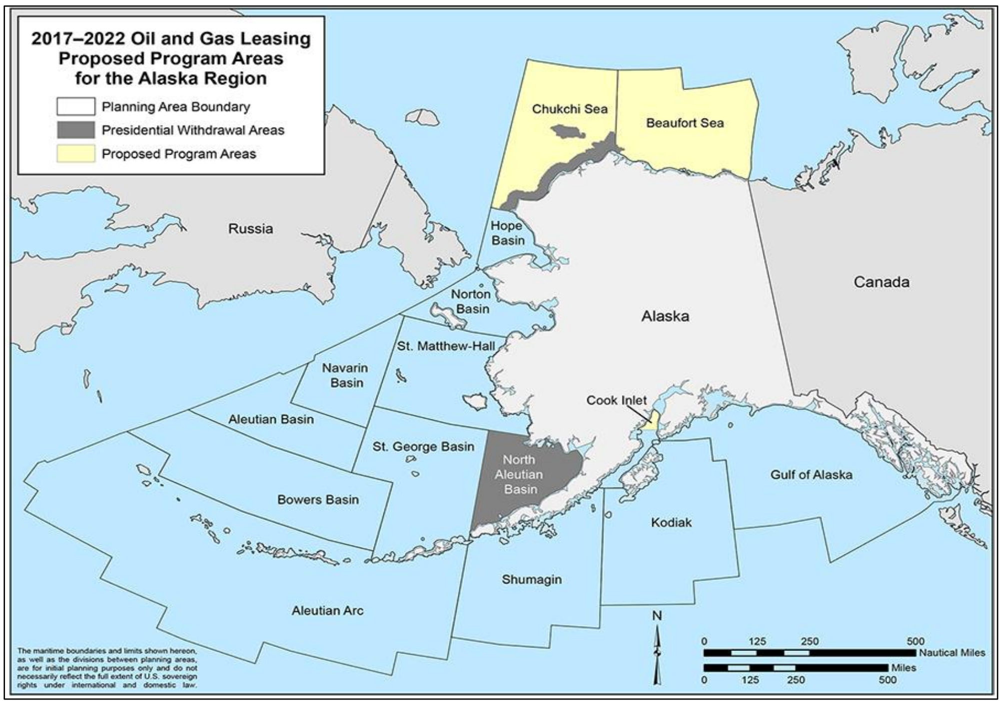
for Alaska's economic health as the state's onshore oil fields mature.[33] (Alaskan onshore production has declined from peaks of previous decades, although recent North Slope discoveries could potentially contribute to future production.)[34] They further assert that Arctic offshore energy development 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 and China, that are pursuing economic interests in the Arctic.[35] 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.[36]

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/.

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33 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. For example, a decline in onshore production at Prudhoe Bay has caused difficulties for the Trans-Alaska Pipeline System, which requires a certain amount of throughput in order to operate. For more information, see Alyeska Pipeline Company, "Pipeline Operations: Declining Throughput," at http://www.alyeska-pipe.com/TAPS/PipelineOperations/LowFlowOperations.

34 See, e.g., Repsol S.A., "Repsol Makes the Largest U.S. Onshore Oil Discovery in 30 Years," press release, March 9, 2017, at http://repsol.com/es_en/. Additionally, a major new find was announced in Alaskan state waters; see Caelus Energy LLC, "Caelus Confirms Large-Scale Discovery on the North Slope of Alaska," press release, October 4, 2016.

35 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.

36 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.

Those who favor few or no Alaska offshore 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.[37] 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.[38] Opponents of Arctic leasing also are concerned that it 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 investment climate of low oil prices. For example, the Obama Administration stated in the 2017-2022 final program that the number of active leases on the Arctic OCS had 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.[39] Others assert, however, that tepid industry interest in the region is due more to the overly demanding federal regulatory environment than to market conditions.[40]

Among those favoring expanded leasing in the region are some Alaska Native communities, who see offshore development as a source of jobs and investment in localities that are struggling financially. Other Alaska Native communities have opposed offshore leasing in the region, citing concerns about environmental threats to subsistence lifestyles. Alaska Governor Bill Walker supports offshore oil and gas development and had formally petitioned the President to keep the previously scheduled Alaska sales in the final program.[41]

Atlantic Region

The program for 2017-2022 also excluded an earlier-proposed lease sale in the Atlantic region.[42] If conducted, it would have been the first offshore Atlantic oil and gas lease sale 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

[37] 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."

[38] DOI, "Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," 81 *Federal Register* 46477, July 15, 2016. In the 115th Congress, H.J.Res. 34, if enacted, would disapprove the Obama Administration's Arctic rule under the Congressional Review Act (5 U.S.C. §§801-808).

[39] 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.

[40] 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.

[41] 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.

[42] The Atlantic sale had been proposed in the first draft of the program and was removed in subsequent drafts.

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.[43] 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.[44] More recently, President Obama's December 2016 withdrawals included certain areas of the Atlantic Ocean associated with major canyons and canyon complexes. Under this withdrawal, those areas may not be included in future leasing programs, although other parts of the Atlantic would still be available.

For the draft versions of the 2017-2022 program, the Obama Administration 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 draft program 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, the Obama Administration removed the Atlantic sale. The Administration 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."[45] The Obama Administration 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 energy development, the Administration stated, "domestic oil and gas production will remain strong without the additional production from a potential lease sale in the Atlantic."[46]

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.

The Obama Administration issued a record of decision (ROD) in July 2014 to allow new G&G surveys. However, after releasing the 2017-2022 program, the Obama Administration denied applications from companies to conduct surveys under the ROD, citing among other reasons a diminished need for the information because no Atlantic sales were included in the program. The G&G permitting decisions were separate from the five-year program, which is specifically concerned with lease sales.

The House 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 introduced legislation addressing Atlantic G&G activities. Some 114th Congress bills (such as S. 1279) aimed to facilitate G&G surveys, whereas others (such as S. 2841) would have prohibited such activities either in certain areas or throughout the Atlantic.

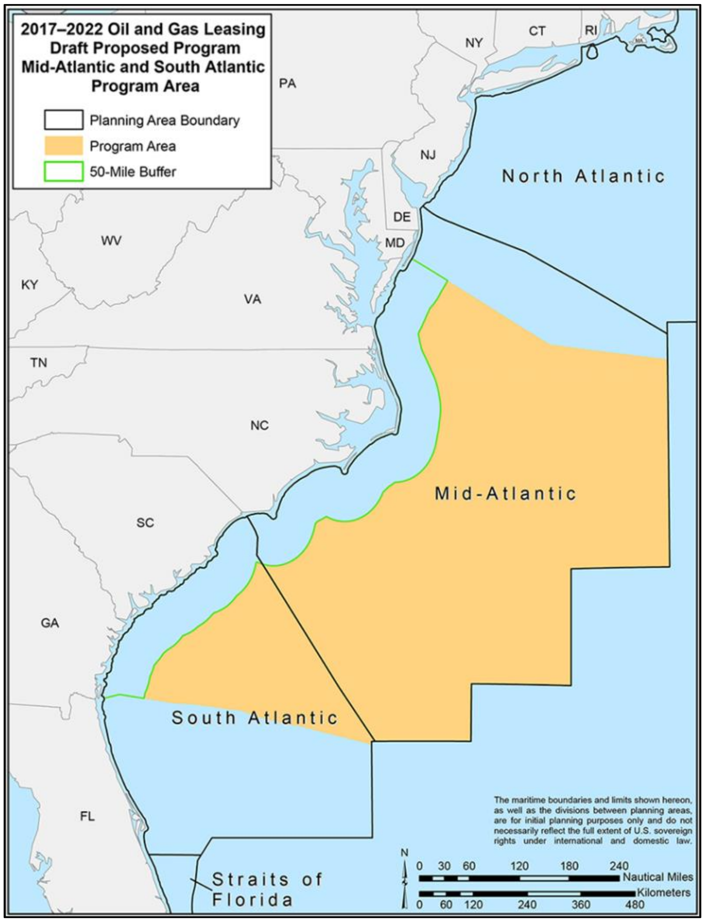
[43] President George W. Bush, "Memorandum on Modification of the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," *Weekly Compilation of Presidential Documents* 44 (July 14, 2008).

[44] 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.

[45] 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."

[46] Ibid., p. S-10. Specifically, the Obama Administration estimated that U.S. oil production in the 2017-2022 time period 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.

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.[47] 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.[48] Opponents express concerns that oil and gas development 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).[49]

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[47] 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.

[48] 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.

[49] 2017-2022 PP, p. S-9; and House Natural Resources hearing April 2015. In comments at earlier stages of the BOEM (continued...)

The Obama Administration's Atlantic lease sale proposal in the earlier draft of the 2017-2022 program 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.[50] However, on further analysis, the Administration 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.[51]

Pacific Region

The Obama Administration's decision not to hold any lease sales in the Pacific region for 2017-2022 was 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.[52] Like the Atlantic region, the Pacific region was subject to congressional and presidential leasing moratoria for most of the past 30 years.[53] These restrictions were lifted in FY2009, but the governors of California, Oregon, and Washington continue to oppose new 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 favored broad leasing across the entire OCS introduced legislation that would have required BOEM to hold lease sales in the Pacific region.[54] Members concerned about environmental damage from oil and gas activities in the region introduced legislation in both the 114th and 115th Congresses that would prohibit Pacific oil and gas leasing.[55] 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.[56]

Role of Congress

Congress can influence the Administration's development and implementation of a five-year program by submitting public comments during formal comment periods, by evaluating proposed or final programs in committee oversight hearings, and, more directly, by introducing legislation to set or alter a program's terms. The 114th Congress pursued all these types of influence with

(...continued)

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.

[50] 2017-2022 DPP, pp. S-9 to S-10.

[51] 2017-2022 PP, p. S-10.

[52] A federal oil and natural gas lease is for a specific 5-10 year period, but if a discovery is made within the term of the lease, the lease is extended for as long as oil and/or natural gas is produced in paying quantities or approved drilling operations are conducted.

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

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

[55] See, e.g., H.R. 3927 in the 114th Congress, and H.R. 169, H.R. 731, and S. 31 in the 115th Congress.

[56] 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.

respect to the leasing program for 2017-2022. For example, BOEM received comments from numerous Members of the 114th Congress while drafting the program. Some opposed the inclusion of certain regions in the program, while others supported the planned lease sales or sought an expansion of lease areas and a higher number of sales.[57] The 114th Congress also held oversight hearings to evaluate draft versions of the five-year program. At an April 2015 House hearing, 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.[58] At a May 2016 Senate hearing, Members and witnesses discussed, among other issues, the Obama Administration's proposal for targeted rather than area-wide lease sales in Alaska and the factors that contributed to removal of the Atlantic lease sale from the program.[59]

The 114th Congress also considered 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 have provided for more leasing on the OCS than was planned by the Obama Administration—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 met certain criteria for resource potential or industry interest. Some of these bills would have deemed such sales to be approved without further environmental review. None of the bills was enacted. Other legislation in the 114th Congress aimed 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), which also were not enacted, would have placed new moratoria on leasing in various parts of the OCS or extended existing moratoria. Some bills would have permanently prohibited leasing in large areas, such as in all of the Pacific OCS or throughout the extent of the OCS.

Members of 115th Congress also have introduced legislation to alter the 2017-2022 program or future offshore leasing programs and to change the overall OCSLA process. H.R. 1756 would require BOEM to conduct a lease sale in the Atlantic region (Lease Sale 220) that had been proposed in an earlier program and would require future leasing programs to include sales off Virginia. S. 665 would amend the OCSLA process by allowing the Interior Secretary to add new sales to the program without having to go through reapproval of the program. Other bills would affect future programs by permanently prohibiting leasing off the coasts of California, Oregon, and/or Washington (H.R. 169, H.R. 731, S. 31) and off the coast of New Jersey (H.R. 728). (These changes would not affect the 2017-2022 program because the program schedules no sales in the Pacific or Atlantic regions.) S. 74 would extend the congressional moratorium on leasing in the Eastern Gulf of Mexico through June 2027. The 115th Congress could choose to pursue these or other measures, or it could decide to leave the 2017-2022 program and the governing OCSLA process in place without changes.

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[57] 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).

[58] House Natural Resources hearing April 2015.

[59] 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.

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