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The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Proposed Final Program for 2017-2022

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December 1, 2016

Congressional Research Service
7-....
www.crs.gov
R44504

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The Bureau of Ocean Energy Management (BOEM), within the Department of the Interior (DOI), has prepared a five-year plan—referred to by BOEM as a "five-year program"—for offshore oil and gas leasing on the U.S. outer continental shelf (OCS) from mid-2017 through mid-2022. Currently, BOEM is implementing a previous five-year program for the 2012-2017 period. BOEM develops the leasing programs under Section 18 of the Outer Continental Shelf Lands Act, as amended (OCSLA; 43 U.S.C. §1331 ff). The law requires the Secretary of the Interior to prepare and maintain forward-looking plans that indicate proposed public oil and gas lease sales in U.S. waters. In doing so, the Secretary must balance national interests in energy supply and environmental protection.

BOEM's development of a five-year program typically takes place over two or three years, during which successive drafts of the program are published for review and comment. All available leasing areas are initially examined, and the selection may then be narrowed based on economic and environmental analysis to arrive at a final leasing schedule. At the end of the process, the Secretary of the Interior must submit each program to the President and to Congress for a period of at least 60 days, after which the proposal may be approved by the Secretary and may take effect with no further regulatory or legislative action. BOEM also develops a programmatic environmental impact statement (PEIS) for the leasing program, as required by the National Environmental Policy Act (NEPA; 42 U.S.C. §4321). The PEIS examines the potential environmental impacts from oil and gas exploration and development and considers a reasonable range of alternatives to the proposed plan.

On November 18, 2016, BOEM published the final version of its 2017-2022 offshore oil and gas leasing program, known as the proposed final program (PFP). The PFP schedules 11 OCS lease sales, including 10 in the Gulf of Mexico and 1 in the Alaska region. No sales are scheduled for the Atlantic or Pacific regions. Three sales proposed in earlier drafts of the program—one in the Atlantic and two off of Alaska—were not ultimately included in the PFP. 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.

Congress has typically been actively involved during the planning phases of BOEM's five-year leasing programs. For example, Members of Congress may convey their views on the Administration's proposals by submitting public comments on draft versions of the program during formal comment periods, and may evaluate the program in committee oversight hearings. The 114th Congress exercised both of these types of influence with respect to the proposed program for 2017-2022. Further, although Congress's role under the OCSLA does not include approval or disapproval of the program, Members may directly influence the terms of a program through legislation. Some legislation in the 114th Congress, including H.R. 1487/S. 791, H.R. 1663, H.R. 3682, H.R. 4749, S. 1276, S. 1278, S. 1279, S. 2011, and S. 3203, would alter the 2017-2022 program by adding certain lease sales or making other programmatic changes. Other bills, including H.R. 1895, H.R. 2630, H.R. 3927, H.R. 4535, S. 1430, S. 2155, and S. 2238, would influence the program by prohibiting leasing in various parts of the OCS.

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Introduction

Under the Outer Continental Shelf Lands Act (OCSLA), as amended,[1] the Department of the Interior (DOI) must prepare and maintain forward-looking five-year plans—referred to by DOI as "five-year programs"—that indicate proposed public oil and gas lease sales in U.S. waters over a five-year period.[2] In preparing each program, DOI must balance national interests in energy supply and environmental protection.[3] The lead agency within DOI responsible for the program is the Bureau of Ocean Energy Management (BOEM).[4]

BOEM's development of a five-year program typically takes place over two or three years, during which successive drafts of the program are published for review and comment. All available leasing areas are initially examined,[5] and the selection may then be narrowed based on economic and environmental analysis to arrive at a final leasing schedule. At the end of the process, the Secretary of the Interior must submit each program to the President and to Congress for a period of at least 60 days, after which the proposal may be approved by the Secretary and may take effect with no further regulatory or legislative action.[6]

As required by the National Environmental Policy Act (NEPA), the planning process includes a programmatic environmental impact statement (PEIS).[7] The PEIS examines the potential environmental impacts from oil and gas exploration and development and considers a reasonable range of alternatives to the proposed plan. Public comments from stakeholders, including state governors, companies, individuals, and public interest organizations, are addressed in both the PEIS and the five-year program itself.

On November 18, 2016, BOEM released the third and final version of its oil and gas leasing program for 2017-2022.[8] This version is referred to as the "proposed final program," or PFP, because it awaits review by Congress and the President and approval by the Secretary of the Interior. The PFP was revised from a March 2016 proposed program (PP)[9] and a January 2015

[1] 43 U.S.C. §1331 ff. The leasing program requirements were added in a 1978 amendment (P.L. 95-372; 92 Stat. 629).

[2] 43 U.S.C. §1344. U.S. waters comprise an area referred to as the outer continental shelf, or OCS (43 U.S.C. §1331(a)). The OCS is an area of submerged lands, subsoil, and seabed that lies between the outer seaward reaches of a state's jurisdiction and the outer seaward reaches of U.S. jurisdiction.

[3] The Secretary of the Interior must ensure, "to the maximum extent practicable," that the timing and location of leasing occurs so as to "obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone." 43 U.S.C. §1344(a)(3).

[4] Prior to 2010, the Secretary of the Interior delegated this responsibility to the Minerals Management Service, and then to the Service's successor agency, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). The Bureau of Ocean Energy Management (BOEM), one of three successor agencies to BOEMRE, has had the responsibility since a departmental reorganization in October 2012.

[5] Some areas of the OCS may be unavailable for leasing because of presidential or congressional leasing moratoria or other types of protection. For more information, see section on "Moratoria and Withdrawals Affecting the 2017-2022 Program."

[6] 43 U.S.C. §1344(d). Congress does not approve or reject the program during the review period, but congressional review may lead to separate legislative action.

[7] 42 U.S.C. §4321. For more information on environmental impact statements, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by (name redacted)

[8] 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.

[9] 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."

draft proposed program (DPP).[10] 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 3**). 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.[11]

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 has typically been actively involved in the planning process for the five-year programs. Under the OCSLA, Congress's review of BOEM's final program does not include approval or disapproval of the program. However, Members of Congress may influence the program in other ways. Members may convey their views on the Administration's proposals by submitting public comments on draft versions of the program during formal comment periods, and they 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 the proposed program for 2017-2022.

The first two sections of this report discuss the history and legal framework for BOEM's five-year offshore oil and gas leasing programs. Subsequent sections outline BOEM's development process, briefly summarize previous years' programs, and analyze the program for 2017-2022. The final section of the report discusses the role of Congress, with a focus on congressional oversight and legislation related to the 2017-2022 program.

Historical Background[12]

In 1953, Congress enacted two laws that addressed jurisdiction and rights off the coasts of the United States, including rights to regulation of subsurface oil and natural gas exploration and production. The first of these acts, the Submerged Lands Act,[13] provides that coastal states are generally entitled to an area extending 3 geographical miles[14] from their officially recognized coasts (or baselines).[15] The second, the OCSLA, defined the OCS as "all submerged lands lying seaward of" state coastal waters that are subject to the jurisdiction and control of the United States.[16] The OCSLA has as its primary purpose "expeditious and orderly development [of OCS resources], subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs."[17]

[10] 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."

[11] For additional information on issues related to the program, see CRS Report R44692, *Five-Year Program for Federal Offshore Oil and Gas Leasing: Status and Issues in Brief*, by (name redacted) .

[12] This section was prepared by (name redacted), Legislative Attorney.

[13] 43 U.S.C. §§1301 et seq.

[14] A geographical or nautical mile is equal to 6,080.20 feet, as opposed to a statute mile, which is equal to 5,280 feet. The Submerged Lands Act (SLA) also provides for an extended seaward boundary if a state can show such a boundary was provided for by the state's "constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress." 43 U.S.C. §§1301(b), 1312. After enactment of the SLA, the Supreme Court of the United States held that the Gulf coast boundaries of Florida and Texas extend to the 3-marine-league limit (a marine league is 3 nautical miles). Other Gulf coast states were unsuccessful in their challenges. See U.S. v. Louisiana, 363 U.S. 1, 66 (1960), U.S. v. Florida, 363 U.S. 121, 129 (1960).

[15] 43 U.S.C. §1301(b).

[16] 43 U.S.C. §1331(a).

[17] 43 U.S.C. §1332(3).

As offshore activities expanded in the years following adoption of the OCSLA, Congress sought a means by which to allow for expedited exploration and production in order to achieve national energy goals while also providing for environmental protection, opportunities for state and local governments affected by offshore activity to have their voices heard, and a competitive bidding and leasing process.[18] The product was the Outer Continental Shelf Lands Act Amendments of 1978.[19] This legislation added a number of new provisions to the OCSLA, including Section 18, which mandates the creation and maintenance of an OCS leasing program to "best meet national energy needs for the five-year period following its approval or reapproval."[20] These five-year programs, which include schedules for lease auctions, have provided the framework for OCS oil and gas exploration and production ever since the first one was adopted by DOI in 1980.

Although the 1978 amendments were the last major overhaul to the OCSLA, Congress has taken other actions since that time that have altered the scope of offshore oil and gas exploration and production. The Deep Water Royalty Relief Act of 1995 attempted to encourage exploration and production in deep water by providing relief from otherwise applicable royalty payment requirements for some deepwater oil and natural gas production.[21] The Gulf of Mexico Energy Security Act of 2006 directed the leasing of certain regions of the Gulf of Mexico for oil and gas exploration and production and placed a moratorium on leasing in other regions. It also created a mechanism for sharing revenues from leasing in the region with Gulf states and the Land and Water Conservation Fund.[22] Also, starting in 2008, Congress removed language from annual Interior appropriations legislation that had been in place to bar leasing and related activities in certain OCS regions.[23] These legislative actions helped to shape subsequent five-year programs.

Legal Framework[24]

The statutory framework governing BOEM's development of a five-year offshore oil and gas leasing program includes the OCSLA as well as other federal statutes, particularly NEPA and the Coastal Zone Management Act (CZMA).[25]

Outer Continental Shelf Lands Act

Section 18 of the OCSLA provides:

> The Secretary [of the Interior] ... shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this subchapter. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best

[18] P.L. 95-372, §102 (43 U.S.C. §1802).

[19] P.L. 95-372.

[20] 43 U.S.C. §1344(a).

[21] P.L. 104-58.

[22] P.L. 109-432. For more information on the Land and Water Conservation Fund, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by (name redacted) .

[23] For further discussion of this appropriations-based moratorium, see CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by (name redacted)

[24] This section was prepared by (name redacted), Legislative Attorney.

[25] 16 U.S.C. §§1451-1464.

> meet national energy needs for the five-year period following its approval or reapproval.[26]

Section 18 further provides that the OCS is to be managed in a manner "which considers economic, social, and environmental values" of the resources of the OCS as well as the potential impact of oil and gas exploration on the marine, coastal, and human environments.[27]

Specifically, Section 18 directs the Secretary to schedule the timing and location of oil and gas exploration and production among the regions of the OCS based on consideration of a variety of factors, including existing geographical, geological, and ecological characteristics of the regions; 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 region. In addition to striking this balance, leasing under the five-year program must also "be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government."[28] The OCSLA also requires that the five-year program include estimates on appropriations and staffing needs.[29]

The OCSLA also imposes a number of consultation requirements. During preparation of the five-year program, the Secretary of the Interior must "invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program."[30] In addition to these mandatory consultation requirements, the Secretary may choose to consult with local government officials in affected states.[31]

Once the Secretary has satisfied these consultation and other requirements and prepared a proposed program, that program must be submitted to the governor of each affected state for further comments at least 60 days prior to publication of the proposed program in the *Federal Register*.[32] The OCSLA also authorizes the Attorney General, in coordination with the Federal Trade Commission, to submit comments regarding potential effects of the proposed program on competition.[33] Subsequently, at least 60 days prior to its approval, the Secretary must submit the proposed program to Congress and the President, along with an explanation as to why any specific recommendation of the Attorney General or a state or local government was not accepted.[34] Once these steps have been completed, the Secretary is free to approve a final five-year program. The OCSLA also authorizes the Secretary to revise the five-year program at any time pursuant to a mandated review, although any revision that is "significant" must go through the process for the initial five-year program described above.[35]

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[26] 43 U.S.C. §1344(a).

[27] 43 U.S.C. §1344(a)(1).

[28] 43 U.S.C. §1344(a)(4).

[29] 43 U.S.C. §1344(b).

[30] 43 U.S.C. §1344(c)(1).

[31] Ibid.

[32] 43 U.S.C. §1344(c)(2).

[33] 43 U.S.C. §1344(d)(1).

[34] 43 U.S.C. §1344(d)(2).

[35] 43 U.S.C. §1344(e).

The responsibilities of the Secretary of the Interior with respect to the five-year program under the OCSLA are carried out by BOEM. The regulations applicable to BOEM's preparation of the five-year program include details regarding these consultation requirements. For example, BOEM is required to send letters to governors of affected states requesting that they identify specific laws, goals, and policies that they would like BOEM to consider during preparation of the five-year program.[36] The regulations also outline requirements for publication of the proposed program in the *Federal Register*.

Other Federal Statutes

While the OCSLA and the applicable regulations guide the five-year planning process, other federal statutes also play a role in the program's formation. Two federal statutes that play a prominent role in the preparation of the five-year program are NEPA and the CZMA.

National Environmental Policy Act

Section 102(2)(C) of NEPA requires all federal agencies to prepare a detailed statement of the environmental impact of and alternatives to major federal actions significantly affecting the environment.[37] In many cases the process for compliance with this requirement includes an environmental assessment (EA) that determines whether an action is a major federal action significantly affecting the environment.[38] However, if the agency has determined that the proposed action is a major federal action without conducting an EA, then the agency moves directly to preparing the statement of the environmental impact of and alternatives to the proposed federal action, known as an environmental impact statement (EIS).[39] This is the case with BOEM's five-year programs; the significance of the program's impact on the environment is assumed. Therefore, BOEM prepares a programmatic EIS (PEIS)[40] concurrently with preparation of the five-year program. This process is explained in further detail throughout this report.

Coastal Zone Management Act[41]

Under the CZMA,[42] states are encouraged to enact coastal zone management plans to coordinate protection of habitats and resources in coastal waters.[43] The CZMA establishes a policy of

[36] 30 C.F.R. §556.16(b).

[37] 43 U.S.C. §1332(2)(C). For more information on NEPA, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by (name redacted)

[38] 40 C.F.R. §1501.3(a).

[39] Ibid.

[40] A programmatic environmental impact statement (PEIS) evaluates the environmental impact of the federal program in question from a broad regional perspective; more detailed and geographically focused analyses in compliance with the requirements of NEPA are also conducted at the planning, leasing, and exploration and development stages. See BOEM, "Programmatic Environmental Impact Statement (2012-2017)," at http://www.boem.gov/5-year/2012-2017/PEIS/.

[41] Some of the material in this section has been borrowed from CRS Report R40175, *Wind Energy: Offshore Permitting*, by (name redacted)

[42] 16 U.S.C. §§1451-1464.

[43] Coastal U.S. states and territories, including the Great Lakes states, are eligible to receive federal assistance for their coastal zone management programs. Currently, there are 35 approved state and territorial plans. See National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, State and Territory Coastal Management Program Summaries, at https://coast.noaa.gov/czm/mystate/.

preservation alongside sustainable use and development compatible with resource protection.[44] State coastal zone management programs that are approved by the Secretary of Commerce are eligible to receive federal monetary and technical assistance. State programs must designate conservation measures and permissible uses for land and water resources[45] and must address various sources of water pollution.[46]

The CZMA also requires that the federal government and federally permitted activities comply with these state programs.[47] To that end, the BOEM regulations governing the five-year program provide that "[i]n development of the leasing program, consideration shall be given to the coastal zone management program being developed or administered by an affected coastal State."[48] The regulations require BOEM to request information concerning the relationship between a state's coastal zone management program and OCS oil and gas activity from both the governors of affected coastal states and the Secretary of Commerce prior to development of the leasing program.[49]

Five-Year Program Development Process[50]

BOEM's development of a five-year program typically takes place over two or three years, during which successive drafts of the program are published for review and comment. The drafts are also submitted to state governors and federal agencies and, in later stages, to Congress and the President (see discussion of consultation requirements in the "Legal Framework" section, above). Each step of the process involves additional public comment and environmental review. After the program takes effect, individual lease sales also undergo environmental review and public comment, as do companies' exploration and development plans on leased tracts. **Figure 1** outlines the steps from development of the five-year program to actual oil and gas production in an individual well.

Because of the analysis and review undertaken at each stage of drafting the five-year program, the successive drafts represent a winnowing process. The initial draft proposed program (DPP) examines all of the agency's available planning areas for oil and gas leasing,[51] analyzing them according to factors in Section 18 of the OCSLA and considering public input, in order to develop an initial schedule of proposed lease sales. In the next version of the plan, the proposed program (PP), only those areas listed in the initial schedule undergo further analysis and environmental review. On the basis of this more targeted analysis, BOEM might remove proposed sales but would not add new sales. The same is true for the last version of the plan, the proposed final program (PFP)—the agency may remove proposed sales at this final stage but may not add new sales without reverting to an earlier stage of the process and undertaking new environmental reviews. The steps of the process are discussed in greater detail below.

[44] 16 U.S.C. §1452(1), (2).

[45] 16 U.S.C. §1455(d)(2), (9)-(12).

[46] 16 U.S.C. §1455(d)(16).

[47] 16 U.S.C. §1456(c).

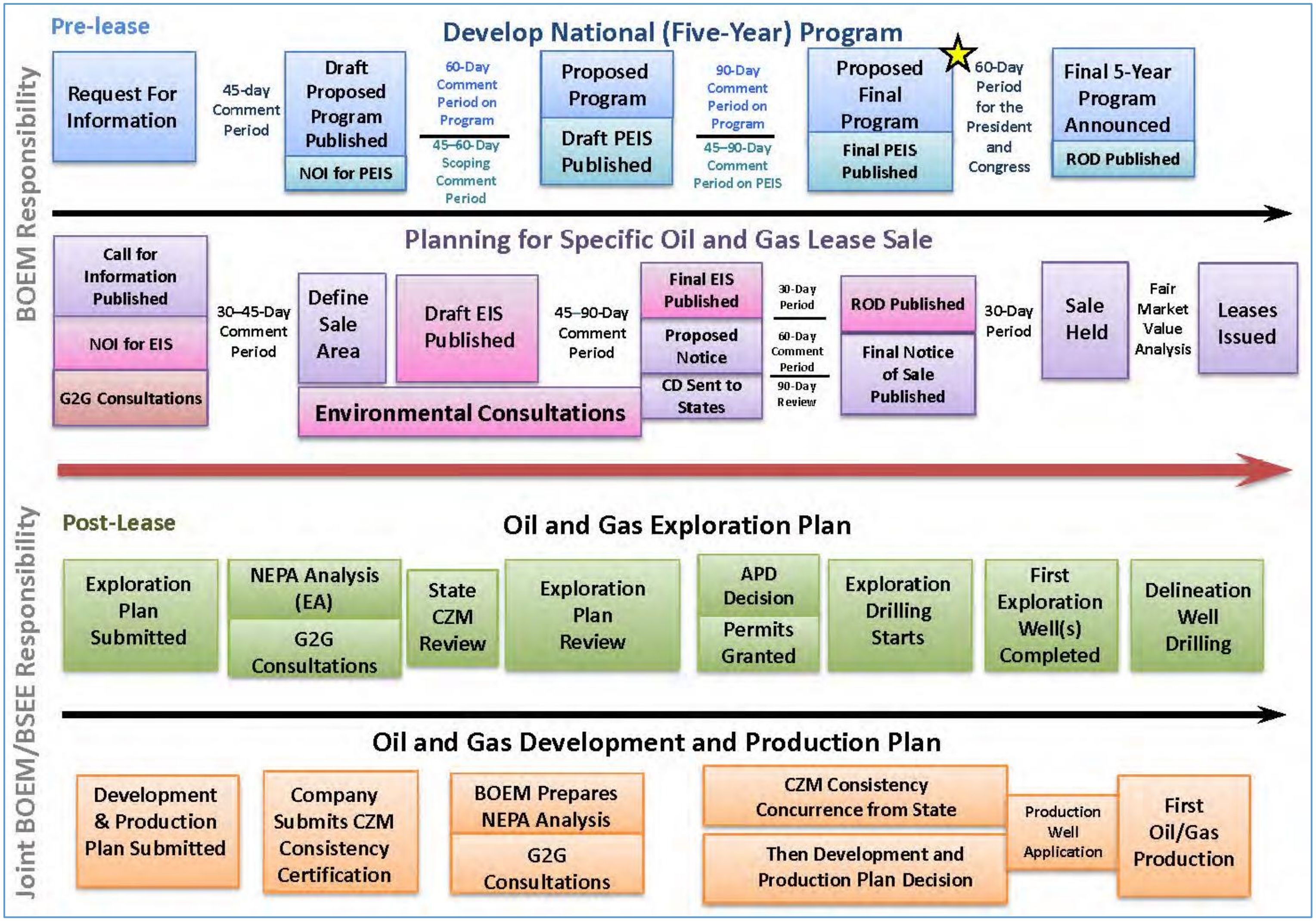
[48] 30 C.F.R. §556.19.

[49] Ibid.

[50] This section prepared by Laura Comay, Analyst in Natural Resources Policy.

[51] BOEM divides the U.S. OCS into 26 planning areas in four regions (the Atlantic, Pacific, Arctic, and Gulf of Mexico regions). The draft proposed program analyzes all of the planning areas except those that are closed to oil and gas leasing activities by congressional or presidential moratoria.

Figure 1. OCS Oil and Gas Leasing, Exploration, and Development Process



Source: BOEM oil and gas leasing flow chart, at http://www.boem.gov/BOEM-OCS-Oil-Gas-Leasing-Process/.

Notes: APD = application for permit to drill; BSEE = Bureau of Safety and Environmental Enforcement; CD = consistency determination; CZM = coastal zone management; EIS = environmental impact statement; NEPA = National Environmental Policy Act; NOI = notice of intent; PEIS = programmatic environmental impact statement; ROD = record of decision. The gold star indicates the current stage of development of the 2017-2022 OCS oil and gas leasing program.

- **Step 1. Request for Information.** BOEM initiates development of a new five-year program by publishing in the *Federal Register* a request for information (RFI) from interested parties concerning regional and national energy needs for the next five-year period; leasing interests of possible oil and gas producers; environmental concerns; and concerns of state and local governments, tribes, and the public, among other issues. The RFI for the 2017-2022 leasing program was published on June 16, 2014, and was followed by a comment period during which the agency received more than half a million comments.[52]
- **Step 2. Draft Proposed Program/Notice of Intent for PEIS.** On the basis of its analysis and the public comments received in the RFI, BOEM publishes a draft proposed program (DPP) that represents the initial proposal for lease sales in the upcoming five-year period. The DPP is the first of three decision documents leading up to BOEM's eventual final program.[53] The DPP analyzes all OCS planning areas available for leasing and identifies a preliminary list of areas proposed for lease sales over the next five years. It also contains a preliminary schedule for the proposed sales. BOEM published its DPP for 2017-2022 on January 29, 2015, with a comment period that closed on March 30, 2015.[54] BOEM received more than 1 million comments on the DPP.

  When the DPP is published, BOEM also issues a notice of intent (NOI) to publish a programmatic environmental impact statement (PEIS) for the proposed lease areas and seeks public input (through a scoping process) on the issues that should be analyzed in the PEIS. The NOI for the 2017-2022 program was published on January 29, 2015, along with the DPP.[55]
- **Step 3. Proposed Program/Draft PEIS.** After further analyzing the lease sale areas proposed in the DPP according to the required factors in Section 18 of the OCSLA, and taking into account the public comments received on the DPP, BOEM publishes a proposed program (PP) for the five-year period. This second version of the program refines the proposed locations and timing for OCS oil and gas lease sales. BOEM submits the PP to Congress, state governors, and relevant federal agencies and also solicits public comment on the program. BOEM published the PP for 2017-2022 on March 15, 2016, with a comment period that closed on June 16, 2016.[56]

[52] BOEM, "Request for Information and Comments on the 2017-2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Program," 79 *Federal Register* 34349, June 16, 2014. A summary of the comments BOEM received is available in the 2017-2022 DPP, Appendix A.

[53] A decision document is one on which the Secretary of the Interior must issue a decision.

[54] BOEM, 2017-2022 DPP, at http://www.boem.gov/2017-2022-DPP/. Also see BOEM, "Notice of Availability (NOA) of and Request for Comments on the Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program from 2017-2022 (DPP)," 80 *Federal Register* 4941, January 29, 2015.

[55] BOEM, "Outer Continental Shelf (OCS), 2017-2022 Oil and Gas Leasing Program," 80 *Federal Register* 4939. Public scoping meetings were announced for Alaska, Virginia, Maryland, North Carolina, South Carolina, Florida, Texas, Louisiana, Alabama, and Washington, DC. Additional public scoping meetings were later planned for New Jersey and Georgia (BOEM, "Outer Continental Shelf (OCS), 2017-2022 Oil and Gas Leasing Program," 80 *Federal Register* 12204, March 6, 2015).

[56] 2017-2022 PP, at http://www.boem.gov/2017-2022-Proposed-Program-Decision/.

The PP is accompanied by a draft PEIS analyzing the OCS areas that were identified for leasing at the DPP stage. The comment period for the 2017-2022 draft PEIS closed on May 2, 2016.[57]

- **Step 4. Proposed Final Program/Final PEIS.** The final document published by BOEM is the PFP, which is based on additional analysis of the factors in Section 18 of the OCSLA, along with analysis of the public comments received on the PP. The PFP is announced in the *Federal Register* and submitted to the President and Congress for a period of at least 60 days. Although Congress does not have an approval role for the PFP, the 60-day review period could allow for legislation to be introduced that would influence the outcome of the program. BOEM published the PFP for 2017-2022 on November 18, 2016.[58]

  Along with the PFP, BOEM publishes a final PEIS that concludes the analysis of the areas proposed for leasing. The final PEIS is submitted to the President and Congress along with the PFP. BOEM released the final PEIS for the 2017-2022 program on November 18, 2016.[59]

- **Step 5. Approval of PFP by Secretary of the Interior.** At least 60 days after BOEM submits the PFP to the President and Congress, the Secretary of the Interior may approve the PFP, which then becomes final. The Secretary publishes a record of decision for the final program.

Five-Year Programs Submitted in Earlier Years[60]

Since 1980, eight distinct five-year programs and a revised version of one program have been submitted to Congress. Following the 60-day review period required by the OCSLA, each of these five-year programs has taken effect as an approved program. This section briefly discusses the previous submissions, dating back to 1980, as shown in **Table 1**.

[57] BOEM, "Outer Continental Shelf Oil and Gas Leasing Program, 2017-2022: Draft Programmatic Environmental Impact Statement," March 2016, at http://boemoceaninfo.com/u/dpeis/dpeis_volume_I.pdf, hereinafter referred to as 2017-2022 Draft PEIS. BOEM published a notice of availability of the PEIS in the *Federal Register* (BOEM, "Draft Programmatic Environmental Impact Statement for the Outer Continental Shelf (OCS) Oil and Gas Leasing Program: 2017-2022," 81 *Federal Register* 14885, March 18, 2016, at http://www.boem.gov/81-FR-14885/).

[58] 2017-2022 PFP, at https://www.boem.gov/2017-2022-OCS-Oil-and-Gas-Leasing-PFP/. Also see BOEM, "Notice of Availability of the 2017-2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program," 81 *Federal Register* 84612, November 23, 2016, at https://www.gpo.gov/fdsys/pkg/FR-2016-11-23/pdf/2016-28296.pdf.

[59] BOEM, "Outer Continental Shelf Oil and Gas Leasing Program, 2017-2022: Final Programmatic Environmental Impact Statement," March 2016, at http://boemoceaninfo.com/fpeis/.

[60] This section prepared by Laura Comay, Analyst in Natural Resources Policy, and (name redacted), Specialist in Energy Policy.

Table 1. OCSLA Five-Year Programs Submitted to Congress Since 1980

Years	Administration Submitting Plan	Congress	Number of Sales Listed in Submission	Number of Sales Held	Approximate Acres Leased (in millions)[a]
2012-2017	Obama	112th	15	11 (through November 2016)[b]	6.6 (through November 2016)[b]
2007-2012[c]	Obama / G. W. Bush[c]	111th / 110th[c]	16 / 21[c]	11	21.7
2002-2007	G. W. Bush	107th	20	15	20.5
1997-2002	Clinton	105th	16	12	22.9
1992-1997	G. H. W. Bush	102nd	18	12	22.6
1987-1992	Reagan	100th	42	17	24.7
1982-1987	Reagan	97th	41	23	21.0
1980-1982[d]	Carter	96th	36	12	4.1

Source: CRS.

a. Acreage leased is shown in BOEM, OCS Lease Sale Statistics, "All Lease Offerings," at http://www.boem.gov/OCS-Lease-Sale-Statistics-All-Lease-Offerings/.

b. BOEM, OCS Lease Sale Statistics, "All Lease Offerings," at http://www.boem.gov/OCS-Lease-Sale-Statistics-All-Lease-Offerings/. Data for Lease Sale 241, conducted on March 23, 2016, are from BOEM, "Central Gulf of Mexico Lease Sale 241 Statistics," at http://www.boem.gov/Central-Gulf-of-Mexico-Lease-Sale-241-Statistics/. Data for Lease Sale 248, conducted on August 24, 2016, are from BOEM, "Western Gulf of Mexico Lease Sale 248 Statistics," at https://www.boem.gov/Western-Gulf-of-Mexico-Lease-Sale-248-Statistics/. The data for these two sales reflect acres bid on rather than acres leased.

c. The George W. Bush Administration developed the original program for 2007-2012 and submitted it to the 110th Congress with a lease schedule containing 21 sales. Following a court order in 2009, DOI revised the program under the Obama Administration and resubmitted it to the 111th Congress with a revised lease schedule containing 16 sales.

d. This program was originally referred to as the Comprehensive Program 1980-1985, but the covered years were changed to 1980-1982 due mainly to judicial activity. *California v. Watt*, 688 F.2d 1290 (D.C. Cir. 1981).

The five-year programs have reflected the offshore oil and gas leasing policies of different presidential administrations, along with input from states, Members of Congress, and other stakeholders.

- **2012-2017 Program.** The Obama Administration submitted the 2012-2017 five-year program to Congress under the direction of former Secretary of the Interior Ken Salazar.[61] The program reflected Obama Administration policies on offshore energy development in the aftermath of the *Deepwater Horizon* oil spill and subsequent management reforms.[62] The submission consisted of 15 proposed lease sales from August 2012 through August 2017, including 12 sales in the Gulf

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[61] BOEM, *Proposed Final Outer Continental Shelf Oil & Gas Leasing Program 2012-2017*, June 2012, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/2012-2017_Five_Year_Program/PFP%2012-17.pdf.

[62] The *Deepwater Horizon* events resulted in 11 worker fatalities, a massive oil release, and a national response effort in the Gulf of Mexico led by the federal government. Based on estimates from the U.S. Geological Survey, the oil spill was the largest in U.S. waters. For more information on the spill, including response activities and DOI safety reforms, see CRS Report R42942, *Deepwater Horizon Oil Spill: Recent Activities and Ongoing Developments*, by (name redact ed) .

of Mexico and 3 sales in the Alaska region. Two of the three Alaska sales were later canceled.[63] As of late November 2016, 11 lease sales had been held.[64]

- **2007-2012 Program.**[65] The George W. Bush Administration prepared and submitted the 2007-2012 five-year program to Congress under the direction of former Secretary of the Interior Dirk Kempthorne. This submission reflected the Bush Administration's policies on domestic energy production and environmental protection. The program went into effect in July 2007 with a schedule of 21 sales. DOI subsequently revised the schedule in accordance with a 2009 court order.[66] The Obama Administration resubmitted the program to Congress in 2010, replacing the original lease sale schedule with a schedule consisting of 16 sales, and approved the leasing program after the 60-day review period.[67] Eleven of the 16 sales were held. This five-year program expired in June 2012.
- **2002-2007 Program.** The 2002-2007 OCS oil and gas leasing plan was submitted to Congress in 2002 under former Secretary of the Interior Gale Norton.[68] This submission was consistent with the George W. Bush Administration's policies on energy production. The proposal consisted of a schedule of 20 lease sales, 15 of which were held before the program expired in June 2007.
- **1997-2002 Program.** The five-year program for the 1997-2002 period was submitted to Congress in 1996 under former Secretary of the Interior Bruce Babbitt.[69] The submission was consistent with national energy policies established during the Clinton Administration. The submission listed 16 sales, 12 of which were held before the program expired in June 2002.
- **1992-1997 Program.** The five-year program for the 1992-1997 period was presented to Congress in 1992 under former Secretary of the Interior Manuel Lujan.[70] Planning was consistent with George H. W. Bush Administration

[63] DOI, "Interior Department Cancels Arctic Offshore Lease Sales," press release, October 6, 2015, at https://www.doi.gov/pressreleases/interior-department-cancels-arctic-offshore-lease-sales.

[64] Most recently, Lease Sale 248, in the Western Gulf of Mexico, was conducted on August 24, 2016. High bids for the sale totaled $18 million. BOEM, "Western Planning Area Lease Sale 248 Information," at https://www.boem.gov/Western-Gulf-of-Mexico-Lease-Sale-248-Statistics/.

[65] During the 2007-2012 time frame, the George W. Bush Administration initiated an effort, beginning in August 2008, to modify the then-current five-year leasing program. The Administration published a DPP for 2010-2015 based on President Bush's lifting of the oil and gas leasing moratoria on areas in the Atlantic and Pacific planning areas. The 2010-2015 leasing program would have held 31 lease sales, including two in the Eastern Gulf of Mexico that would have required Congress to lift existing leasing restrictions under the Gulf of Mexico Energy Security Act of 2006 (P.L. 109-432). The DPP was published on January 21, 2009, but the time period was shifted by the Obama Administration from 2010-2015 to 2012-2017, and the 2012-2017 final program contained only 15 lease sales, as discussed above.

[66] Center for Biological Diversity, et al. v. Department of the Interior, 563 F.3d 466 (D.C. Cir. 2009).

[67] BOEMRE, *Revised Program, Outer Continental Shelf Oil and Gas Leasing Program, 2007-2012*, December 2010, at http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/RP-pdf.aspx. See also DOI history of related litigation, available at http://www.boem.gov/5-year/2007-2012FiveYearProgram.htm.

[68] Minerals Management Service, *Proposed Final Outer Continental Shelf Oil & Gas Leasing Program 2002-2007*, April 2002, at http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Five-Year-Program/Proposed-Final-Program-pdf.aspx.

[69] Minerals Management Service, *Proposed Final Outer Continental Shelf Oil & Gas Leasing Program 1997 to 2002*, August 1996, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2097-02.pdf. 59 *Federal Register* 59328 (November 16, 1996).

[70] Minerals Management Service, *Proposed Final Comprehensive Outer Continental Shelf Natural Gas and Oil*
(continued...)

policies on energy production. A schedule of 18 sales was submitted. Twelve sales were held before the program expired in June 1997.

- **1987-1992 Program.** This five-year program was presented to Congress in 1987 under former Secretary of the Interior Donald Hodel.[71] The program reflected Reagan Administration policies. The approved lease sale schedule contained 42 sales, 17 of which were held before the program expired in June 1992.
- **1982-1987 Program.** This submission was presented to Congress in 1982 under former Secretary of the Interior James Watt.[72] It was consistent with the Reagan Administration's national energy policies. The plan consisted of 41 sales, 23 of which were held before the program expired in June 1987.
- **1980-1982 Program.** The original Section 18 submission for domestic oil and gas leasing was envisioned during the passage of the 1978 Amendments to the OCSLA and was prepared starting in October 1978.[73] Consistent with President Carter's "Energy Message" of April 5, 1979, the program was presented to Congress in April 1980 under the direction of former Secretary of the Interior Cecil D. Andrus.[74] The proposal took effect as an approved plan in June 1980. Under this plan, DOI proposed 36 sales, 12 of which were held. This program was succeeded by the 1982-1987 program.
- **Lease Sales Held Prior to 1980.** The domestic program for oil and gas leasing prior to 1980 encompassed almost 30 years of federal government lease sales conveying more than 3,000 tracts from October 1954 through September 1980.

Five-Year Program for 2017-2022

In November 2016, BOEM released the third and final version of its offshore oil and gas leasing program for 2017-2022—the proposed final program (PFP).[75] The PFP proposes 11 lease sales in particular *regions* and *planning areas* of the OCS. BOEM identifies four OCS regions, comprising a total of 26 planning areas (see **Figure 2** and **Figure 3**). The four regions are the Gulf of Mexico region, the Alaska region, the Atlantic region, and the Pacific region. The 2017-2022 PFP schedules lease sales in two of these regions (Gulf of Mexico and Alaska). The sections below discuss BOEM's decisions for each region—and the market conditions, resource estimates, and other factors affecting the proposals—in greater detail.

(...continued)

Resource Management: Program, 1992-1997, April 1992, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2092-97.pdf. 57 *Federal Register* 19308 (May 5, 1992).

[71] Minerals Management Service, *Outer Continental Shelf Oil & Gas: 5-Year Leasing Program, Mid-1987 to Mid-1992*, April 1987, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2087-92.pdf. 50 *Federal Register* 11585-11595 (March 22, 1985).

[72] DOI, *Tentative Proposed Final 5-Year OCS Leasing Program (1982-1987)*, March 1982, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2082-87.pdf.

[73] This program was originally referred to as the Comprehensive Program 1980-1985. It was later renamed the Comprehensive Program 1980-1982. *California v. Watt*, 688 F.2d 1290 (D.C. Cir. 1981).

[74] See DOI, *5-Year OCS Program*, at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2080-82.pdf.

[75] 2017-2022 PFP, available at https://www.boem.gov/2017-2022-OCS-Oil-and-Gas-Leasing-PFP/. See the section of this report titled "Five-Year Program Development Process" for more information on the publication process.

Figure 2. BOEM's OCS Regions and Planning Areas, Lower 48 States

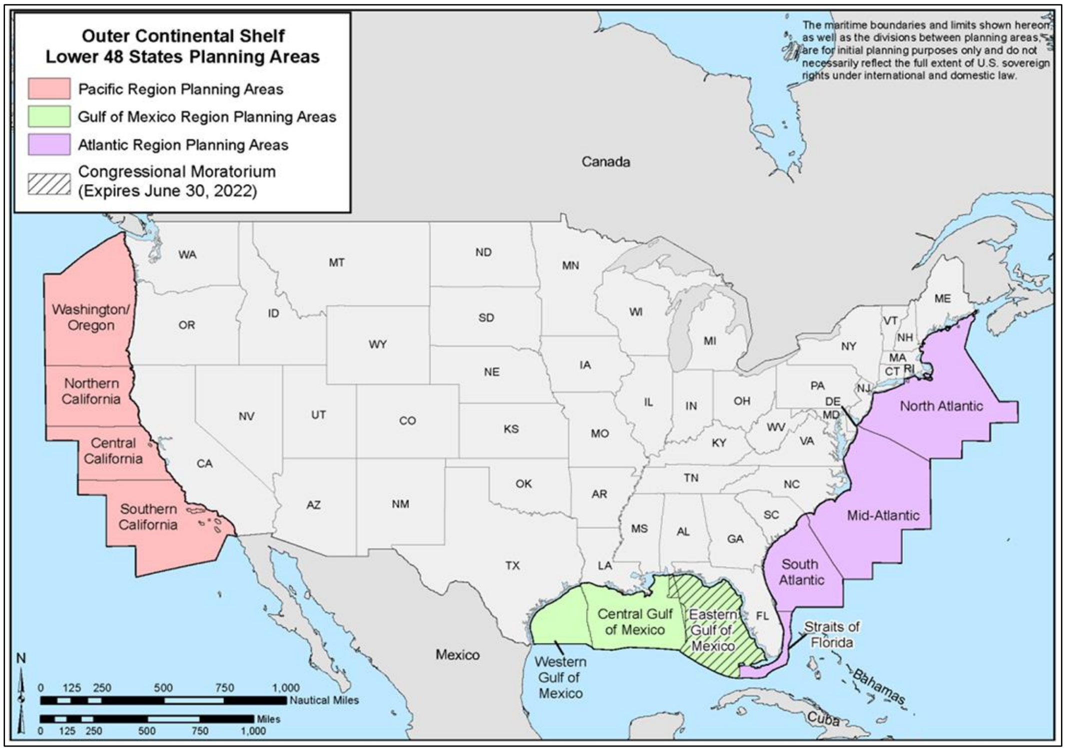
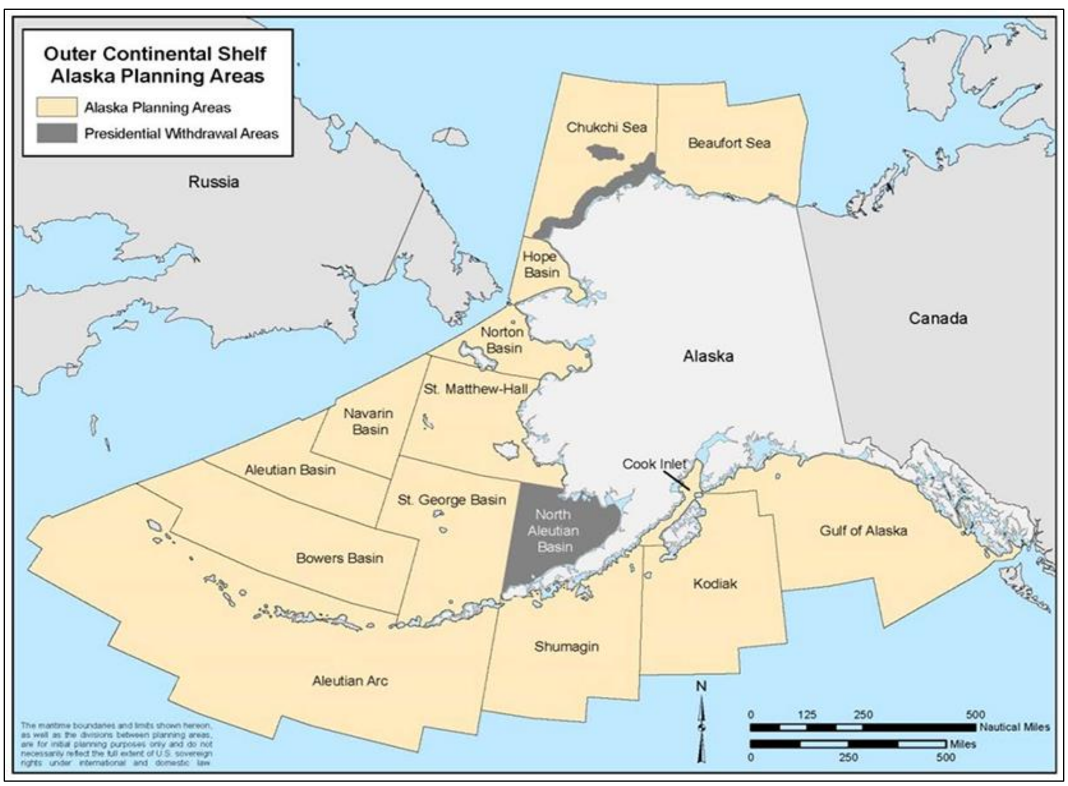


Figure 3. BOEM's OCS Alaska Region and Planning Areas



Source: Both figures are from BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Program*, March 2016, p. 1-2, at http://www.boem.gov/2017-2022-Proposed-Program-Decision/.

Market Conditions Affecting the 2017-2022 Program[76]

U.S. offshore crude oil production accounted for 16% of U.S. total production in FY2015,[77] a decline from FY2010, when offshore production represented 31% of U.S. total crude oil production.[78] Offshore production volumes declined by about 12% during this period, whereas U.S. total crude production soared to near-record levels of 9.4 million barrels per day (mbd), an increase of about 73% over FY2010 levels.[79]

Offshore natural gas accounted for 4% of U.S. total production in FY2015, also a decline from FY2010, when it represented 9.5% of the total.[80] Offshore natural gas production volumes fell by nearly 50% between FY2010 and FY2015.[81] During the same period, U.S. total annual natural gas production rose by more than 30%, from 21.3 trillion cubic feet (Tcf) to 28.7 Tcf.[82]

The surge in total U.S. crude oil and natural gas production is the result of increased production of shale gas and shale oil in several unconventional onshore formations throughout the United States (e.g., Marcellus, Bakken, Permian Basin, and Eagle Ford). The increased U.S. oil production has helped to reduce imports, primarily from members of the Organization of Petroleum Exporting Countries (OPEC). The onshore shale oil plays have lower production costs than the deepwater plays that are currently being explored and developed offshore.

As of November 1, 2016, there were 917 producing offshore oil and natural gas leases on 4.5 million acres of the OCS, out of a total of 3,431 active leases on 18.3 million offshore acres. Approximately 86% of the producing leases and 79% of the active leases were located in the Central Gulf of Mexico.[83] In a low oil and natural gas price environment, the demand for the acquisition of new offshore leases is likely to be soft, which could impact future production levels. Overall, the Energy Information Administration (EIA) anticipates lower domestic investment in oil and gas projects over the 2015-2020 period.[84] Estimates by the Office of Natural Resources Revenue (ONRR) of bonus bid revenues from offshore leasing in the next five fiscal years are much lower than for previous five-year periods. For example, in ONRR's FY2015 budget request, offshore bonus bid revenues were estimated at around $1 billion annually for FY2015-FY2019.[85] In the most recent FY2017 budget request, estimated bonus bid revenues

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[76] This section prepared by (name redacted), Specialist in Energy Policy.

[77] BOEM, *Budget Justifications and Performance Information, Fiscal Year 2017*, p. 14, at http://www.boem.gov/BOEM-FY-2017-Budget-Justification/, hereinafter referred to as BOEM FY2017 Budget Justification.

[78] CRS calculations from data at DOI's Office of Natural Resources Revenue (ONRR), *Production Data*, at http://www.onrr.gov/About/production-data.htm; and Energy Information Administration (EIA), *Monthly Energy Review*, February 2011, p. 37, at https://www.eia.gov/totalenergy/data/monthly/archive/00351102.pdf.

[79] EIA, *Monthly Energy Review*, February 2016, p. 49, at https://www.eia.gov/totalenergy/data/monthly/archive/00351602.pdf; and EIA, *Monthly Energy Review*, February 2011, p. 37, at https://www.eia.gov/totalenergy/data/monthly/archive/00351102.pdf.

[80] BOEM FY2017 Budget Justification, p. 14; and CRS calculations from ONRR, *Production Data*, at http://www.onrr.gov/About/production-data.htm, and EIA, *Monthly Energy Review*, February 2011, p. 69, at https://www.eia.gov/totalenergy/data/monthly/archive/00351102.pdf.

[81] ONRR, "Production Data," at http://www.onrr.gov/About/production-data.htm.

[82] EIA, *Monthly Energy Review*, February 2016, p. 83, at https://www.eia.gov/totalenergy/data/monthly/archive/00351602.pdf.

[83] BOEM, "Combined Leasing Report," November 1, 2016, at http://www.boem.gov/Combined-Leasing-Report-November-2016/.

[84] EIA, *Today in Energy*, September 24, 2015, at http://www.eia.gov/todayinenergy/detail.cfm?id=23072.

[85] DOI, Office of the Secretary and Department-Wide Programs, *Budget Justifications and Performance Information, Fiscal Year 2015*, Office of Natural Resources Revenue, "Mineral Leasing Receipts," p. 188, at https://www.doi.gov/
(continued...)

were closer to $500 million annually for FY2017-FY2021.[86] The Office of Management and Budget's crude oil price estimates fell from $80-$90 per barrel in the FY2015 budget request to $50-$60 per barrel in the FY2017 budget request. The longer low oil prices persist, the more impact the decline will have on new investment.

Nonetheless, crude oil production on federal lands, particularly offshore, likely will continue to make a significant contribution to the U.S energy supply picture. The EIA anticipates that offshore crude oil production in the Gulf of Mexico will reach record levels of 1.91 mbd in 2017, because of the potential for new deepwater oil projects to come online.[87] BOEM stated in the 2017-2022 PP that "energy diversification, including continued oil and natural gas production in the GOM [Gulf of Mexico], the primary OCS region currently available for energy production and development activities, remains vital ... and new production from other OCS regions can also contribute to meeting the country's energy needs."[88]

Offshore Resource Estimates for the 2017-2022 Program[89]

Oil and gas exploration and production proceed in stages, during which increased data provide growing certainty about the volume of resources present. Prior to discovery by drilling wells, estimated volumes of oil and gas are termed *undiscovered resources*. When oil or gas is discovered, the volumes of that oil and gas are measured within pools or fields via well penetration or other technology, and are called *reserves*. Measured reserves are reported to the Securities and Exchange Commission by the owners of the wells.[90] Reserves have been reported for U.S. OCS areas that have been developed, such as the Central and Western Gulf of Mexico and some parts of the California coast, but no reserves of oil or gas have been reported along the Atlantic OCS, because there have been no discoveries. Only modest oil reserves have been reported on the Alaska OCS. Altogether, BOEM estimates that the U.S. OCS has 4.3 billion barrels of proven oil reserves and 16 Tcf of dry gas, nearly all of which are located in the Central and Western Gulf of Mexico.[91]

According to BOEM, the U.S. OCS contains estimated *undiscovered technically recoverable resources* (UTRR) of 89.9 billion barrels of oil (Bbo) and 327.5 Tcf of natural gas (see **Table 2**).[92] The Gulf of Mexico contains about 54% of the UTRR for oil and an estimated 43% of the natural gas, with the vast majority of the resources in the Central Gulf of Mexico. About 90% of Alaska's UTRR estimates for oil and 80% for natural gas are contained in the Chukchi and Beaufort Seas.

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sites/doi.gov/files/migrated/budget/appropriations/2015/upload/FY2015_OS_Grennbook.pdf.

[86] Ibid., p. 184.

[87] EIA, *Today in Energy*, February 18, 2016, at http://www.eia.gov/todayinenergy/detail.cfm?id=25012.

[88] 2017-2022 PP, p. 1-4.

[89] This section prepared by (name redacted), Specialist in Energy Policy.

[90] For a full glossary and explanation of oil and gas reporting terms, see Securities and Exchange Commission, "Modernization of the Oil and Gas Reporting Requirements," 17 C.F.R. Parts 210, 229, and 249 (Release Nos. 33-8935; 34-58030; File No. S7-15-08), RIN 3235-AK00.

[91] BOEM, Estimated Oil and Gas Reserves, Gulf of Mexico, Pacific OCS Regions, as of December 2014.

[92] 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/. BOEM defines undiscovered technically recoverable resources (UTRR) 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." By contrast, *undiscovered economically recoverable resources* (UERR) are defined as "the portion of the undiscovered technically recoverable resources that is economically recoverable under imposed economic and technologic conditions." Estimations of UERR will differ under different economic scenarios.

In preparing its five-year programs under the OCSLA, BOEM must consider the resource potential of individual OCS regions and planning areas along with other factors, such as potential environmental and socioeconomic impacts of oil and gas leasing.

Table 2. Oil and Gas Resource Estimates for the U.S. OCS, 2016

(undiscovered technically recoverable resources)

OCS Region	Oil (Bbo)	Natural Gas (Tcf)
Alaska	26.61	131.45
Atlantic	4.59	38.17
Gulf of Mexico	48.46	141.76
Pacific	10.20	16.10
Total	**89.87**	**327.49**

Source: 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/. For a discussion of undiscovered technically recoverable resources, see footnote 92.

Note: OCS = outer continental shelf; Bbo = billion barrels of oil; Tcf = trillion cubic feet.

Moratoria and Withdrawals Affecting the 2017-2022 Program[93]

Some portions of the U.S. OCS are not available for leasing consideration in the 2017-2022 five-year program because the President has withdrawn them from consideration, Congress has placed a moratorium on leasing in the areas, or the areas have a protected status that does not allow for oil and gas leasing. These unavailable areas, which BOEM did not consider for the program, include the following.

- **Areas in the Eastern and Central Gulf of Mexico.** The Gulf of Mexico Energy Security Act of 2006 (GOMESA) placed a moratorium on oil and gas leasing in almost all of the Gulf's Eastern planning area and a small portion of its Central planning area through 2022.[94]
- **Alaska Withdrawal Areas.** President Obama has withdrawn from disposition for leasing several ocean areas in the Alaska region: the North Aleutian Basin planning area, the Hanna Shoal portion of the Chukchi Sea planning area, and the Barrow and Kaktovik whaling areas in the Beaufort Sea.[95]
- **National Marine Sanctuaries and Marine Monuments.** National marine sanctuaries designated by the Secretary of Commerce, as well as national marine monuments established by U.S. Presidents, are withdrawn from future oil and gas

[93] This section prepared by Laura Comay, Specialist in Natural Resources Policy.

[94] 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.

[95] See Presidential Memorandum, "Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," December 16, 2014, at http://www.whitehouse.gov/the-press-office/2014/12/16/presidential-memorandum-withdrawal-certain-areas-united-states-outer-con; and Presidential Memorandum, "Withdrawal of Certain Areas of the United States Outer Continental Shelf Offshore Alaska from Leasing Disposition," January 27, 2015, at http://www.whitehouse.gov/the-press-office/2015/01/27/presidential-memorandum-withdrawal-certain-areas-united-states-outer-con.

leasing activities.[96] Such protected areas have been designated in parts of the Atlantic Ocean, the Pacific Ocean, and the Gulf of Mexico.

Proposed Leasing Schedule by Region

BOEM's "tailored leasing strategy" separately considers each of the four U.S. ocean regions with respect to the criteria for leasing set out in Section 18 of the OCSLA (see "Legal Framework," above). For each region, BOEM weighs factors including the oil and gas resource potential of the region, existing infrastructure, other ocean uses, environmental issues, and state and local interests and concerns about offshore oil and gas development, among others.

On the basis of its regional analyses, BOEM's proposal in the PFP is for a total of 11 lease sales, all of which would take place in either the Gulf of Mexico region or the Alaska region. No lease sales are scheduled for the other two regions of the U.S. OCS, the Atlantic region and the Pacific region. An Atlantic lease sale and two Alaska lease sales proposed in earlier versions of the program were not ultimately included in the PFP. **Table 3** shows the oil and gas lease sales scheduled in the PFP. BOEM stated that, altogether, the PFP would make available for leasing almost half of the undiscovered technically recoverable oil and gas resources on the U.S. OCS.[97]

Table 3. BOEM's Lease Sale Schedule in the 2017-2022 Proposed Final Program (PFP)

	Year	Program Area	Sale Number[a]
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: 2017-2022 PFP, p. S-3.

[96] For more information, see CRS Report RL32154, *Marine Protected Areas: An Overview*, by (name redacted). For a list and map of the National Oceanic and Atmospheric Administration's (NOAA's) national marine sanctuaries, see http://sanctuaries.noaa.gov/. For a list of presidentially proclaimed national monuments, including national marine monuments, see https://www.nps.gov/archeology/sites/antiquities/MonumentsList.htm.

[97] 2017-2022 PFP, p. S-2. BOEM bases the analysis on its *Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2016*, at http://www.boem.gov/National-Assessment-2016/ . Although these resources are estimated to be *technically* recoverable, not all of them may be *economically* viable to recover. See footnote 92. The PFP estimates a range of resources that would be economically recoverable under various oil and gas price points and cost conditions. BOEM states (p. S-2) that the PFP makes available approximately 70% of the OCS resources that are economically recoverable at an oil price of $40 per barrel.

a. Sales in a BOEM lease sale schedule may not be listed in numeric sequence for various reasons. For example, some sales may be carried over from previous plans, and sales proposed in previous versions of a plan may be removed.

Gulf of Mexico Region: Ten Lease Sales

The Gulf of Mexico is the most mature of the four BOEM regions, in that it contains "the most abundant proven and estimated oil and gas resources, broad industry interest, and well-developed infrastructure."[98] The region accounts for about 97% of all U.S. offshore and gas production.[99] Also, the Gulf states—including Louisiana, Texas, Mississippi, and Alabama—are supportive of offshore oil and gas activities. For all these reasons, the majority of the lease sales in the 2017-2022 program, as in previous programs, are scheduled in the Gulf region (10 of the 11 proposed sales in the PFP).[100]

The region includes three BOEM planning areas: the Western Gulf, the Central Gulf, and the Eastern Gulf (see **Figure 4**). Almost all of the Eastern Gulf and a small portion of the Central Gulf are closed to oil and gas leasing by the congressional moratorium imposed under GOMESA (see "Moratoria and Withdrawals Affecting the 2017-2022 Program," above). In earlier five-year programs, BOEM and its predecessor agencies scheduled separate sales in each of the three Gulf planning areas. For the 2017-2022 program, BOEM has replaced these area-specific sales with region-wide sales that offer all available lease blocks in the Gulf in each sale. BOEM stated that the change is intended "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."[101]

The PFP includes fewer lease sales in the Gulf—and fewer lease sales generally—than were contained in previous five-year programs (see **Table 1**). For example, the five-year program for 2012-2017 included 12 sales in the Gulf, and the revised program for 2007-2012 also contained 12 Gulf sales. Some Members of Congress expressed concerns about the lower number of lease sales during congressional hearings on the 2017-2022 program.[102] BOEM attributed the decrease to the consolidation of area-specific sales in the Gulf. With all available Gulf blocks offered at each sale, BOEM stated, each individual planning area is made available more times, even though the overall number of lease sales has decreased.[103]

[98] 2017-2022 PP, p. S3.

[99] BOEM, "Gulf of Mexico OCS Region," at http://www.boem.gov/Gulf-of-Mexico-Region/.

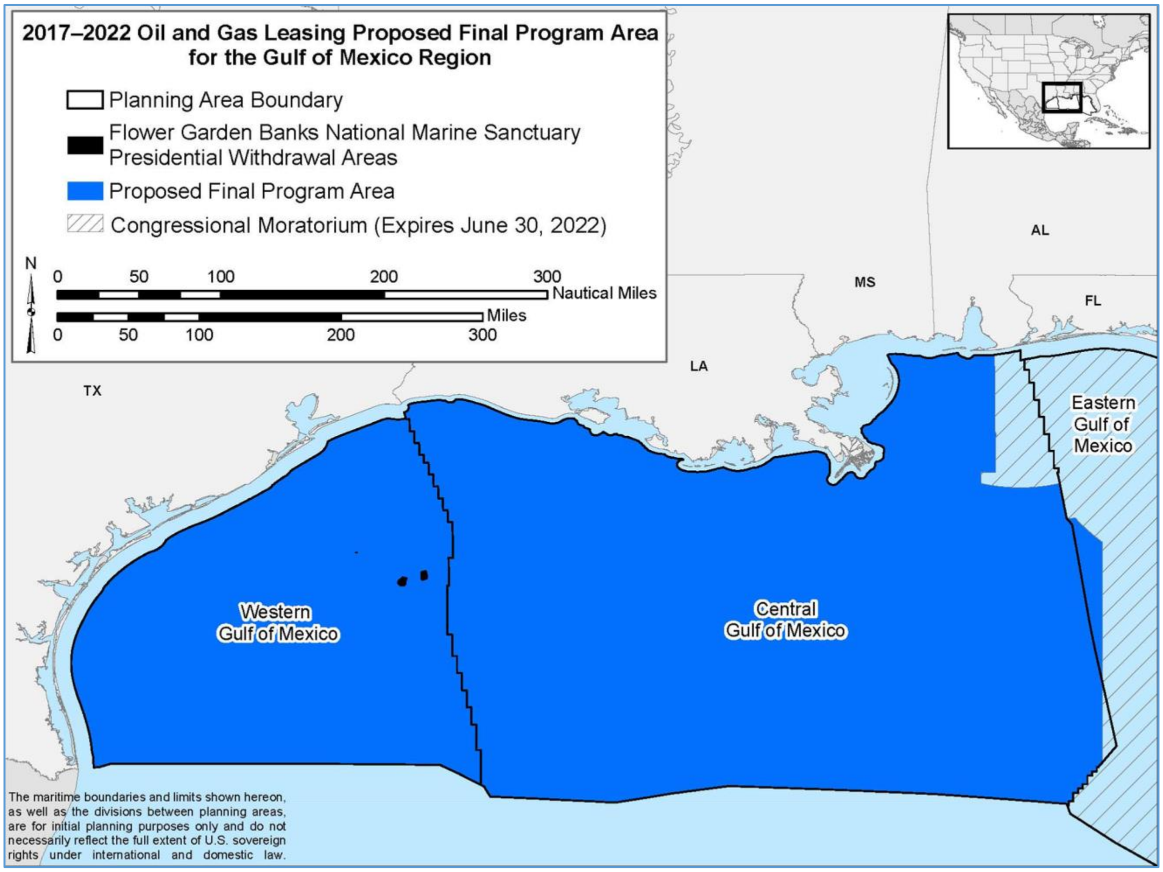
[100] Under the provisions of GOMESA, revenues from the federal offshore oil and gas lease sales in the Gulf are shared with the four Gulf producing states for coastal conservation, restoration, and hurricane protection. For more information, see CRS Report R43891, *Mineral Royalties on Federal Lands: Issues for Congress*, by (name redacted) ; and BOEM, "Gulf of Mexico Energy Security Act (GOMESA)," at http://www.boem.gov/Revenue-Sharing/.

[101] 2017-2022 PFP, p. S-5. BOEM stated that if circumstances warrant, it could scale back any individual lease sale to focus on a specific planning area, similar to the traditional sales.

[102] See, e.g., House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, hearing, "Examining the Future Impacts of President Obama's Offshore Energy Plan," April 15, 2015, at https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg94270/pdf/CHRG-114hhrg94270.pdf, hereinafter referred to as House Offshore Energy Plan hearing. Also see the hearing memo (available at http://naturalresources.house.gov/uploadedfiles/hrgmemoemr4_15.pdf), which stated: "The draft plan we examine this week has the lowest number of lease sales in the history of the planning process and does very little to expand access to our nation's OCS resources."

[103] House Offshore Energy Plan hearing, p. 22.

Figure 4. BOEM's Final Program Area for Offshore Oil and Gas Leasing in the Gulf of Mexico



Source: BOEM, 2017-2022 PP, "Maps," at http://www.boem.gov/Gulf-of-Mexico-Region-Program-Area/.

Alaska Region: One Lease Sale

Interest in exploring for offshore oil and gas in the Alaska region of the U.S. OCS has grown as the region sees decreases in the areal extent of summer polar ice, allowing for a longer drilling season. Recent estimates of substantial undiscovered oil and gas resources in Arctic waters have also contributed to the increased interest.[104] 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, as well as some Members of Congress, seek to expand offshore oil and gas activities in the region. Other Members of Congress as well as some 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 oil and gas exploration in the Arctic, while also pursuing safety regulations that aim to minimize the potential

[104] For more information, see CRS Report R41153, *Changes in the Arctic: Background and Issues for Congress*, coordinated by (name redacted) , section on "Oil, Gas, and Mineral Exploration."

for oil spills.[105] In the current five-year program, for the period 2012-2017, BOEM included lease sales in three planning areas of the Alaska region: the Beaufort Sea, the Chukchi Sea, and Cook Inlet. However, in October 2015 BOEM canceled its scheduled Chukchi and Beaufort Sea lease sales for 2016 and 2017, citing difficult market conditions and low industry interest.[106]

BOEM's earlier program drafts for 2017-2022 also included three Alaska lease sales—again, one each in the Beaufort Sea, Chukchi Sea, and Cook Inlet planning areas. 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 sales in the Beaufort and Chukchi planning areas, 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."[107]

BOEM noted in particular evidence of a declining industry interest in the Arctic OCS, in the face of low oil prices and Shell Oil Company's disappointing exploratory drilling effort in the Chukchi Sea in 2015.[108] The agency stated 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 they had acquired in previous years rather than incurring the costs of continued investment.[109] BOEM observed that, based on the U.S. energy outlook for future years, industry interest in the Beaufort and Chukchi Seas may likely to be stronger in years following the 2017-2022 period.[110] Additionally, BOEM concluded that, because of the current overall strength of the domestic energy supply, the two Arctic lease sales were not immediately needed to satisfy U.S. energy needs.[111]

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

[106] 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.

[107] 2017-2022 PFP, p. S-3.

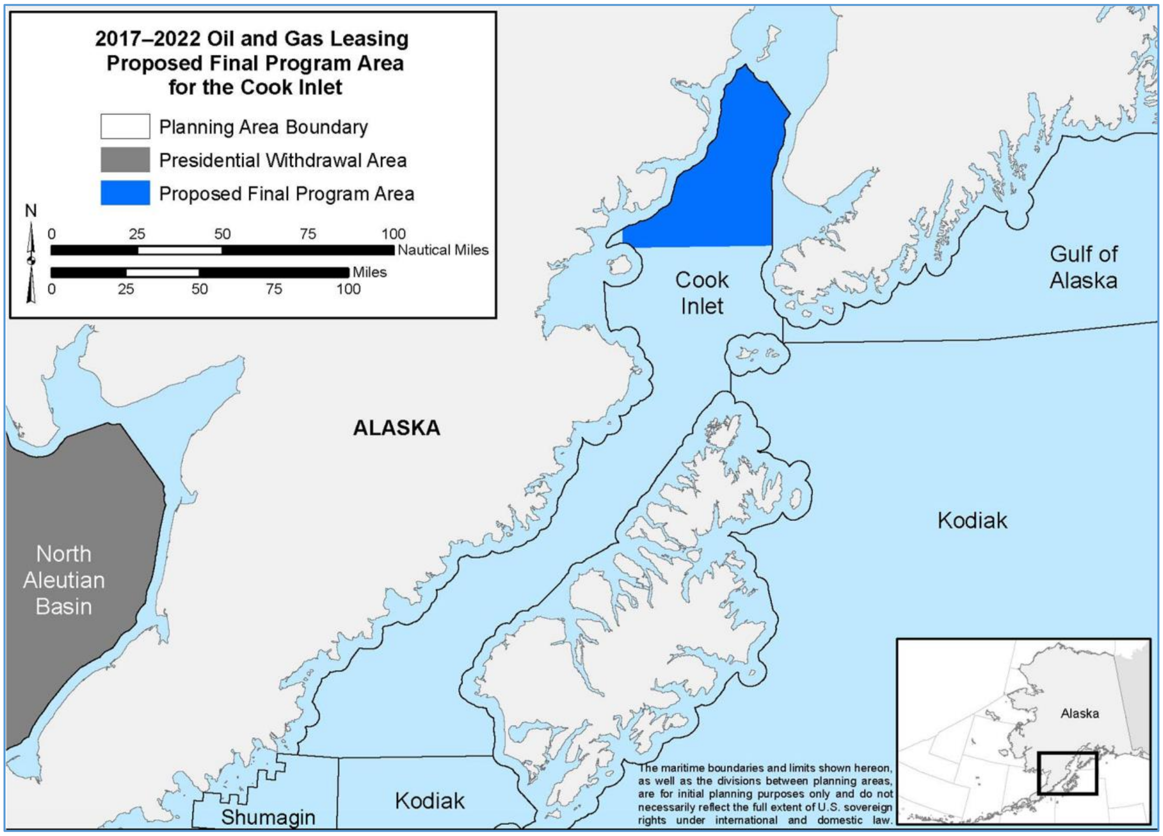
[108] 2017-2022 PFP, p. S-7. Shell began exploratory drilling in summer 2015 but announced in late September 2015 that it would cease further exploration activity in offshore Alaska for the foreseeable future. Shell cited several reasons for the decision to halt its activity in the region, including 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.

[109] 2017-2022 PFP, p. S-7. Some have asserted that tepid industry interest in the region is due in part to an overly demanding federal regulatory environment rather than just to market conditions. 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-.... -4D49-AAAF-85FDB44C458F.

[110] 2017-2022 PFP, p. S-8.

[111] 2017-2022 PFP, p. S-7. BOEM estimated that "without the Arctic OCS lease sales, cumulative U.S. oil and gas production will be less than one percent lower over the 70-year life of projected activity and only four percent lower during the 2017-2022 Program's years of peak production."

Figure 5. BOEM's Final Program Area for Offshore Oil and Gas Leasing in Alaska



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

Atlantic Region: No Lease Sales

The PFP for 2017-2022 excludes a lease sale in the Atlantic region that had been proposed in the DPP version of the program. 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.[112] These changes meant that lease sales could now potentially be conducted for the Atlantic. However, no Atlantic lease sale has taken place in the intervening years.[113]

[112] 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*, vol. 44 (July 14, 2008).

[113] 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.

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

In addition to offshore oil and gas leasing, a separate issue for the Atlantic region is estimating the extent and location of its oil and gas resources. Earlier congressional and administrative moratoria on Atlantic leasing activities meant that geological and geophysical (G&G) surveys of the region's offshore resources could not be conducted over the past 30 years. Previous seismic surveys of the region's resources, dating from the 1970s, were accomplished with older technologies that are considered less precise than recent survey methods. In the past several years, BOEM has conducted environmental analysis for proposed new G&G surveys in the region, and it issued a record of decision (ROD) in July 2014 to allow the surveys to go forward. BOEM included in its record of decision measures to mitigate the impacts of G&G activities on marine life, such as time-area closures to protect the North Atlantic right whale and nesting sea turtles off of Florida. Some environmental advocacy groups, as well as some Members of Congress and other stakeholders, expressed opposition to the BOEM decision, arguing that the agency's analysis did not adequately account for the potential impacts of seismic surveys on marine mammals, among other issues.

Following the 2014 ROD, a number of companies applied for permits to conduct G&G surveys in the Atlantic region. These applications are still under review by federal agencies and coastal states. The G&G permitting process is taking 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 while others opposed letting G&G testing go forward. Witnesses differed in their evaluations of the potential harm to Atlantic marine mammals from seismic activities. Members of Congress have also introduced legislation addressing Atlantic G&G activities. Some bills (such as S. 1279) aim to facilitate G&G surveys, while others (such as S. 2841) would prohibit such activities either in certain areas or throughout the Atlantic.

Sources: BOEM, *Record of Decision: Atlantic OCS Proposed Geological and Geophysical Activities, Mid-Atlantic and South Atlantic Planning Areas, Final Programmatic Environmental Impact Statement*, at http://www.boem.gov/Record-of-Decision-Atlantic-G-G/; BOEM, "Atlantic G&G Permitting," at http://www.boem.gov/Atlantic-G-and-G-Permitting/; 2017-2022 PP, esp. pp. 3-5, 5-5 to 5-6, and 10-8; House Committee on Natural Resources, oversight hearing, "The Fundamental Role of Safe Seismic Surveying in OCS Energy Exploration and Development," July 14, 2015, at http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=398949; Rep. Mark Sanford, "Sanford Leads Effort to Halt Seismic Testing in the Atlantic," press release, December 10, 2015, at https://sanford.house.gov/media-center/press-releases/sanford-leads-effort-to-halt-seismic-testing-in-the-atlantic.

For both the DPP and PP versions of the 2017-2022 program, BOEM analyzed of a variety of factors for the Atlantic region under Section 18 of the OCSLA. These factors included the region's resource potential and infrastructure needs, ecological and safety concerns, competing uses of the areas—especially by the Department of Defense and the National Aeronautics and Space Administration (NASA)—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 (see **Figure 6**). 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, ... current market dynamics, ... [and] careful consideration of the comments received from Governors of affected states."[114] In particular, BOEM cited conflicts with existing uses, including ocean-dependent tourism, commercial and recreational fishing, commercial shipping and transportation, and Department of Defense and NASA uses.[115] BOEM observed that some of these activities coexist with oil and gas activities in the Gulf of Mexico, which has a long history of offshore mineral

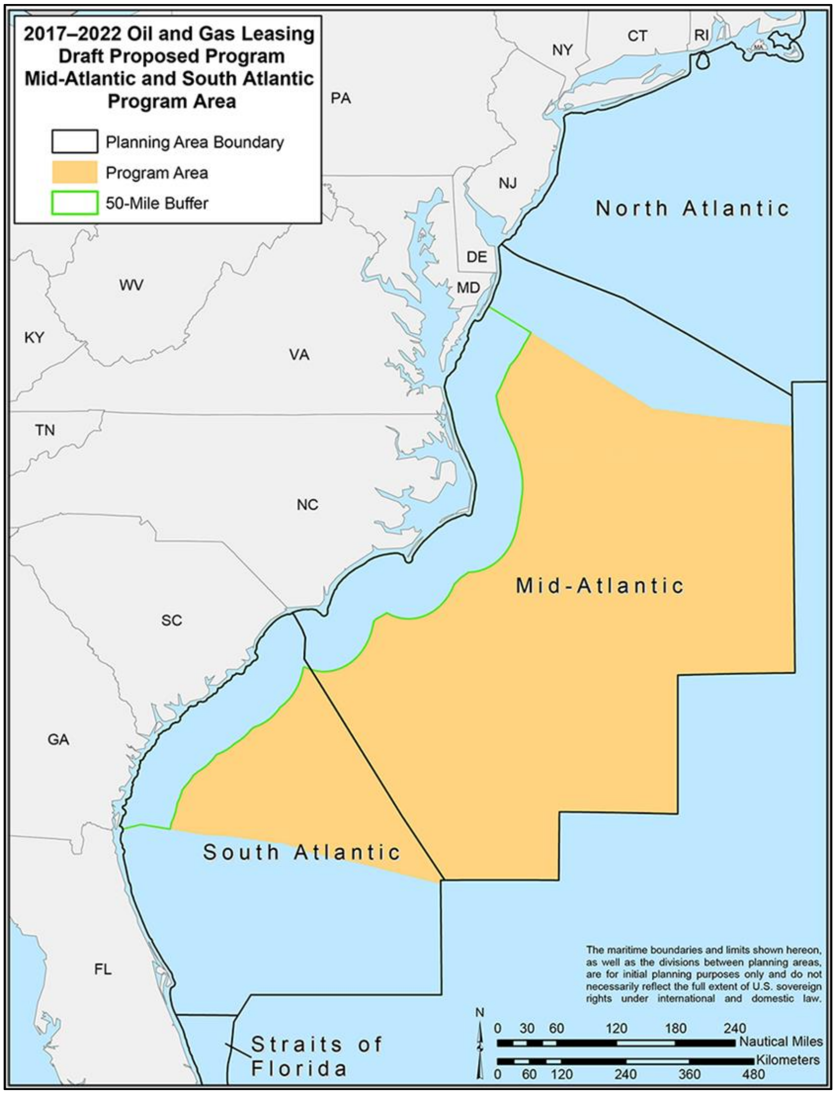
114 2017-2022 PP, p. S-2.

115 The Department of Defense (DOD) identified much of the area off of Virginia, as well as parts of the area off of North Carolina, as places where offshore oil and gas development would be incompatible with DOD activities. See 2017-2022 PP, p. S-9. 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 DOD activities as well as other ocean uses. However, on further analysis, BOEM assessed that the areas of DOD concern "significantly overlap the known geological plays and available resources" (2017-2022 PP, p. S-10). Additionally, NASA's concerns about potential conflicts with activities at its Wallops Island flight facility influenced BOEM's decision.

production. By contrast, BOEM stated, because the Atlantic has little such history, the prospect of drilling has raised many concerns among those who use the ocean for competing purposes.[116]

Figure 6. 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.

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. The agency observed that the increases over the past decade in onshore oil and gas production have made national energy needs less pressing. BOEM stated that "domestic oil and gas production will remain strong without the additional production from a potential lease sale in the Atlantic."[117]

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[116] 2017-2022 PP, p. S-9.

[117] 2017-2022 PP, 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 (continued...)

Pacific Region: No Lease Sales

Like other recent five-year programs, the 2017-2022 program schedules no lease sales for the Pacific region. No federal oil and gas lease sales have been held for the region 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.[118] Although these restrictions were lifted in FY2009, the governors of California, Oregon, and Washington continue to oppose offshore oil and gas leasing in the region.

Environmental Analysis for the 2017-2022 Program

Programmatic Environmental Impact Statement (PEIS). Along with BOEM's preparation of the five-year offshore oil and gas leasing program for 2017-2022, the agency prepared a PEIS for the program, as required under the National Environmental Policy Act (NEPA; 42 U.S.C. §§4321-4347). This document evaluates the potential environmental and socioeconomic impacts associated with the program and considers alternatives that may avoid or reduce impacts.

BOEM released its final PEIS for the 2017-2022 program on November 18, 2016. Although the PEIS process is separate from that of the five-year program, it informs the implementation of the leasing program. For example, when implementing the program, BOEM may apply exclusions or mitigation measures identified in the PEIS to avoid or reduce program impacts.

In addition to the environmental analysis contained in the PEIS, which is associated with publication of the five-year program, later steps in the offshore leasing and production process also require environmental evaluation under NEPA. For example, NEPA reviews are required at the pre-lease sale, exploration, and development and production stages. See **Figure 1** for more information.

Mitigation Strategy. The PFP also responds to the President's November 2015 memorandum on environmental mitigation strategies (*Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment*, November 3, 2015). Under this memorandum and other DOI policy guidance, BOEM is to apply a landscape-scale approach to mitigating environmental damage from agency actions. The approach is to follow a "mitigation hierarchy," starting with avoidance of impacts as the first preference, followed by minimization of impacts that are unavoidable, and then compensation to protect resources impacted by activities.

BOEM stated that the process prescribed by the OCSLA for developing the five-year program largely meets the criteria of the President's memorandum and related DOI policy guidance. The OCSLA requires a "landscape-level" approach to determine the areas most suitable for ocean energy development. In terms of the preferred strategies of avoidance and minimization, BOEM "eliminated numerous planning areas from potential leasing and minimized effects to certain areas through the Secretary's size, timing, and location decisions" (2017-2022 PFP, p. 1-14). Following program approval, BOEM stated, the agency will "integrate the mitigation hierarchy into the entire leasing process" to avoid, minimize, or compensate for impacts of the program (p. 1-14).

Sources: 2017-2022 PFP, pp. 1-13 to 1-15; BOEM, *Outer Continental Shelf Oil and Gas Leasing Program, 2017-2022: Final Programmatic Environmental Impact Statement*, March 2016, at http://boemoceaninfo.com/fpeis/; CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by (name redacted); Presidential Memorandum, *Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment*, November 3, 2015, at https://www.whitehouse.gov/the-press-office/2015/11/03/mitigating-impacts-natural-resources-development-and-encouraging-related.

(...continued)

Atlantic Program Area.

[118] Different portions of the Pacific region were subject to different restrictions during this period. The Washington/Oregon planning area and the Central California planning area were under annual congressional moratoria from FY1991 through FY2008, the Northern California planning area from FY1982 through FY2008, and much of the Southern California planning area from FY1985 through FY2008. Additionally, all these areas were under presidential withdrawal from 1990 to July 2008 (2017-2022 DPP, p. 3-6).

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, or they 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 the proposed program for 2017-2022. Congress also has a role under the OCSLA of reviewing each five-year program once it is finalized, but the OCSLA does not require that Congress directly approve the final program in order for it to be implemented.

Public Comment

Members of Congress, along with other stakeholders such as state governors, interested agencies and organizations, and members of the public, may submit comments on draft versions of five-year programs. For the 2017-2022 program, BOEM received 15 comments from Members of Congress on its initial request for information (RFI), 12 comments from Members on the DPP, and 5 comments from Members on the PP. Some of these comments came from one or a few Members, and others had many signers (in some cases, 150 Members or more).[119] Some comments opposed the inclusion of certain regions in the program, whereas others supported the proposed lease sales or sought an expansion of lease areas and a higher number of sales. The comments also addressed related issues such as seismic testing in the Atlantic.

BOEM takes the public comments into account when developing successive drafts of a five-year program. Each draft contains an appendix summarizing the substantive comments that BOEM received on the previous version, including those from Members of Congress, and explaining BOEM's response to each.[120] BOEM may revise the program to partially or fully adopt a suggestion, or may explain why it declined to do so.

Oversight Hearings

The House or Senate may hold oversight hearings to evaluate a proposed five-year oil and gas leasing program. Such hearings help to inform Members in their legislative decision-making concerning the program and provide an opportunity for BOEM to hear Members' views. After BOEM released the DPP for 2017-2022, the House held a hearing on the program on April 15, 2015.[121] 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.[122]

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[119] The 15 congressional comments received on the RFI are discussed on pp. A-46 to A-49 of the 2017-2022 DPP. The 12 congressional comments received on the DPP are discussed on pp. A-24 to A-26 of the 2017-2022 PP. The 5 congressional comments received on the PP are discussed on pp. A-49 to A-50 of the 2017-2022 PFP.

[120] See Appendix A of each version of the program: the 2017-2022 DPP (summarizing comments on the RFI), the 2017-2022 PP (summarizing comments on the DPP), and the 2017-2022 PFP (summarizing comments on the PP).

[121] House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, oversight hearing, "Examining the Future Impacts of President Obama's Offshore Energy Plan," April 15, 2015, at https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg94270/pdf/CHRG-114hhrg94270.pdf.

[122] U.S. Congress, Senate Committee on Energy and Natural Resources, "Hearing to Examine the Bureau of Ocean Energy Management's 2017-2022 OCS Oil and Gas Leasing Program," 114th Cong., 2nd sess., May 19, 2016, at (continued...)

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.

Legislation

Through legislation, Congress may direct specific terms for an upcoming program or modify a program that is currently in effect. Legislation could, for example, remove a scheduled lease sale, add a new lease sale, or make broader changes to the program.

The 114th Congress is considering legislation that would affect the 2017-2022 program, including the following bills. (Except as indicated below, none of these bills has advanced beyond the referral stage.)

- H.R. 1487 and S. 791 would require the Secretary of the Interior to use an earlier-proposed Bush Administration draft program for 2010-2015 (which was not adopted) as the final oil and gas leasing program for the years FY2015-FY2020.[123] This earlier-proposed program would have held 31 lease sales, although H.R. 1487 and S. 791 direct that 3 of them would not be part of the FY2015-FY2020 program. The bills also would require BOEM to conduct, within a year of enactment, a previously proposed sale in the Atlantic region that was removed from the final 2012-2017 program. The bills would further require that BOEM conduct a lease sale at least every 270 days for any OCS planning area for which there is a commercial interest in purchasing leases. Additionally, the bills would declare the FY2015-FY2020 program to be approved under NEPA, with no further environmental review needed.
- H.R. 1663 would deem BOEM's DPP for 2017-2022 (the initial draft released in January 2015) to be approved by the Secretary as the final program and would add lease sales to the program. Lease sales would be added for the Chukchi Sea, Beaufort Sea, and Bristol Bay in the Alaska region; for all previously leased areas off the coast of Virginia; and for any other OCS area that is estimated to contain more than 5 billion barrels of oil or 50 trillion cubic feet of natural gas. The bill would also declare the final program to be approved under NEPA. In addition, the bill contains other offshore provisions, such as state revenue-sharing provisions.
- H.R. 3682 would amend the OCSLA to provide, among other things, that BOEM five-year programs must make available for leasing at least 50% of the available unleased acreage in each OCS planning area considered to have the largest undiscovered technically recoverable oil and gas resources. It would also provide that the programs must include any OCS planning area estimated to contain more than 2.5 billion barrels of oil or 7.5 trillion cubic feet of natural gas. In addition, the bill would require BOEM to develop its five-year programs with the specific goal of increasing production by at least 3 million barrels of oil per day and 10 billion cubic feet of natural gas per day by 2032. The bill would also amend the

(...continued)

http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=110E5E8F-3A65-4BEC-9D25-5D843A0284D3.

[123] Although BOEM five-year programs are typically developed by calendar year, H.R. 1487 and S. 791 propose a time period marked by the fiscal year.

OCSLA to allow the Secretary to add additional areas to an approved leasing program under certain conditions.

BOEM would be required to finalize a leasing program for 2016-2021 that complies with these provisions. BOEM would also need to conduct a specific previously proposed lease sale in the Atlantic region that was removed from the final 2012-2017 program, as well as lease sales off of South Carolina and Southern California. The bill contains other offshore energy provisions as well, such as those concerning revenue sharing with the states and the organization of the DOI ocean energy agencies.

- H.R. 4749 would direct the Secretary to conduct a lease sale off of North Carolina no later than two years after the bill's enactment, with subsequent lease sales in this area each year in the ensuing five-year period. The bill provides for military protections and revenue sharing with coastal states.
- S. 1276 and S. 2011 would amend the OCSLA with the same requirements as in H.R. 3682 for BOEM to lease areas with the largest undiscovered technically recoverable resources, including areas with certain amounts of oil and gas as described above. Additionally, the bills would reduce the portion of the Eastern Gulf of Mexico that is under a congressional leasing moratorium and would add Eastern Gulf lease sales to the 2017-2022 program. The bills also contain state revenue-sharing and other offshore energy provisions. The Senate Committee on Energy and Natural Resources held a hearing on S. 1276 on May 19, 2015, and reported S. 2011 on September 9, 2015.
- S. 1278 would require BOEM to conduct lease sales in Alaska's Cook Inlet planning area and a portion of the Beaufort Sea planning area in FY2016 and each fiscal year thereafter. In addition, the bill would require that each five-year leasing program include at least three lease sales in each of the Beaufort and Chukchi Sea planning areas. The bill also would require BOEM to extend existing leases in the Beaufort and Chukchi Seas to cover 20 years if the holder desires, and it would require revenue-sharing with the state of Alaska. The Senate Committee on Energy and Natural Resources held a hearing on S. 1278 on May 19, 2015.
- S. 1279 would require the Secretary to include the South Atlantic planning area in the 2017-2022 program and to conduct one lease sale in that area during FY2021 and two during FY2022. The bill contains provisions addressing potential conflicts with military operations in the area, consultations with state governors, and geological and geophysical (G&G) surveys of resources, among other matters. The Senate Committee on Energy and Natural Resources held a hearing on S. 1279 on May 19, 2015.
- S. 3203 would require the Secretary to include, in a leasing program prepared for FY2017 through FY2023, two lease sales in the Beaufort planning area, two in the Chukchi planning area, and two in the Cook Inlet planning area. The bill would also provide for increased revenue-sharing with the state of Alaska, and would make certain changes to lease terms for the Alaska region. The Senate Committee on Energy and Natural Resources held a hearing on S. 3203 on September 22, 2016.

Review of Final Program

Under the OCSLA, the final version of each five-year program must be submitted to Congress for a period of 60 days before the Secretary of the Interior can approve and implement the program.[124] However, Congress does not directly approve or disapprove the program during this period. Instead, either during or outside the 60-day period, Congress could introduce 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), Representative Doc Hastings introduced H.R. 6082, which would have replaced the submitted program with a congressionally developed plan containing additional lease sales, including 13 sales in the Gulf of Mexico, 7 sales in the Alaska region, 6 sales in the Atlantic, and 3 sales in the Pacific. The bill passed the House but did not become law. As discussed above, bills under consideration in the 114th Congress would make changes to lease sale schedule for the 2017-2022 program.

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[124] 43 U.S.C. §1344(d)(2). The final program is also submitted to the President during this period.