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INSIGHT

Offshore Oil and Gas Leasing: President Biden's "Pause"

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On January 27, 2020, President Biden issued Executive Order (E.O.) 14008, directing multiple administrative actions to address climate change. Section 208 of the order directed the Secretary of the Interior to "pause new oil and natural gas leases on public lands or in offshore waters pending completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices…." The E.O. stated that this review must evaluate "potential climate and other impacts" associated with oil and gas leasing, as well as whether to adjust royalties paid to the federal government from onshore and offshore oil and gas production to account for "climate costs." The required "pause" and review must be "consistent with applicable law."

This CRS product briefly examines potential effects of the E.O. on federal offshore oil and gas leasing activities on the U.S. outer continental shelf. The E.O. could have both short-term and longer-term effects on these activities, depending partly on the duration of the leasing pause and on any changes to the offshore oil and gas leasing program as a result of the required review. The agencies responsible for leasing in federal waters—the Department of the Interior's Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE)—thus far have altered some activities based on the E.O. and kept others as before. The climate change effects of the pause and of any resulting changes to offshore oil and gas activities are beyond the scope of this CRS product.

Offshore Oil and Gas Lease Sales

BOEM schedules offshore oil and gas lease sales through five-year leasing programs. The current program includes three sales scheduled for 2021—two in the Gulf of Mexico and one in Alaska's Cook Inlet—along with one sale in the Gulf of Mexico in the first half of 2022. On February 4, 2021, BOEM announced it was canceling public meetings and a public comment period related to the Cook Inlet lease sale as a result of the E.O. As of the date of this CRS product, BOEM had not made a public announcement regarding the first Gulf of Mexico lease sale of 2021, scheduled for March.

How the review ultimately may affect any paused lease sales is unknown. For example, the review might or might not lead to changes in lease terms such as rental and royalty rates for these sales going forward, or the sales could be canceled. BOEM has discretion to regulate lease terms under the Outer Continental

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Shelf Lands Act (OCSLA) and other authorities. Also, under the OCSLA and the National Environmental Policy Act (NEPA), scheduled sales may be canceled during implementation of a five-year program, based on environmental reviews associated with individual sales. Such cancellations sometimes occurred under previous leasing programs.

New Five-Year Leasing Program

BOEM's current five-year offshore oil and gas leasing program ends in June 2022. Typically, preparation of a new program takes two to three years. During the Trump Administration, BOEM released a draft of a new five-year program and sought public comment. The Biden Administration could continue to work from this draft program or could begin a new process.

It is unclear how the E.O. might affect BOEM's work on the next five-year program. Although the E.O. calls for a "pause" on new oil and gas leases, BOEM is required by the OCSLA to prepare a five-year program. One possibility is that BOEM could undertake some aspects of the E.O.'s required review in the context of the economic and environmental assessments conducted for the five-year program. For example, previous five-year programs considered potential climate and other impacts associated with offshore oil and gas leasing, as is required in the E.O. Some other requirements of the E.O., such as an evaluation of royalty rates, typically have been pursued outside the development of five-year programs.

Offshore Drilling Permits

DOI stated in a fact sheet that the E.O.'s "targeted pause does not impact existing operations or permits for valid, existing leases, which are continuing to be reviewed and approved." According to a database maintained by BSEE, more than 30 permits to drill on existing leases have been issued since the E.O.'s publication on January 27, 2021. (Another BSEE database shows approval of multiple exploration and development plans for existing leases during that time.) Separately, DOI Secretarial Order 3395, issued on January 20, 2021, temporarily requires that any fossil-fuel authorizations (such as permits to drill) be approved only by specified DOI officials. The secretarial order has a duration of 60 days.

Federal Revenue Implications

Offshore oil and gas revenues provide most or all of the funding for several federal conservation and restoration programs, including the Land and Water Conservation Fund, the Historic Preservation Fund, and the newly established National Parks and Public Land Legacy Restoration Fund. Also, under the OCSLA and the Gulf of Mexico Energy Security Act of 2006, a portion of offshore oil and gas revenue is shared with coastal states, with most of the funds going to Alabama, Louisiana, Mississippi, and Texas.

Offshore oil and gas revenues fluctuate from year to year based on multiple factors and totaled $3.7 billion in FY2020. More than 90% of this total came from royalties, with the remainder from bonus bids at lease sales and rents paid prior to production. The E.O.'s leasing pause likely would impact some of these revenue types earlier than others. For example, if BOEM held no auctions in 2021, no offshore bonus bids would be collected this year. However, the effect on royalties—which form the high majority of the offshore revenues shared with states and used for federal programs—would take longer to emerge, because new offshore oil and gas leases typically take several years to reach a point where production would begin and royalties would be generated.

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