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U.S. Crude Oil and Natural Gas Production in Federal and Nonfederal Areas

(name redacted)

Specialist in Energy Policy

February 26, 2016

Congressional Research Service

7-....

www.crs.gov

R42432

Summary

A number of legislative proposals designed to increase domestic energy supply, enhance security, and/or amend the requirements of environmental statutes that apply to energy development are before the 114th Congress. Proposals range from expanding leasing in the Outer Continental Shelf (OCS) via the Proposed Draft Five-Year Program for FY2017-FY2022 or to implement the Proposed Draft for FY2010-FY2015 (a plan prepared by the Bush Administration), to a proposal to prohibit new fossil fuel leases on federal land. Several proposals include new revenue sharing provisions for coastal states.

A key question in this discussion is how much oil and gas is produced in the United States each year and how much of that comes from federal versus nonfederal areas. Oil production has fluctuated on federal lands over the past 10 fiscal years but has increased dramatically on nonfederal lands. Nonfederal crude oil production has rapidly increased in the past few years, partly due to favorable geology and the ease of leasing, more than double the barrels per day (mbd) between FY2006 and FY2015 (although because of recent low oil prices, production has dropped somewhat since a peak in mid-2015). The federal share of total U.S. crude oil production fell from its peak at 36.4% in FY2010 to 21% in FY2015.

Natural gas production in the United States overall has dramatically increased each year since 2006, while production on federal lands has declined each year from FY2007-FY2014. There was a small increase of 3.5% in FY2015 over FY2014. Much of the decline can be attributed to offshore production falling by about 50%. Onshore production declines were less dramatic. Federal natural gas production fluctuated from around 30% of total U.S. production for much of the 1980s through the early 2000s (34% of U.S. total in 2003), after which there began a steady decline through 2015.¹ This picture of natural gas production is much different than that of federal crude oil in that federal natural gas had accounted for a much larger portion of total U.S. natural gas over the past few decades.

Another major issue that Congress may address is streamlining the processing of applications for permits to drill (APDs). Some Members contend that this would be one way to help boost energy production on federal lands. After a lease has been obtained, either competitively or noncompetitively, an application for a permit to drill must be approved for each oil and gas well. It took an average of 307 days for the Bureau of Land Management (BLM) to process (approve or deny) an onshore APD in FY2011, but that has declined to an average of 227 days in FY2014 (up from 194 days in FY2013). The BLM stated in its annual budget justifications (FY2012 and FY2016), that overall processing times per APD rose to such high levels in FY2011 and other years because of the complexity of the process, but they expect shorter timeframes in the future.

The Energy Policy Act of 2005 (EPACT '05, P.L. 109-58) included a provision to initiate and fund a pilot program at seven Bureau of Land Management (BLM) field offices in an effort to streamline the permitting process for oil and gas leases on federal lands. Funding for the pilot program was made permanent under the FY2016 National Defense Authorization Act (P.L. 114-92).

¹ U.S. natural gas production on federal lands fell from about 7 trillion cubic feet in FY2003 to about 3.5 trillion cubic feet in FY2014.

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Introduction²

In 2015, the price of oil averaged about \$49 per barrel (average composite price), down from \$92 per barrel in 2014. Prices dropped dramatically in December 2014, and by February 2016 crude oil prices were under \$40 per barrel. The Energy Information Administration (EIA) projects crude oil prices to average about \$38 per barrel through 2016, but rising to about \$50 per barrel in 2017. Prices are lower because of high global supply and a softening of demand. This lower price, if sustained, may impact long term oil development and lower production volumes.

A number of legislative proposals designed to increase domestic energy supply, enhance security, and/or amend the requirements of environmental statutes that apply to energy development are before the 114th Congress. Proposals range from expanding leasing in the Outer Continental Shelf (OCS) via the Proposed Draft Five-Year Program for FY2017-FY2022 or to implement the Proposed Draft for FY2010-FY2015 (a plan prepared by the Bush Administration), to a proposal to prohibit new fossil fuel leases on federal land. Several proposals include new revenue sharing provisions for coastal states.

A key question in this discussion is how much oil and gas is produced in the United States each year and how much of that comes from federal versus nonfederal areas. Oil production has fluctuated on federal lands over the past 10 fiscal years but has increased dramatically on nonfederal lands. Nonfederal crude oil production has been rapidly increasing in the past few years, partly due to favorable geology and the ease of leasing, more than double the barrels per day (mbd) between FY2006 and FY2015. The federal share of total U.S. crude oil production fell from its peak at 36.4% in FY2010 to 21% in FY2015.

Natural gas prices, on the other hand, have remained low for the past several years, as the shale gas boom has resulted in rising supplies of natural gas. This has allowed gas to become much more competitive with coal for power generation. Overall, annual U.S. natural gas production rose by about 10 trillion cubic feet (tcf) since FY2006, while annual production on federal lands (onshore and offshore) fell by about 1.7 tcf (or nearly 32%) over the same time period. Natural gas production on nonfederal lands nearly doubled over the same time period (see **Table 2**). The big shale gas plays have been primarily on nonfederal lands and have attracted a significant portion of investment for natural gas development. The federal share of natural gas production fell from 28.2% in FY2006 to 12.7% in FY2015.

This report examines U.S. oil and natural gas production data for federal and nonfederal areas with an emphasis on the past five fiscal years of production.³

U.S. Crude Oil Production: Federal and Nonfederal Areas

Historically, according to Department of the Interior (DOI) data, crude oil production on federal lands was consistently under 20% of total U.S. production until the late 1990s. Annual production

² For a broader analysis of offshore oil and gas leasing and resources, see CRS Report R40645, *U.S. Offshore Oil and Gas Resources: Prospects and Processes*, by (name redacted) and (name redacted)

³ For more information on U.S. oil development, see CRS Report R43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, by (name redacted) and (name redacted) and CRS Report R43429, *Federal Lands and Natural Resources: Overview and Selected Issues for the 114th Congress*, coordinated by (name redacted)

then surged on federal lands (primarily offshore), rising to over 30% in the early 2000s and reaching a high point of over 36% in FY2010.⁴ As a result of recent production increases on nonfederal lands, the question is raised whether nonfederal lands might regain a more dominant position of roughly 80%-85% of total U.S. crude oil production. The fact remains, however, that there are an estimated 5.3 billion barrels of proved oil reserves located on federal acreage onshore and another 4.3 billion barrels of proved reserves offshore (nearly all in the Gulf of Mexico). Taken together, U.S. federal oil reserves equal about 26% of all U.S. crude oil reserves, which are estimated at 36.5 billion barrels, according to the EIA.⁵ Proved oil reserves are amounts accessible under current policy, prices, and technology. Higher prices often translate into higher reserve estimates.

Crude oil production on federal lands, particularly offshore, is likely to continue to make a significant contribution to the U.S energy supply picture and could remain consistently higher than previous decades, but it could still fall as a percent of total U.S. production, if production on nonfederal lands continues to rise at a faster rate.

There is, however, continued interest among some in Congress to open more federal lands for oil and gas development (e.g., the Arctic National Wildlife Refuge (ANWR) and areas offshore) and increase the speed of the permitting process. But having more lands accessible may not translate into higher levels of production on federal lands, as industry seeks out the most promising prospects and higher returns which in recent years have come on more accessible nonfederal lands. Others in Congress would like to discontinue the leasing of fossil fuels altogether on federal lands.

Table 1. U.S. Crude Oil Production: Federal and Nonfederal Areas FY2006-FY2015
(million barrels per day)

Fiscal Year	U.S. Total	Nonfederal	Total Federal (% of U.S. Total)	Federal Offshore	Federal Onshore
2015	9.415	7.437	1.978 (21.0)	1.485	0.493
2014	8.362	6.584	1.778 (21.3)	1.372	0.406
2013	7.249	5.571	1.678 (23.1)	1.303	0.375
2012	6.224	4.578	1.646 (26.4)	1.303	0.343
2011	5.551	3.777	1.774 (32.0)	1.454	0.320
2010	5.441	3.461	1.980 (36.4)	1.685	0.295
2009	5.643	3.870	1.773 (31.4)	1.487	0.286
2008	5.037	3.492	1.545 (30.7)	1.263	0.282
2007	5.092	3.402	1.690 (33.2)	1.404	0.286
2006	5.006	3.444	1.562 (31.2)	1.288	0.274

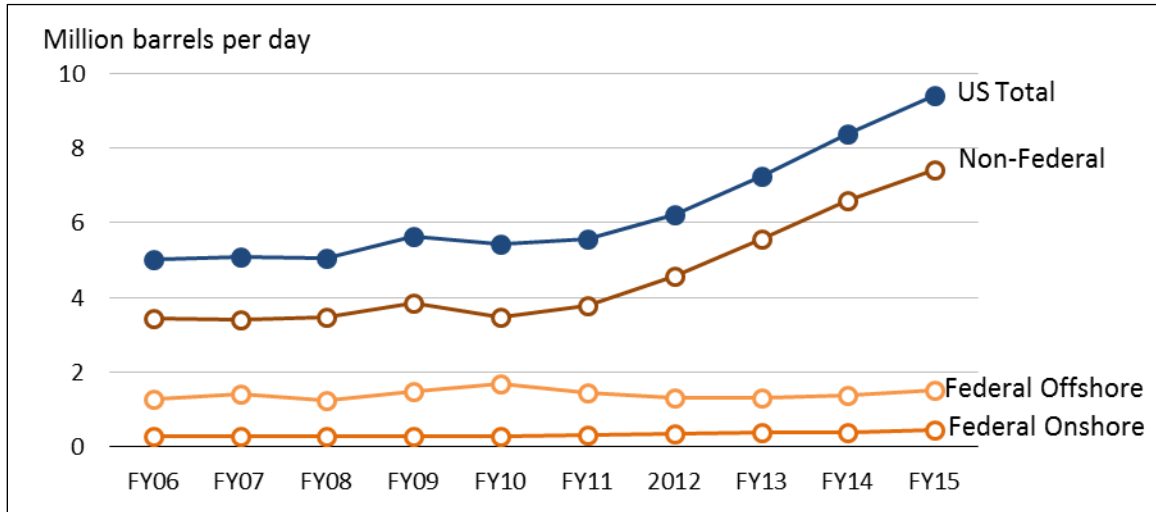
Source: Federal data obtained from the Office of Natural Resources Revenue (ONRR) Statistics, as of January 5, 2015, <http://www.onrr.gov> (using sales year data), February 2016. FY2015 data was obtained from communication with ONRR (as of February 26, 2016).

⁴ The early data (1980 and 1990s) were taken from annual Mineral Revenue reports. The data used at that time were accounting data which are considered by the Office of Natural Resources Revenue as not very reliable. The more useful production volume data provided by ONRR now are based on fiscal year sales data.

⁵ EIA, U.S. Crude Oil and Natural Gas Proved Reserves, 2013, December 2014, <http://www.eia.gov>.

Notes: U.S. Fiscal Year Total data derived from EIA monthly production data contained in its publication *Petroleum and Other Liquids, U.S. Field Production of U.S. Crude Oil*, February 2016, <http://www.eia.gov>. Data includes lease condensate, defined by EIA as a liquid hydrocarbon recovered from lease separators or field facilities at associated and nonassociated natural gas wells.

**Figure 1. U.S. Crude Oil Production:
Federal and Nonfederal Areas, FY2006-2015**
(million barrels per day)



Source: Federal data obtained from ONRR Statistics, <http://www.onrr.gov> (using sales year data). Nonfederal from EIA. Figure created by CRS.

U.S. Natural Gas Production: Federal and Nonfederal Areas

Natural gas production in the United States overall has dramatically increased each year since 2006, while production on federal lands has declined each year from FY2007 to FY2014. There was a small increase of about 2% in FY2015 over FY2014. Much of the decline can be attributed to offshore production falling by about 50%. Onshore production declines were less dramatic. Federal natural gas production fluctuated from around 30% of total U.S. production for much of the 1980s through the early 2000s (34% of U.S. total in 2003), after which there began a steady decline until FY2015.⁶ This picture of natural gas production is much different than that of federal crude oil in that federal natural gas had accounted for a much larger portion of total U.S. natural gas over that past few decades.

Any increase in production of natural gas on federal lands is likely to be easily outpaced by increases on nonfederal lands, particularly because shale plays are primarily situated on nonfederal lands and are where most of the growth in production has occurred in recent years and where future growth is projected to occur.

⁶ U.S. natural gas production on federal lands fell from about 7 trillion cubic feet in FY2003 to about 3.5 trillion cubic feet in FY2014.

U.S. dry gas proved reserves are estimated at about 354 tcf by the EIA,⁷ of which the federal share is about 24% (69 tcf onshore, 16 tcf offshore). Nearly all of the offshore proved reserves are located in the Central and Western Gulf of Mexico.

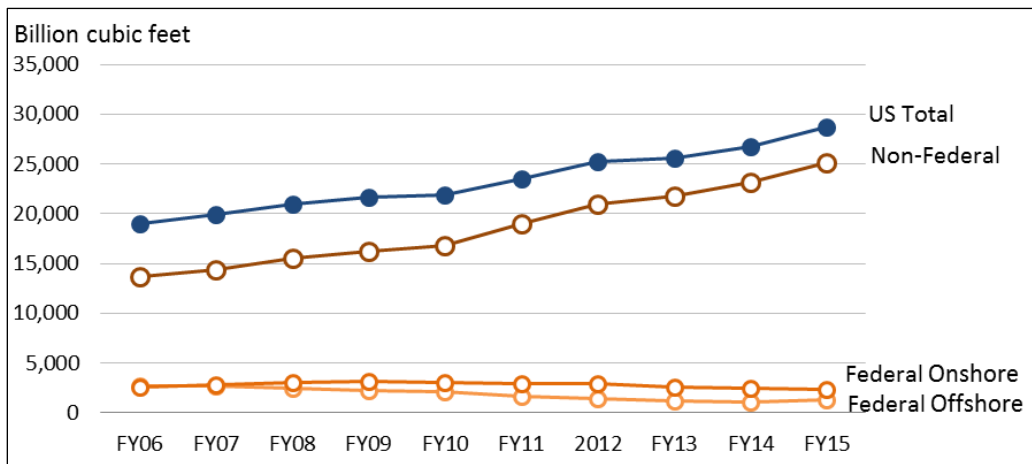
**Table 2. U.S. Natural Gas Production:
Federal and Nonfederal Areas FY2006-FY2015**
(billion cubic feet)

Fiscal Year	U.S. Total	Nonfederal	Total Federal (% of U.S. Total)	Federal Offshore	Federal Onshore
2015	28,737	25,146	3,591 (12.5)	1,094	2,497
2014	26,679	23,158	3,521 (13.0)	1,060	2,461
2013	25,551	21,733	3,818 (15.0)	1,189	2,629
2012	25,190	20,944	4,246 (16.9)	1,365	2,881
2011	23,540	18,964	4,576 (19.5)	1,682	2,894
2010	21,924	16,850	5,074 (23.0)	2,070	3,004
2009	21,612	16,240	5,373 (25.0)	2,209	3,164
2008	20,994	15,473	5,521 (26.0)	2,474	3,047
2007	19,951	14,404	5,547 (27.8)	2,691	2,856
2006	19,016	13,651	5,365 (28.2)	2,747	2,618

Source: Federal data obtained from ONRR Statistics, <http://www.onrr.gov> (using sales year data as of January 5, 2015) (except FY2015 data is as of February 26, 2016).

Notes: U.S. Fiscal Year Total data derived from EIA monthly production data in its publication "Natural Gas, U.S. Natural Gas Marketed Production," March 30, 2015, <http://www.eia.gov>.

**Figure 2. U.S. Natural Gas Production:
Federal and Nonfederal Areas FY2006-FY2015**



Source: Federal data obtained from ONRR Statistics, <http://www.onrr.gov> (using sales year data). Figure created by CRS.

⁷ EIA, *U.S. Crude Oil and Natural Gas Proved Reserves, 2013*, December 2014, <http://www.eia.gov>. Dry gas is marketed production less extraction losses.

EIA Projections

While in the short-term, EIA estimates show oil production continuing to decline in federal offshore areas, EIA's longer-term estimates show a slight increase in federal offshore oil production overall, from its nearly 1.4 mbd in FY2014 to 1.6-2.0 mbd in 2040.⁸ Overall, the EIA projects in the short term, oil production reaching 9.5 mbd in 2016,⁹ but long-term estimates show U.S. oil production falling to about 7.5 mbd by 2040 (essentially equal to 2013 production levels) and at 9.0 mbd in 2025.¹⁰ According to these estimates, offshore production in 2040 could range from 21% to 27% of total U.S. crude oil production. (See **Table 3.**)

Offshore natural gas production was projected to reverse a years-long decline in 2015 (**Table 2** shows a slight increase in production), with annual production rising as high as 2.9 tcf in 2040. Even though these projections are in calendar years, 2.9 tcf of natural gas is nearly triple the current offshore production (provided in fiscal years in the earlier sections of this report) but would only account for about a 7.7% share of total U.S. production in 2040. (See **Table 4.**)

Table 3. EIA Oil Production Projections
(million barrels per day)

Year	U.S. Offshore	U.S. Total
2025	1.6-2.0	9.0
2040	1.6-2.0	≥ 7.5

Source: EIA, Early Release Overview, 2014, Annual Energy Outlook, December 2013.

Table 4. EIA Natural Gas Production Projections
(trillion cubic feet per year)

Year	U.S. Offshore	U.S. Total
2025	1.7-2.9	31.93
2040	1.7-2.9	37.61

Source: EIA, Early Release Overview, 2014 Annual Energy Outlook, December 2013.

Oil and Natural Gas Lease Data for Federal Lands

Based on the federal government's inter-agency's Phase III report, there are 113 million acres of onshore federal lands open and accessible for oil and gas development and about 166 million acres off-limits or inaccessible.¹¹ The Bureau of Land Management (BLM) is seeking to lease in

⁸ EIA, *Annual Energy Outlook 2014*, December 2013. The release of the *Annual Energy Outlook, 2015* is due later in April 2015.

⁹ EIA, *Short Term Energy Outlook*, <http://www.eia.gov/forecasts/steo>, March 10, 2015.

¹⁰ Ibid.

¹¹ U.S. Depts. of the Interior, Agriculture, and Energy, *Inventory of Onshore Federal Oil and Natural Gas Resources and Restrictions to Their Development (Phase III)*, May 2008, available on the BLM website at http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/EPCA_III.html.

The availability of public lands for oil and gas leasing can be divided into three categories: lands open under standard lease terms, open to leasing with restrictions, and closed to leasing. Areas are closed to leasing pursuant to land withdrawals or other mechanisms. Much of this withdrawn land consists of wilderness areas, military bases, national parks and monuments, and other unique and environmentally sensitive areas that are unlikely to ever be reopened to oil (continued...)

areas where it anticipates fewer legal challenges. The BLM also says it is addressing public concerns prior to a lease sale at a higher rate than in the past. In 2015, 46% of onshore federal leases and 81% of offshore leases were not in production (see **Table 5**). Offshore, most of the 1.7 billion acres of federal water are no longer under leasing and development moratoria. The current (FY2012-FY2017) five-year leasing program has lease sales scheduled in Western and Central Gulf of Mexico (GOM) and parts of Alaska.¹² In the offshore areas, 85% of the acreage that is leased is not in production, but may have an approved exploration or development plan.

Through FY2014, according to the BLM and the Bureau of Ocean Energy Management (BOEM), there were approximately 67 million acres of oil and gas leases in federal areas (onshore and offshore). About 34.6 million acres were located onshore and an additional 32 million acres were offshore. Approximately 12.7 million federal acres onshore and about 4.8 million federal acres offshore were in production. (See **Table 5**.)

Table 5. Oil and Gas Lease Data for Federal Lands

	Onshore 2015	Onshore 2014	Offshore 2015	Offshore 2014
Acreage under lease	NA	34.6 million acres	27.5 million acres	32 million acres
Leased acres producing	NA	12.7 million acres	4.75 million acres	4.8 million acres
Leased acres not in production or exploration	NA	21.9 million acres	22.7 million acres	27.3 million acres
Number of Leases	44,000	46,193	4,985	5,938
Producing Leases (or with approved DOCD) ^a	over 23,500	23,657	968	970
Percentage of producing leases	54	51	19	16

Source: Offshore data: DOI/BOEM, Combined Leasing Status Report, February 1, 2016 (www.boem.gov). Onshore data: DOI/BLM, Oil and Gas Statistics (http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics.html)

Notes: NA = not available. Onshore acreage data is expected to be released.

- a. A DOCD is a Development Operations Coordination Document that must be submitted for approval to BOEM before development activities begin.

Leased and Producing Acres

The number of federal producing acres may or may not be a function of how many acres are leased, and the number of acres leased may or may not correlate to production levels, but it is beyond the scope of this report to examine that issue thoroughly. (**Table 6** provides data on the amount of federal acreage leased annually for onshore and offshore oil and gas development.) In recent years, some Members of Congress have proposed a \$4/acre lease fee for nonproducing leases. This proposal grew out of the efforts to open more public land and water (offshore) for oil

(...continued)

and gas leasing. Some lands are closed to leasing pending land use planning or NEPA compliance, while other areas are closed because of federal land management decisions on endangered species habitat or historical sites. Some of those restricted areas may be opened by future administrative decisions.

¹² Nearly all of the Eastern GOM is under a leasing moratorium until 2022 under the Gulf of Mexico Energy Security Act, and the North Aleutian Basin of Alaska was withdrawn from leasing under an executive order by the Obama Administration. Separately, President Obama withdrew selected parts of the Chukchi and Beaufort Seas of Alaska indefinitely in January 2015.

and gas drilling and development when gasoline prices spiked in 2006-2008. Some in Congress noted that there were many leases they believed were not being developed in a timely manner, while at the same time, others in Congress were advocating greater access to areas off-limits (such as ANWR and areas under leasing moratoria offshore). Higher rents for offshore leases were imposed by the Secretary of the Interior in 2009 to discourage holding unused leases and to move more leases into production, if possible. The escalation in annual rents is significant over time, as they rise from \$7/acre to \$28/acre (in year-8 forward) in water depths less than 200 meters, and increase from \$11/acre to \$44/acre (in year-8 forward) in water depths between 200 and 400 meters. However, there was no similar escalation for onshore leases, as they remain \$1.50/acre for years 1-5, then rise to \$2/acre thereafter.¹³ Legislative options to increase the rents and royalties on federal oil and gas leases are being debated in Congress. A nonproducing fee or an escalation of rents may not increase production but may increase the ratio of producing leases to active leases. Thus, there might be fewer “idle” leases and acreage not in production or exploration. The BLM can re-lease acreage that has been relinquished or passed over at a future lease sale.

Table 6. Federal Onshore and Offshore Oil and Gas Leased Acreage Annually
(2000-2014)

Year	Onshore Acres Leased	Offshore Acres Leased
2000	2,650,493	2,919,920
2001	3,997,271	5,004,472
2002	2,812,606	4,192,904
2003	2,064,289	4,848,116
2004	4,157,121	4,689,702
2005	4,314,207	4,635,967
2006	4,385,378	4,122,703
2007	4,634,736	5,760,793
2008	2,615,259	7,996,920
2009	1,913,602	2,668,409
2010	1,353,663	2,369,101
2011	2,016,176	1,036,205
2012	1,752,060	2,988,168
2013	1,172,808	1,938,317
2014	1,197,852	2,102,380

Source: Onshore data obtained from BLM: Oil and Gas Statistics, February 2016. Offshore data obtained from BOEM, Oil and Gas Leasing (<http://www.boem.gov>).

¹³ DOI, *Oil and Gas Lease Utilization, Onshore and Offshore, Updated Report to the President*, May 2012, p.18.

Applications for Permits to Drill (APDs)

Another major issue that Congress may address is streamlining the processing of applications for permits to drill (APDs). Some Members contend that this would be one way to help boost energy production on federal lands. After a lease has been obtained, either competitively or noncompetitively, an application for a permit to drill must be approved for each oil and gas well. As noted in the Mineral Leasing Act, Section 226 (g), “no permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area.” The application form (APD form 3160-3) must include, among other things, a drilling plan, a surface use plan, and evidence of bond/surety coverage. The surface use plan should contain information on drillpad location, pad construction, the method for containment and waste disposal, and plans for surface reclamation.¹⁴

Prior to the Energy Policy Act of 2005 (P.L. 109-58, EPACT '05), a major concern that prompted the streamlining of permits debate was the lengthy timetable to process an APD. The BLM attributed the longer timelines to the rewriting of outdated Resource Management Plans (RMPs). There were several RMPs revised over the past decade. Leading up to the provisions in EPACT '05 that attempted to streamline the permitting process, the BLM announced, in April 2003, new strategies to expedite the APD process. The new strategies included processing and conducting environmental analyses on multiple permit applications with similar characteristics, implementing geographic area development planning for an oil or gas field or an area within a field, establishing a standard operating practice agreement that identifies surface and drilling practices by oil and gas operators, allowing for a block survey of cultural resources, promoting consistent procedures, and revising relevant BLM manuals.¹⁵ EPACT '05 Section 366 (Deadline for Consideration of Application for Permits) provided a new timeline for BLM to process APDs.¹⁶

While the current Administration processed more APDs than it received from 2009-2013, it received far fewer applications over that period than had been received annually from 2006-2008. Even though the number of pending applications has fallen steadily from 2008-2013, the ratio of APDs pending to APDs processed was higher than during the period 2006-2008. In addition, there are 6,000 approved APDs that are not in the exploration or production stages (approved but not drilled).¹⁷ The BLM expects to process over 5,000 APDs in each of the fiscal years 2015 and 2016.

¹⁴ U.S. Department of the Interior, Bureau of Land Management (BLM), *Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development*, The Gold Book, Fourth Edition-Revised 2007, p. 8.

¹⁵ DOI/BLM Instruction Memorandum No. 2003-152, Application for Permit to Drill Process Improvement#1-Comprehensive Strategies, April 14, 2003.

¹⁶ Within 10 days of receiving the application from the operator, BLM shall notify the operator as to whether the application is complete and also schedule a site visit. If the application is not complete, the operator then has 45 days to submit additional information to BLM to complete the application or the application is returned to the operator. Within 30 days of receiving a completed application the BLM will approve or defer the application. If deferred, the operator has up to two years to take specified actions to complete the application or face the possibility of being denied a permit.

¹⁷ U.S. Department of the Interior, *Oil and Gas Lease Utilization, Onshore and Offshore, Updated Report to the President*, May 2012, p. 14.

Table 7. Onshore Oil and Gas Drilling Permits (FY2006-FY2014)

Fiscal Year	New APDs Received	Total APDs Processed	APDs Pending at Year-End
2014	5,316	4,924	4,121
2013	4,757	4,892	3,546
2012	5,240	5,861	3,683
2011	4,728	5,200	4,108
2010	4,251	5,237	4,603
2009	5,257	5,306	5,589
2008	7,884	7,846	5,638
2007	8,370	8,964	5,600
2006	10,492	8,854	6,194

Source: DOI/ BLM, *FY2016 Budget Justification* for years FY2011-FY2016. For earlier years, see DOI, *Oil and Gas Utilization, Onshore and Offshore*, May 2012

Note: FY2015 data is expected to be released.

It took an average of 307 days for the BLM to process (approve or deny) an APD in FY2011, but that has declined to an average of 227 days in FY2014 (up from 194 days in FY2013).¹⁸ In FY2006, it took the BLM an average of 127 days to process an APD, while in FY2014 it took BLM 133 days (up from 95 days in FY2013). In FY2006, the industry took an average of 91 days to complete an APD, but in 2014, the industry took 133 days (up from 99 days in FY2013). The BLM stated in its annual budget justifications for FY2012 and FY2016 that overall processing times per APD rose to such high levels in FY2011 and other years because of the complexity of the process, but they expect shorter timeframes in the future.

Some critics of this lengthy timeframe highlight the relatively speedy process for permit processing on private lands. However, crude oil and gas development on federal lands takes place in a wholly different regulatory framework than that of development on private lands.¹⁹ State agencies permit drilling activity on private lands within their states, with some approving permits within 10 business days of submission. This faster approval rate does not necessarily diminish the additional work required by the state to address other state requirements. But often, some surface management issues are negotiated between the producer and the individual land/mineral owner. A private versus federal permitting regime does not lend itself to an “apples-to-apples” comparison.

Streamline Pilot

EPACT '05 also included a provision to initiate and fund a pilot program at seven BLM field offices in an effort to streamline the permitting process for oil and gas leases on federal lands. Initial results from the pilot project were published according to the timetable required by EPACT

¹⁸ Bureau of Land Management, “Average Application for Permit to Drill (APD) Approval Timeframes: FY2005-FY2014,” http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics/apd_chart.html.

¹⁹ Under the Federal Land Policy and Management Act (FLPMA), Resource Management Plans or Land Use Plans (43 U.S.C. 1712) are required for tracts or areas of public lands prior to development. The Bureau of Land Management (BLM) must consider environmental impacts during land-use planning when RMPs are developed and implemented. RMPs can cover large areas, often hundreds of thousands of acres across multiple counties. Through the land-use planning process, the BLM determines which lands with oil and gas potential will be made available for leasing.

'05 (within three years after enactment). The conclusion was that the pilot made a difference in improving the processing times for APDs at the pilot offices overall and increased the number of environmental inspections. The BLM noted that the National Environmental Policy Act (NEPA) processing time for APDs and rights of way (ROW) applications fell from 81 to 61 days or roughly 25% due to “colocation” of agency staff. BLM reported that the number of environmental inspections went up by 78% from FY2006 to FY2007.²⁰ The BLM reported mixed results at the specific field offices. While some of the offices processed more permits in 2007 than they did in 2005, all the pilot sites reported more completed environmental inspections.²¹ Funding for the pilot program was made permanent under the FY2016 National Defense Authorization Act (P.L. 114-92).

Concerns over Nonproducing Leases

A number of concerns may arise in the oil and gas leasing process that could delay or prevent oil and gas development from taking place, or might account for the relatively large number of leases held in nonproducing status. It should be noted that many leases expire without exploration or production ever occurring.

Below is a list of issues which, individually or in combination, are often cited by various stakeholders to explain why more leases are not producing.

- Rig or equipment availability, particularly offshore;
- Oil and natural gas prices;
- High capital costs and available capital;
- Skilled labor shortages;
- Leases in the development cycle (e.g., conducting environmental reviews, permitting, or exploring) but not producing;
- Legal challenges that might delay or prevent development;
- No commercial discovery on a lease tract;
- Holding leases (because of the lack of capital or as “speculators”) to sell or “farm out” at a later date;
- Ability to secure extensions on nonproducing leases;
- Securing and being able to hold large number of lease tracts, often contiguous, to maximize return on investment; and
- The potential for inadequate coordination between the Department of the Interior’s lease management and regulatory agencies (Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement) and other federal agencies to ensure protection of federal areas encompassing coastal and marine sanctuaries.

²⁰ Bureau of Land Management, BLM Year Two Report, Section 365 of EPACT 2005 Pilot Project to Improve Federal Permit Coordination, February 2008.

²¹ Ibid.

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