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

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Under the Outer Continental Shelf Lands Act (OCSLA), as amended,[1] the Bureau of Ocean Energy Management (BOEM) within the Department of the Interior (DOI) must prepare and maintain forward-looking five-year plans—referred to by BOEM as *national programs* or *five-year programs*—to schedule proposed oil and gas lease sales on the U.S. outer continental shelf (OCS). Currently, offshore leasing is taking place under a program for mid-2017 through mid-2022 developed under the Obama Administration.[2] The current program ends on June 30, 2022. The Trump Administration published the first draft of a new program in 2018.

BOEM's development of a new 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, including environmental review under the National Environmental Policy Act,[3] to arrive at a final leasing schedule. Because the program is developed through a winnowing process, the final program may remove sales proposed in earlier drafts but generally will not include any new sales. 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.

The leasing decisions in BOEM's five-year programs may affect the economy and environment of individual coastal states and of the nation as a whole. Accordingly, Congress typically has been actively involved in planning and oversight of the five-year programs. The following discussion summarizes recent developments related to planning for the next leasing program and analyzes selected issues and actions for congressional consideration. The history, legal and economic framework, and process for developing the programs are discussed in more detail in CRS Report R44504, *Five-Year Program for Offshore Oil and Gas Leasing: History and Program for 2017-2022*.

The 117th Congress could influence the current or next five-year program through oversight or by enacting legislation with requirements for the program. For example, Members could enact legislation to mandate the addition of new sales to the program, to remove scheduled sales, or to change the terms of program development under the OCSLA. Congress also could impose leasing moratoria on new areas or, alternatively, could end existing moratoria imposed by Congress or the President and could mandate lease sales in these previously unavailable areas.

Recent Developments

BOEM took the first formal step in pursuit of a new five-year program in January 2018, but has not moved to subsequent stages since then. At that time, under the Trump Administration, BOEM released a draft proposed program (DPP) for the five-year period from late 2019 through mid-2024.[4] This draft program would have replaced the final years of the current program.[5] The

[1] 43 U.S.C. §1331-1356b.

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

[3] 42 U.S.C. §4321. See CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther.

[4] BOEM, *2019-2024 National Outer Continental Shelf Oil and Gas Leasing: Draft Proposed Program*, January 2018, at https://www.boem.gov/NP-Draft-Proposed-Program-2019-2024/, hereinafter referred to as the 2019-2024 DPP.

[5] Although previous five-year programs (since 1982) have not overlapped in this way, the George W. Bush

Trump Administration DPP proposed a total of 47 lease sales during the 2019-2024 period: 12 in the Gulf of Mexico region, 19 in the Alaska region, 9 in the Atlantic region, and 7 in the Pacific region.[6] By comparison, the 2017-2022 program that is currently in force contains a total of 11 OCS lease sales during the five-year period: 10 in the Gulf of Mexico region, 1 in the Cook Inlet planning area of the Alaska region, and none in the Atlantic or Pacific regions.

BOEM released the January 2018 DPP with a 60-day comment period that ended in March 2018.[7] BOEM received more than 2 million comments on the DPP.[8] The next step in the process would be to publish the second draft of the program—known as the proposed program, or PP—along with a draft environmental impact statement (EIS).[9] The Trump Administration did not complete a PP and draft EIS, owing in part to a court decision affecting portions of the Arctic and Atlantic Oceans that had been proposed for leasing in the DPP.[10]

The Biden Administration also has not published a PP or draft EIS to date. In BOEM's FY2022 budget justification, the Administration stated that it was considering future steps in light of President Biden's Executive Order 14008, which directed a "pause" and comprehensive review of the federal oil and gas leasing program. BOEM stated that "decisions on how to proceed with developing the next National OCS Program will be made in the context of the comprehensive review."[11]

Initially, the leasing pause in Executive Order 14008 also affected lease sales under the current (2017-2022) leasing program, as BOEM halted planning for 2021 sales in the Gulf of Mexico and Alaska's Cook Inlet. In response to a June 2021 court order,[12] BOEM subsequently resumed planning and held Lease Sale 257 in the Gulf of Mexico on November 17, 2021.[13] Also, on

Administration issued a DPP for a 2010-2015 program that would have replaced the final years of the 2007-2012 program (but was not finalized).

[6] The full leasing schedule is available on p. 8 of the 2019-2024 DPP, or at https://www.boem.gov/NP-DPP-Lease-Sale-Schedule-2019-2024/.

[7] BOEM, "National OCS Oil and Gas Leasing Program," at https://www.boem.gov/National-OCS-Program/.

[8] "Notice of Availability (NOA) of the 2019-2024 Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program and Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement (EIS)," Docket ID BOEM-2017-0074, Regulations.gov website, at https://www.regulations.gov/docket?D=BOEM-2017-0074; hereinafter cited as "DPP Comments."

[9] After receipt and consideration of public comments on the PP and draft EIS, BOEM would then publish a final EIS and final leasing program.

[10] In March 2019, the U.S. District Court for the District of Alaska (League of Conservation Voters v. Trump, 363 F.Supp.3d 1013 (D.Alaska 2019)) vacated portions of Executive Order 13795, issued by President Trump in 2017, which had opened certain parts of the Arctic and Atlantic Oceans to consideration for oil and gas leasing, effectively revoking withdrawals of these areas made previously by President Obama under Section 12(a) of OCSLA. The court found that Section 12(a) of OCSLA gives the President the authority to make withdrawals, but not to revoke prior presidential withdrawals. For more information, see CRS Legal Sidebar WSLG1799, *Trump's Executive Order on Offshore Energy: Can a Withdrawal be Withdrawn?*, by Adam Vann. Then-Secretary of the Interior David Bernhardt stated that publication of the 2019-2024 PP would be delayed while the Administration considered its response to the court decision (see, for example, House Committee on Natural Resources, *U.S. Department of the Interior Budget and Policy Priorities for FY2020*, oversight hearing, May 15, 2019, at https://naturalresources.house.gov/hearings/us-department-of-the-interior-budget-and-policy-priorities-for-fy-2020).

[11] BOEM, Budget Justifications and Performance Information, Fiscal Year 2022, p. 45-46, at https://www.doi.gov/sites/doi.gov/files/fy2022-boem-budget-justification.pdf. On Executive Order 14008 and the leasing pause, see CRS In Focus IF11909, *Offshore Oil and Gas: The Biden Administration's Leasing "Pause" and Subsequent Actions*, by Laura B. Comay.

[12] —F. Supp. 3d—, 2021 WL 2446010 (W.D. La. June 15, 2021).

[13] BOEM, "Lease Sale 257," at https://www.boem.gov/Sale-257.

October 22, 2021, BOEM published a draft EIS for Lease Sale 258 in Alaska's Cook Inlet.[14] These two sales are the eighth and ninth of 11 scheduled lease sales in the 2017-2022 program. Seven previous sales have been held, all in the Gulf of Mexico.[15] The leasing program contains two remaining sales for the Gulf of Mexico prior to its expiration in June 2022—Lease Sale 259, scheduled for 2021, and Lease Sale 261, scheduled for 2022. Not all lease sales scheduled in a five-year program are necessarily conducted; for example, a sale could be canceled based on sale-specific environmental review.

Selected Issues for Congress

Timing Considerations for the Upcoming Five-Year Program

The current five-year program ends on June 30, 2022. To date, for the next program, BOEM has published only the DPP proposed by the Trump Administration in January 2018. The regulations governing the five-year program call for two subsequent drafts—a PP, which is opened for public comment for a period of at least 90 days, and then a proposed final program (PFP), which is submitted to Congress and the President for 60 days before implementation.[16] These later program stages also are accompanied by publication of a draft and final EIS, with a period for public comment on the draft.

Typically, BOEM has published the PP and draft EIS for an upcoming five-year program at least six months, and sometimes more than a year, before the planned transition from one program to the next. For example, BOEM published the PP and draft EIS for the 2017-2022 program in March 2016, with the program transition scheduled for June 2017. For the 2012-2017 program, BOEM published the PP and draft EIS in November 2011, with the program transition scheduled for June 2012.

It is unclear when BOEM would plan to release a PP and draft EIS for the next five-year program, given BOEM's statement in its FY2022 budget justification that "decisions on how to proceed with developing the next National OCS Program will be made in the context of the comprehensive review" of federal oil and gas leasing under Executive Order 14008.[17] DOI has not announced its timing for completion of the comprehensive review.[18] Also unclear are any potential implications if BOEM did not reach the stage of a PFP prior to the expiration of the current program in June 2022. The OCSLA requires the Secretary of the Interior to "prepare and periodically revise, and maintain an oil and gas leasing program"; and to date, each PFP has been

[14] The draft EIS and related materials are available on BOEM's website at https://www.boem.gov/ak258.

[15] These sales implemented the Obama Administration's shift to a region-wide lease sale approach for the 2017-2022 program, offering available blocks in all three Gulf planning areas combined (unlike previous Gulf lease sales, which focused on a particular planning area—either the Western, Central, or Eastern Gulf). The 2017-2022 program shifted to this region-wide approach partly to increase flexibility for companies that also are bidding on lease blocks in Mexican Gulf waters.

[16] 30 C.F.R. Part 556. The final leasing program is officially called the *proposed final program* or PFP, in light of OCSLA's requirement to submit the final program to the President and Congress for 60 days before implementing the program (43 U.S.C. §1344(d)). Given that the 60-day period did not result in any changes to the 2017-2022 program, this report typically refers to the 2017-2022 PFP as the "final program."

[17] See footnote 11.

[18] DOI had stated that it would release an "interim report" on the comprehensive review in summer 2021, but no interim report had been released as of October 2021. For more information, see CRS In Focus IF11909, *Offshore Oil and Gas: The Biden Administration's Leasing "Pause" and Subsequent Actions*, by Laura B. Comay.

published before the expiration of the previous program.[19] However, because of the required 60-day waiting period for approval of a published PFP, a gap has occasionally occurred between the expiration of one program and the final approval and effective date of the next program.[20] Legislation in the 117th Congress would require the Secretary of the Interior to approve a new five-year program before the expiration of the previous program.[21]

Area Leasing Decisions

Under the OCSLA, BOEM must take into account economic, social, and environmental values in making its leasing decisions.[22] BOEM's assessments of the appropriate balance of these factors are matters for debate in Congress and elsewhere in the nation. For instance, Congress considered potential legislative alterations to both the current (2017-2022) program approved by the Obama Administration and the 2019-2024 DPP proposed by the Trump Administration.

Figure 1 and **Figure 2** show the Trump Administration's proposals in the DPP for leasing in each of the four OCS regions—the Atlantic, Pacific, Alaska, and Gulf of Mexico regions. The DPP would make available nearly all of the OCS for oil and gas leasing, except for areas that BOEM is prohibited from leasing (e.g., by an act of Congress or a presidential withdrawal). Because the leasing program proceeds through a winnowing process, the Biden Administration could remove sales proposed in the DPP from later versions of the program, based on public comments and additional analysis and review, including NEPA review.[23] Also, some areas included in the DPP—the Chukchi and Beaufort Seas in the Alaska region, most of the Eastern Gulf of Mexico in the Gulf region, and several planning areas in the southern part of the Atlantic region—are no longer available for leasing in the upcoming five-year period, owing to presidential withdrawals or legal decisions that occurred after the DPP was published (see below for further discussion).

Multiple bills in the 117th Congress would change the parameters for leasing decisions in the next five-year program (see section on "Role of Congress"). Some bills would prohibit oil and gas leasing in specified OCS regions or throughout the OCS. Other legislation would direct lease sales in specified areas. Absent such legislative direction, the Secretary of the Interior would make final leasing decisions for the next five-year period within the existing framework.[24]

[19] 43 U.S.C. §1344(a). For information on previous five-year programs, see CRS Report R44504, *Five-Year Program for Offshore Oil and Gas Leasing: History and Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann.

[20] The 2012-2017 PFP was published on June 28, 2012, two days before the previous program expired, and was approved by the Secretary of the Interior and took effect on August 27, 2012. BOEM, "2012-2017 OCS Oil and Gas Leasing Program," at https://www.boem.gov/oil-gas-energy/leasing/2012-2017-ocs-oil-and-gas-leasing-program.

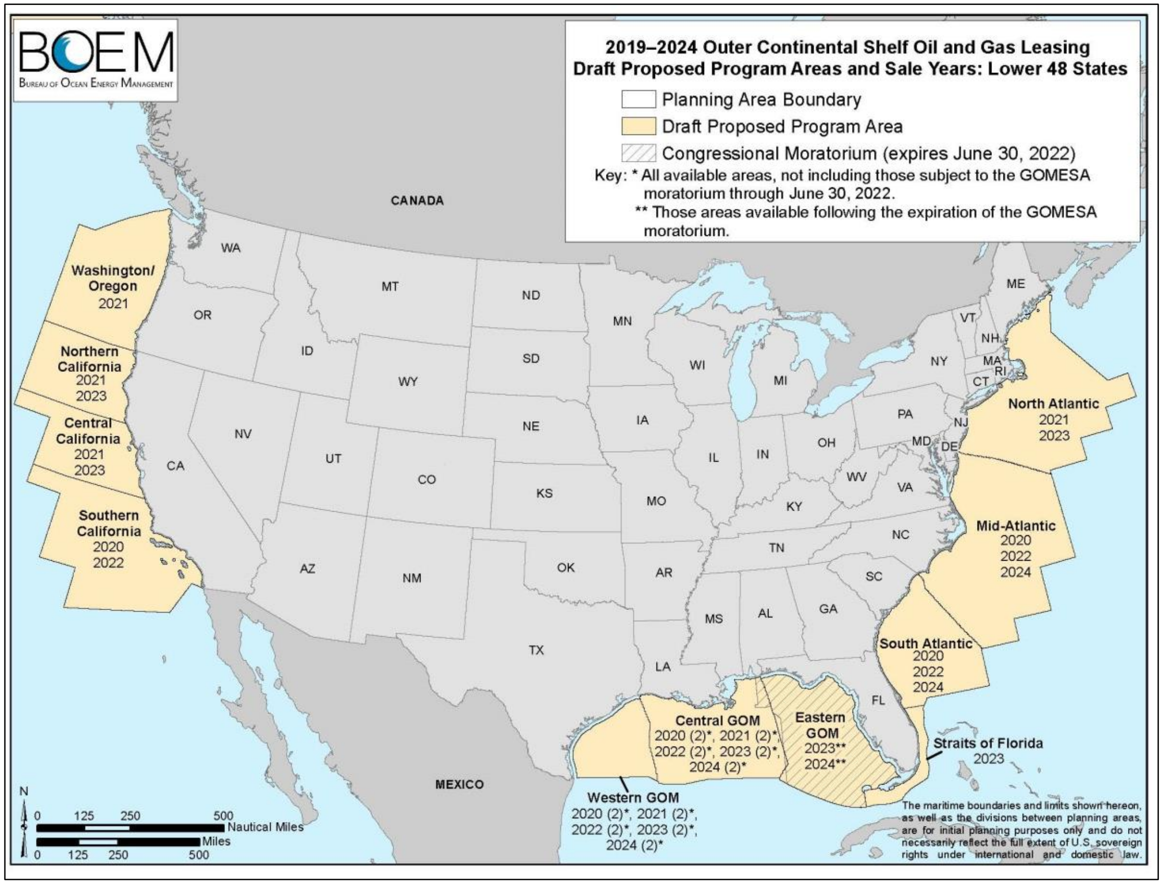
[21] S. 3214. For other legislative proposals, see the "Role of Congress" section.

[22] 43 U.S.C. §1344(a). Factors that the Secretary of the Interior must consider include the geographical, geological, and ecological characteristics of the regions; the relative environmental and other natural resource considerations of the regions; the relative interest of oil and natural gas producers in the regions; and the laws, goals, and policies of the states that would be affected by offshore exploration and production in the regions, among others. Leasing also must be conducted to ensure that the federal government receives fair market value for leased tracts.

[23] Some observers have raised the question of whether the Administration could finalize a program that scheduled no offshore lease sales in the upcoming five-year period. The question has not been tested in that no previous program has proposed this option. The OCSLA's provisions at 43 U.S.C. §1344 for determining lease sales in the program require a balance of economic, social, and environmental factors (see footnote 22) and do not discuss specific numbers of sales.

[24] As discussed above, the Secretary of the Interior cannot issue a record of decision for a five-year offshore leasing program until the PFP has been submitted to the President and Congress for a period of at least 60 days.

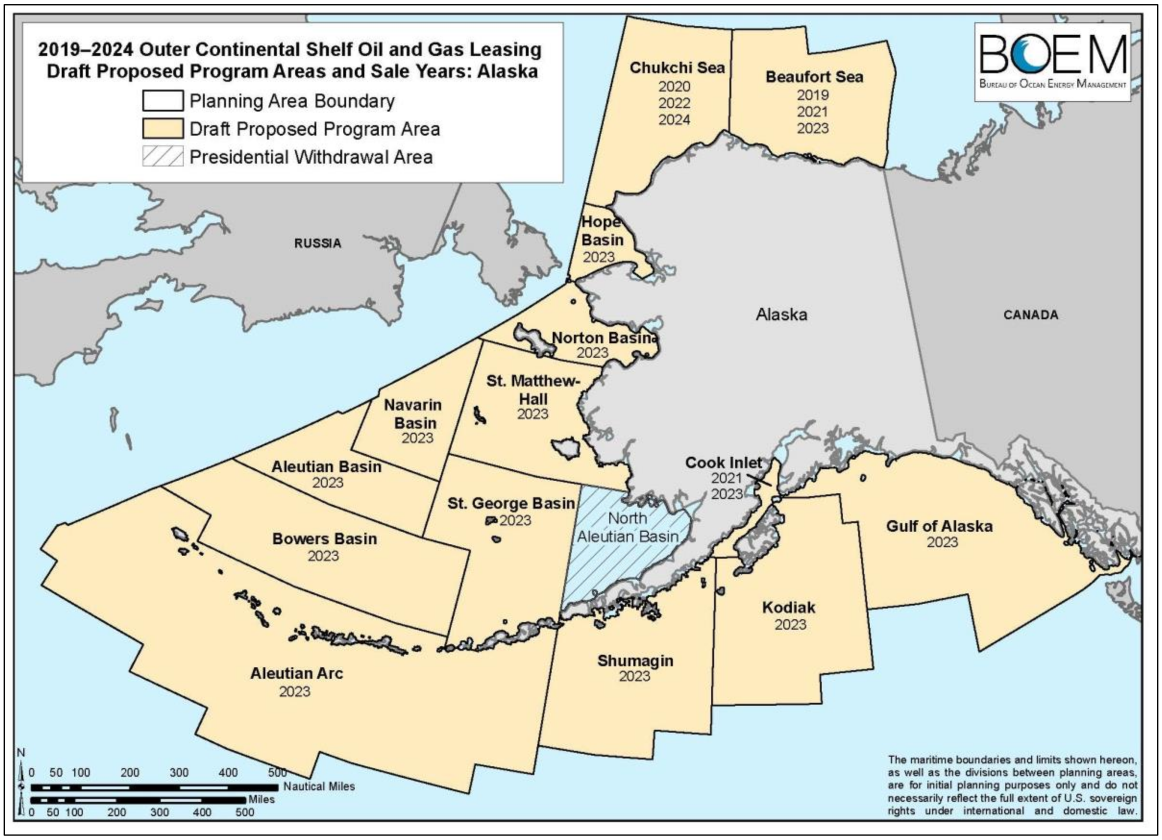
Figure 1. Draft Proposed Program Areas for Offshore Oil and Gas Leasing in the Gulf of Mexico, Atlantic, and Pacific Regions
(2019-2024 DPP)



Source: 2019-2024 DPP, at https://www.boem.gov/NP-DPP-Map-Lower-48-States/.

Note: The DPP had scheduled two lease sales for the Eastern Gulf of Mexico in 2023 and 2024, following the expiration of the leasing moratorium imposed by the Gulf of Mexico Energy Security Act of 2006 (GOMESA, P.L. 109-432). However, subsequent to publication of the DPP, President Trump withdrew the GOMESA moratorium area from leasing disposition through 2032 (Presidential Memorandum of September 8, 2020).

Figure 2. Draft Proposed Program Areas for Offshore Oil and Gas Leasing in Alaska
(2019-2024 DPP)



Source: BOEM, 2019-2024 DPP, at https://www.boem.gov/NP-DPP-Map-Alaska/.

Note: In the figure, "Presidential Withdrawal Area" does not show areas of the Chukchi and Beaufort Seas that are currently withdrawn from leasing disposition (see "Alaska Region" section for further discussion).

Gulf of Mexico Region

Almost all U.S. offshore oil and gas production currently takes place in the Gulf of Mexico.[25] The Gulf has the most mature oil and gas development infrastructure of the four planning regions and some of the highest concentrations of oil and gas resources, according to BOEM estimates.[26] The lease schedules proposed by the Trump Administration in its DPP and by the Obama Administration in the current (2017-2022) five-year program are more similar for the Gulf than for any other region. Both programs contain sales for all unleased Gulf acreage that is not prohibited from leasing. The 2017-2022 program scheduled two region-wide lease sales for the Gulf for each year. The Trump Administration DPP proposed two region-wide lease sales each

[25] The Gulf accounts for about 98% of U.S. offshore oil and gas production. BOEM, 2019-2024 DPP, Section 4.3.

[26] BOEM, "Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf," 2021, at https://www.boem.gov/sites/default/files/documents/oil-gas-energy/resource-evaluation/2021_National_Assessment_Map_BTU.pdf, hereinafter cited as "BOEM 2021 UTRR map." BOEM estimates the *undiscovered, technically recoverable resources* (UTRR) for each region—resources that could be produced using conventional techniques without any economic considerations. BOEM estimates the Gulf of Mexico to have the highest undiscovered, technically recoverable oil resources of any OCS region; the Gulf is second to the Alaska region in terms of undiscovered, technically recoverable natural gas resources.

year for 2019-2022, with a third sale specifically for the Eastern and Central Gulf of Mexico in 2023 and 2024 (**Figure 1**).[27]

In Executive Order 14008, President Biden temporarily halted new oil and gas leasing in the Gulf and throughout the OCS, and ordered DOI to re-evaluate offshore (and onshore) oil and gas leasing with attention to "potential climate and other impacts associated with oil and gas activities on public lands or in offshore waters." It is unclear how the Administration's review of federal oil and gas leasing and its climate impacts would affect its eventual leasing decisions for the Gulf in the next five-year program. For the current (2017-2022) program, the Obama Administration analyzed "emissions and associated social costs" of continued semiannual leasing in the Gulf (as well as one sale in Alaska's Cook Inlet), and concluded that the emissions and associated social costs of ongoing leasing would be "relatively similar" to those of a no-action alternative without any lease sales.[28] This was largely based on "assumed substitution of more GHG-intensive oil and gas sources in the absence of a new OCS leasing program."[29] BOEM stated its intent to "revisit" its emissions analysis in the future to reflect new data and techniques.[30]

A specific issue in the region is leasing in the Eastern Gulf close to the state of Florida. Under the Gulf of Mexico Energy Security Act of 2006 (GOMESA), offshore leasing is prohibited through June 2022 in a defined area of the Gulf off the Florida coast.[31] In September 2020, President Trump effectively extended this moratorium through June 2032 by withdrawing this area from leasing consideration until that time, using his authority under Section 12(a) of the OCSLA.[32] Some Members of Congress and other stakeholders wish to make an Eastern Gulf leasing moratorium permanent. They contend that oil and gas leasing in Gulf waters around Florida could potentially damage the state's beaches and fisheries, which support strong tourism and fishing industries, and could jeopardize mission-critical defense activities such as those at Pensacola's Eglin Air Force Base. By contrast, others advocate for shrinking the area covered by the ban or eliminating the ban before its scheduled expiration date. They emphasize the economic significance of oil and gas resources off the Florida coast and contend that development would create jobs, strengthen the state and national economies, and contribute to U.S. energy security.

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[27] The additional sale would have focused on areas that are under moratorium through June 2022 under GOMESA, which the program envisioned would become available after the moratorium's expiration. However, subsequent to publication of the DPP, President Trump withdrew these areas from leasing consideration through 2032 (President Donald Trump, "Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," September 8, 2020, at https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-withdrawal-certain-areas-united-states-outer-continental-shelf-leasing-disposition/, hereinafter cited as "President Trump withdrawal memorandum, September 8, 2020").

[28] BOEM, 2017-2022 PFP, Section 5.4.

[29] Ibid. Also see BOEM, *OCS Oil and Natural Gas: Potential Lifecycle Greenhouse Gas Emissions and Social Cost of Carbon*, November 2016, at https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/OCS-Report-BOEM-2016-065—OCS-Oil-and-Natural-Gas—Potential-Lifecycle-GHG-Emissions-and-Social-Cost-of-Carbon.pdf.

[30] BOEM, 2017-2022 PFP, Section 5.4.

[31] P.L. 109-432. Specifically, the law bans oil and gas leasing in the Eastern Gulf of Mexico Planning Area within 125 miles of the coast of Florida, in 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.

[32] President Trump withdrawal memorandum, September 8, 2020. Section 12(a) of the OCSLA (43 U.S.C. §1341(a)) provides that "[t]he President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf."

Alaska Region

Congress has debated offshore leasing in the Alaska region. Interest in exploring for offshore oil and gas in the region has grown as decreases in the areal extent of summer polar ice make feasible a longer drilling season. Estimates of substantial undiscovered oil and gas resources in Arctic waters also have contributed to the increased interest.[33] However, the region's severe weather and perennial sea ice, and its relative lack of infrastructure to extract and transport offshore oil and gas, continue to pose technical and financial challenges to new exploration. Previous periods of low energy prices have diminished short-term incentives for development in the region, because Alaskan production is relatively costly. Among Alaska's 15 BOEM planning areas, 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). Some stakeholders, including the State of Alaska and some Members of Congress, seek to expand offshore oil and gas activities in the region. Other Members of Congress and many environmental groups oppose offshore oil and gas drilling in the region, due to concerns about potential oil spills and about the possible contributions of these activities to climate change.

The Trump Administration had stated its interest in promoting offshore development in the region, and the 2019-2024 DPP scheduled lease sales in all 15 Alaska planning areas (**Figure 2**). Among others, the DPP included three sales in the Beaufort Sea and three in the Chukchi Sea, the areas of the Alaska region estimated to have the highest concentrations of undiscovered oil and gas resources.[34] (Industry interest in some other Alaska region planning areas may be lower, as many are thought to have relatively low or negligible petroleum potential.) Large parts of the Beaufort and Chukchi Sea planning areas had been withdrawn from leasing disposition by President Obama,[35] but President Trump had issued an executive order in 2017 modifying President Obama's withdrawal and opening these areas for leasing consideration.[36] However, the March 2019 court decision discussed above (under "Recent Developments") vacated this portion of President Trump's executive order, and additionally, in January 2021, President Biden issued Executive Order 13990, reinstating President Obama's Arctic withdrawals in their original form. Thus these areas are not available for inclusion in further drafts of the next leasing program.

The Obama Administration had at times expressed support for expanding offshore exploration in the Alaska region, while also pursuing safety regulations that aimed to minimize the potential for oil spills.[37] Prior to President Obama's Arctic leasing withdrawals, the Obama Administration's

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

[34] BOEM, 2021 UTRR map.

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

[36] "Presidential Executive Order Implementing an America-First Offshore Energy Strategy," April 28, 2017, at https://www.whitehouse.gov/the-press-office/2017/04/28/presidential-executive-order-implementing-america-first-offshore-energy. For discussion of this aspect of the executive order, see CRS Legal Sidebar WSLG1799, *Trump's Executive Order on Offshore Energy: Can a Withdrawal be Withdrawn?*, by Adam Vann.

[37] DOI, "Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," 81 *Federal Register* 46477, July 15, 2016. In the 115th Congress, H.J.Res. 34 would have disapproved the Obama Administration's Arctic rule under the Congressional Review Act (5 U.S.C.

original program draft for 2017-2022 had included three Alaska sales—one each in the Beaufort Sea, Chukchi Sea, and Cook Inlet planning areas. However, for the final program, the Administration removed the sales for the Beaufort and Chukchi Seas and retained only the sale for Cook Inlet, citing reasons for the removal that included "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."[38]

Supporters of increased leasing in the Alaska OCS region contend that growth in offshore oil and gas development is critical for Alaska's economic health as the state's onshore oil fields mature.[39] They further assert that offshore energy development in the region will play a growing role nationally by reducing U.S. dependence on oil and gas imports and supporting U.S. interests in the Arctic economy, as other nations, including Russia and China, invest in Arctic projects. These stakeholders contend that oil and gas activities can be conducted safely in the region, and point to a history of successful well drilling in the Beaufort and Chukchi Seas in the 1980s and 1990s.

Those who favor few or no Alaska offshore lease sales, by contrast, are concerned that it would be challenging to respond to a major oil spill in the region, because of the icy conditions and lack of spill-response infrastructure.[40] The Obama Administration's Arctic regulations focused on ways in which companies would need to compensate for the lack of spill-response infrastructure, such as by having a separate rig available at drill sites to drill a relief well in case of a loss of well control.[41] Opponents of Arctic leasing also are concerned that it represents a long-term investment in oil and gas as an energy source, which could slow national efforts to address climate change. They contend, too, that new leasing opportunities in the region are unnecessary, since industry has pulled back on investing in the Arctic.[42] Others assert, however, that tepid industry interest in the region is due more to the overly demanding federal regulatory environment than to market conditions.

Among those favoring expanded leasing in the region are some Alaska Native communities, who see offshore development as a source of jobs and investment in localities that are struggling financially. Other Alaska Native communities have opposed offshore leasing in the region, citing concerns about environmental threats to subsistence lifestyles. Governor Bill Walker, Alaska's governor at the time the DPP was published, submitted comments supporting the proposed sales in Cook Inlet and the Beaufort and Chukchi Seas but opposing sales in the other Alaska planning areas.[43]

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§§801-808).

[38] 2017-2022 PFP, p. S-3.

[39] Alaskan onshore production has declined from peaks of previous decades. For example, a production decline at Prudhoe Bay has caused difficulties for the Trans-Alaska Pipeline System, which requires a minimum throughput in order to operate. Recent onshore discoveries on Alaska's North Slope could potentially contribute to future production.

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

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

[42] For example, the 2017-2022 final program stated that active leases on the Arctic OCS had declined by more than 90% between February 2016 and November 2016, as companies relinquished leases in the face of low oil prices and Shell Oil Company's disappointing exploratory drilling effort in the Chukchi Sea in 2015 (2017-2022 PFP, p. S-7).

[43] Letter from Governor Bill Walker to BOEM, March 9, 2018, at https://www.regulations.gov/document?D=BOEM-2017-0074-10660.

Atlantic Region

No offshore oil and gas lease sales have occurred in the Atlantic region since 1983, due in part to congressional bans on Atlantic leasing in annual Interior appropriations acts from FY1983 to FY2008, along with presidential moratoria on leasing in the region during those years. Starting with FY2009, Congress no longer included an Atlantic leasing moratorium in appropriations acts. In 2008, President George W. Bush also removed the long-standing administrative withdrawal for the region.[44] These changes meant that lease sales could potentially be conducted for the Atlantic. However, no Atlantic lease sale has taken place in the intervening years.[45]

Political leaders in the Atlantic states, and stakeholders within each state, disagree about whether oil and gas drilling should occur in the Atlantic.[46] Supporters contend that oil and gas development in the region would lower energy costs for regional consumers, bring jobs and economic investment, and strengthen U.S. energy security. Opponents express concerns that oil and gas development would undermine national clean energy goals and that oil spills could threaten coastal communities. Also of concern for leasing opponents is the potential for oil and gas activities to damage the tourism and fishing industries in the Atlantic region and to conflict with military and space-related activities of the Department of Defense (DOD) and National Aeronautics and Space Administration (NASA).

In draft versions of the current (2017-2022) program, the Obama Administration had proposed a lease sale in a combined portion of the Mid- and South Atlantic planning areas. However, after further analysis, the Obama Administration removed the Atlantic sale, citing "strong local opposition, conflicts with other ocean uses, ... [and] careful consideration of the comments received from Governors of affected states."[47] The Obama Administration's proposal had included a 50-mile buffer zone off the coast where leasing would not take place, in order to reduce conflicts with other uses of the OCS, including DOD and NASA activities. However, on further analysis, the Administration assessed that the areas of DOD and NASA concern "significantly overlap the known geological plays and available resources," which contributed to its decision to remove the Atlantic sale altogether from the final program.[48]

The Trump Administration's DPP proposed nine lease sales for the Atlantic region, including sales in all Atlantic region planning areas (**Figure 1**). However, subsequent to publication of the DPP, President Trump withdrew from leasing consideration, through June 2032, the waters off of North Carolina, South Carolina, Georgia, and Florida.[49] Thus, these areas are no longer eligible for consideration in the next leasing program.

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

[45] 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.

[46] See, for example, summaries of state comments in the 2019-2024 DPP, pp. A-19 to A-23.

[47] 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." BOEM also stated that, given growth over the previous decade in onshore energy development, "domestic oil and gas production will remain strong without the additional production from a potential lease sale in the Atlantic" (p. S-10).

[48] 2017-2022 PP, p. S-10. The 2019-2024 DPP also considered a leasing option with a coastal buffer to accommodate military use concerns (2019-2024 DPP, p. 11). BOEM stated that this and other program options might be further analyzed in subsequent versions of the program.

[49] President Trump withdrawal memorandum, September 8, 2020; and President Donald Trump, "Presidential

Pacific Region

The 2019-2024 DPP proposed seven lease sales in the Pacific region, including sales in all of the region's planning areas (**Figure 1**). No federal oil and gas lease sales have been held for the Pacific since 1984, although active leases with production remain in the Southern California planning area.[50] Like the Atlantic region, the Pacific region was subject to congressional and presidential leasing moratoria for most of the past 30 years.[51] These restrictions were lifted in FY2009, but no lease sales were proposed or scheduled for the Pacific region during the Obama Administration. The governors of California, Oregon, and Washington have expressed their opposition to new offshore oil and gas leasing in the region.[52] (Administratively, the Pacific region also includes the state of Hawaii, but Hawaii is not part of the oil and gas leasing program because hydrocarbon resources are not present offshore of the state.)[53]

Congressional stakeholders disagree over whether leasing should occur in the Pacific. Members of Congress who favor broad leasing across the entire OCS have introduced legislation in previous Congresses that would have required BOEM to hold lease sales in the Pacific region.[54] Members concerned about environmental damage from oil and gas activities in the region have introduced legislation that would prohibit Pacific oil and gas leasing.[55]

Role of Congress

Congress can influence the Administration's development and implementation of a five-year program by submitting public comments during formal comment periods, by evaluating programs in committee oversight hearings, and, more directly, by enacting legislation with program requirements.[56] Some Members of Congress have pursued these types of influence with respect to the current five-year program and the Trump Administration's initial draft of the upcoming program. For example, for the proposed 2019-2024 program, Members submitted public comments on both the DPP and a previous request for information (RFI), and the House Natural Resources Committee held a hearing to examine DOI's priorities for the program.[57]

Determination on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition," September 25, 2020, at https://trumpwhitehouse.archives.gov/presidential-actions/presidential-determination-withdrawal-certain-areas-united-states-outer-continental-shelf-leasing-disposition/.

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

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

[52] See, for example, 2019-2024 DPP, p. A-17.

[53] 2019-2024 DPP, Chapter 1, p. 2.

[54] See, for example, H.R. 1487 and S. 791 in the 114th Congress.

[55] See, for example, H.R. 3927 in the 114th Congress, H.R. 169, H.R. 731, and S. 31 in the 115th Congress, and H.R. 279, H.R. 310, H.R. 1941, and S. 2013 in the 116th Congress. For 117th Congress bills, see the "Role of Congress" section.

[56] 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.

[57] For Members' comments on the DPP, see *DPP Comments*. For Members' comments on the RFI, see 2019-2024 DPP, pp. A-75 to A-77. For the oversight hearing, see House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, *Evaluating Federal Offshore Oil and Gas Development on the Outer Continental Shelf*, oversight hearing, July 12, 2017, at https://www.govinfo.gov/content/pkg/CHRG-115hhrg26252/pdf/CHRG-115hhrg26252.pdf.

Congress also has considered directly modifying the five-year program through legislation. For example, bills in the 117th Congress (H.R. 4334, S. 69, S. 3214) would mandate twice-yearly lease sales in the Gulf of Mexico and/or Alaska regions.[58] Some proposals from earlier Congresses would have facilitated additional sales in five-year programs in other ways (e.g., by making it easier for the Interior Secretary to add new sales to programs or by requiring that the Secretary include in each program unexecuted lease sales from earlier programs).[59] H.R. 1325 in the 117th Congress would allow state governors to nominate areas for inclusion in a five-year leasing program; and H.R. 543, H.R. 859, H.R. 4266, H.R. 4344, and S. 76 would facilitate wider options for leasing by restricting the President's authority to withdraw areas from leasing consideration. By contrast, other bills in the 117th Congress—H.R. 455, H.R. 544, H.R. 569, H.R. 653, H.R. 2519, H.R. 2836, H.R. 3048, H.R. 3053, H.R. 3116, H.R. 3764, H.R. 5376, H.R. 5707, S. 58, S. 1115, and S. 1851—would establish new moratoria or extending existing moratoria, thus curtailing leasing options in future five-year programs. Some of these bills would permanently prohibit leasing in large areas, such as throughout the Pacific and Atlantic regions or throughout the entire OCS.

Either during development or after final publication of the next five-year program, Congress could affect the program by pursuing bills such as these or other legislation. Alternatively, Congress could choose not to intervene, allowing the new program to proceed as developed by BOEM.

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[58] Also see, e.g., H.R. 1756 and S. 883 in the 115th Congress, and H.R. 4294 in the 116th Congress.

[59] See, e.g., H.R. 4239 and S. 665 in the 115th Congress.