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Arctic National Wildlife Refuge (ANWR) Oil and Gas Program: Provisions in P.L. 115-97, Tax Cuts and Jobs Act

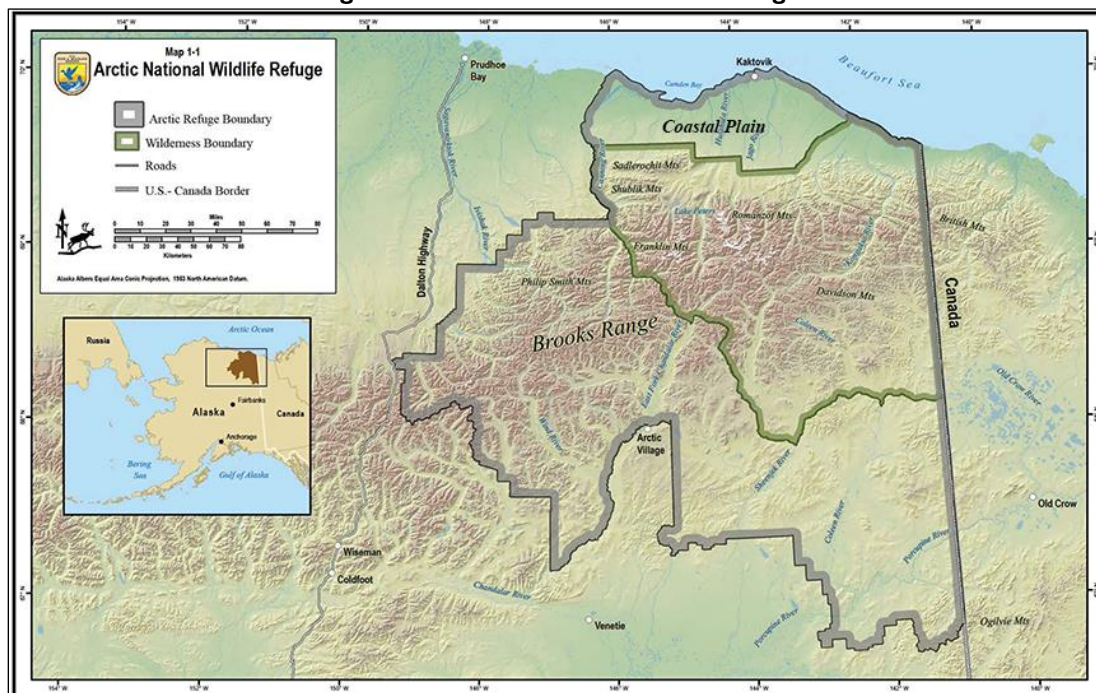
The Tax Cuts and Jobs Act (P.L. 115-97), enacted in December 2017, included provisions establishing an oil and gas program in the Arctic National Wildlife Refuge (ANWR or the Refuge). Under this program, the Department of the Interior (DOI) awarded oil and gas leases in the Refuge in January 2021, shortly before the end of the Trump Administration, but these leases were canceled in 2023 under the Biden Administration. A second lease sale is required by December 2024. This CRS product provides background on the statutory provisions that established the ANWR oil and gas program and the requirements for its implementation. A different product, CRS In Focus IF12006, *Arctic National Wildlife Refuge: Status of Oil and Gas Program*, addresses subsequent developments in the program, including recent legislation.

ANWR consists of 19 million acres in northeast Alaska, administered primarily by the Fish and Wildlife Service (FWS) in the Department of the Interior. ANWR was established as a national wildlife refuge by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA; P.L. 96-487). ANILCA designated a portion of the Refuge as wilderness and, in Section 1002, required a

study of another portion—the 1.57-million-acre Coastal Plain (**Figure 1**)—to assess its wildlife and potential impacts of oil and gas development. The Coastal Plain is viewed as an onshore oil prospect, with a mean estimate by the U.S. Geological Survey of 7.7 billion barrels of technically recoverable oil on federal lands (10.4 billion barrels including Alaska Native lands and adjacent waters). It also is a center of activity for caribou and other wildlife, with Native subsistence uses and critical habitat for polar bears under the Endangered Species Act (16 U.S.C. §§1531-1544). For more information on the energy resources and biological resources of the Coastal Plain, see CRS Report RL33872, *Arctic National Wildlife Refuge (ANWR): An Overview*.

Section 1003 of ANILCA prohibited oil and gas development in the Refuge unless authorized by an act of Congress. The enactment of P.L. 115-97 culminated a decades-long congressional debate over whether to authorize development of the Coastal Plain's mineral resources or to continue prohibiting development to protect biological and subsistence values.

Figure 1. Arctic National Wildlife Refuge



Source: FWS, *Arctic National Wildlife Refuge Comprehensive Conservation Plan*, Introduction, April 2015, at <https://www.fws.gov/home/arctic-ccp/>. Edited by CRS.

The ANWR provisions in P.L. 115-97 responded to a reconciliation instruction to the Senate Committee on Energy and Natural Resources in the FY2018 concurrent resolution on the budget (H.Con.Res. 71). The committee was instructed to report changes in laws within its jurisdiction to reduce the deficit by not less than \$1 billion for the FY2018-FY2027 period. The Congressional Budget Office (CBO) estimated the ANWR provisions in Title II of the law, along with other oil and gas provisions in that title, would increase net offsetting receipts by about \$1.1 billion during this period. The following sections give further detail on the ANWR-related provisions in P.L. 115-97.

Establishment of Oil and Gas Program

P.L. 115-97 directs the Secretary of the Interior, acting through DOI's Bureau of Land Management (BLM), to establish and administer a competitive program for the leasing, development, production, and transportation of oil and gas in and from ANWR's Coastal Plain. Although the Refuge as a whole is administered by FWS, under the Mineral Leasing Act of 1920 (MLA; 30 U.S.C. §§181 et seq.), BLM manages onshore federal energy and mineral resources, not only on its own lands but also on those of other federal agencies. The law further provides that Section 1003 of ANILCA, which prohibits oil and gas development in ANWR unless authorized by Congress, shall not apply to the Refuge's Coastal Plain.

Refuge Purposes

ANILCA stated four purposes for which ANWR was established and is to be managed, including (1) conservation of fish and wildlife populations and habitats, (2) fulfillment of U.S. international fish and wildlife treaty obligations, (3) providing the opportunity for continued subsistence use by local residents, and (4) ensuring water quality and quantity within the Refuge. P.L. 115-97 amends ANILCA to add, as a fifth purpose of the Refuge, "to provide for an oil and gas program on the Coastal Plain." Under the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. §668dd), and under ANILCA Section 304 and regulations at 43 C.F.R. Section 3100.3(j) for Alaskan refuges, FWS undertakes compatibility determinations to assess whether proposed refuge activities are compatible with the purposes for which a refuge was established as well as the mission of the National Wildlife Refuge System as a whole. The addition of oil and gas development as a refuge purpose thus affects the context for a compatibility determination.

Oil and Gas Program Management

The law directs BLM to manage the oil and gas program on the Refuge's Coastal Plain in a manner "similar to" the administration of lease sales under the Naval Petroleum Reserves Production Act of 1976 (NPRPA, 42 U.S.C. §§6501 et seq.) and associated regulations, except as otherwise provided. The NPRPA provided for competitive oil and gas leasing in the National Petroleum Reserve in Alaska (NPR-A), subject to certain conditions and restrictions. The regulatory framework for the NPR-A

under the NPRPA (43 C.F.R. Part 3130) includes requirements for leasing terms, bonding, environmental obligations, and other activities associated with oil and gas development.

Revenues and Royalties

P.L. 115-97 sets the royalty rate for oil and gas leases in ANWR's Coastal Plain at 16.67%. The law directs that 50% of revenues derived from oil and gas leases on the Coastal Plain (including royalties, rents, and bonus bids) be distributed to the State of Alaska and that the remaining 50% be deposited into the U.S. Treasury as miscellaneous receipts. This split differs from the general framework established by the MLA, under which the State of Alaska typically receives 90% of the revenue from federal onshore oil and gas leases within the state, with 10% deposited in the Treasury as miscellaneous receipts. All other states receive 50% of the revenues from leases within their states (minus a 2% cost-sharing deduction), while 40% are deposited in the Reclamation Fund (which funds certain federally owned and operated western water and power projects) and 10% are deposited in the Treasury as miscellaneous receipts.

Schedule of Lease Sales

The law requires at least two area-wide lease sales in the Refuge's Coastal Plain. An initial lease sale was required within four years of the law's enactment (i.e., by December 2021), and a second lease sale is required within seven years of enactment (December 2024). Separately, other provisions require that at least two lease sales be conducted within 10 years of the law's enactment. Each ANWR lease sale must offer at least 400,000 acres and must include those areas with the highest potential for discovery of hydrocarbons. The initial lease sale was held on January 6, 2021. Leases awarded at this sale were canceled by the Department of the Interior in September 2023. For more information, see CRS In Focus IF12006, *Arctic National Wildlife Refuge: Status of Oil and Gas Program*.

Surface Development and Rights-of-Way

The law requires the Secretary of the Interior to grant any easements or rights-of-way necessary to carry out the provisions for exploration, development, production, and transportation in the Coastal Plain. It directs the Secretary to authorize up to 2,000 surface acres of federal land on the Coastal Plain to be covered by production and support facilities. (This 2,000-acre limit does not appear to apply to Alaska Native surface lands on the Coastal Plain, owned by the Kaktovik Inupiat Corporation or through individual Native allotments.) The law does not require the development facilities to be concentrated in a single 2,000-acre area. The law specifies that "airstrips and any area covered by gravel berms or piers in support of pipelines" shall be included in the 2,000-acre limit.

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