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Ocean Energy Agency Appropriations, FY2017

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Summary

This report discusses FY2017 appropriations for the Department of the Interior's (DOI's) Bureau of Ocean Energy Management (BOEM), Bureau of Safety and Environmental Enforcement (BSEE), and Office of Natural Resources Revenue (ONRR). The three agencies collectively administer federal ocean energy resources covering more than 1.7 billion acres on the U.S. outer continental shelf (OCS). BOEM administers offshore energy leasing, BSEE oversees offshore operational safety and environmental responsibility, and ONRR manages public revenues from federally regulated offshore and onshore energy projects. BOEM, BSEE, and ONRR receive appropriations in the annual Interior, Environment, and Related Agencies appropriations bill.

The 114th Congress did not enact full-year Interior appropriations for FY2017. Continuing funds for the ocean energy agencies were provided through April 28, 2017, by two continuing resolutions (CRs; P.L. 114-223 and P.L. 114-254). The CRs generally provide funding at the FY2016 level, minus an across-the-board reduction of less than 1%. The 115th Congress is faced with addressing these agencies' appropriations for the remainder of FY2017.

BOEM's and BSEE's operations are funded both by discretionary appropriations from general funds of the Treasury and by the authority to expend offsetting collections derived from a portion of OCS rental receipts and cost recovery fees (and, for BSEE, inspection fees). The initial discretionary appropriation for each fiscal year to each agency is reduced by the amount of eligible receipts and fees that are collected, so that the final amount appropriated to BOEM and BSEE is the net of those collections. ONRR does not receive funding through offsetting collections.

For FY2017, the Obama Administration requested total appropriations of $175.1 million for BOEM, $204.9 million for BSEE, and $129.3 million for ONRR. The BOEM total included an estimated $94.9 million in offsetting collections, for a net appropriation of $80.2 million. The BSEE total included an estimated $108.5 million in offsetting collections, for a net appropriation of $96.3 million. The requests for all three agencies represented increases from enacted FY2016 appropriations—a requested increase of 8.0% for BOEM (for the net appropriation after offsets), 8.9% for BSEE (for the net appropriation after offsets), and 3.0% for ONRR.

On July 14, 2016, the House passed H.R. 5538, the Department of the Interior, Environment, and Related Agencies appropriations bill for FY2017. On June 16, 2016, the Senate Appropriations Committee reported its version of the bill, S. 3068. Neither bill was enacted. For BOEM, H.R. 5538 recommended total appropriations of $169.3 million, with $94.9 million derived from offsetting collections, for a net appropriation of $74.4 million. S. 3068 recommended total appropriations of $169.6 million for BOEM, with $94.9 million derived from offsetting collections, for a net appropriation of $74.6 million. For BSEE, H.R. 5538 recommended total appropriations of $204.9 million, with $96.5 million derived from offsetting collections, along with a rescission of $20.0 million—resulting in a net appropriation for BSEE of $88.3 million. S. 3068 recommended total appropriations of $204.7 million for BSEE, with $96.5 million derived from offsetting collections and a rescission of $25.0 million, for a net appropriation of $83.1 million. For ONRR, H.R. 5538 contained appropriations of $126.5 million and S. 3068 contained appropriations of $121.8 million.

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Three agencies in the Department of the Interior (DOI) share responsibility for managing the nation's ocean energy resources, which cover approximately 1.7 billion acres on the U.S. outer continental shelf (OCS).[1] The Bureau of Ocean Energy Management (BOEM) administers offshore energy leasing; the Bureau of Safety and Environmental Enforcement (BSEE) oversees offshore operational safety and environmental responsibility; and the Office of Natural Resources Revenue (ONRR) manages public revenues from federally regulated offshore and onshore energy projects.[2] BOEM, BSEE, and ONRR receive appropriations in the annual Interior, Environment, and Related Agencies appropriations bill. Aggregate and program-level appropriations shape the resources available to the agencies for conventional and renewable energy leasing, inspections, spill preparedness, environmental enforcement, planning, research, and revenue collection and disbursement, among others.

This report discusses FY2017 appropriations for the three agencies, including the Obama Administration's funding request for each agency and subsequent congressional action. The 114th Congress did not enact full-year Interior appropriations for FY2017. Continuing funds were provided through April 28, 2017, by two continuing resolutions (CRs; P.L. 114-223 and P.L. 114-254). The CRs generally provide funding at the FY2016 level, minus an across-the-board reduction of less than 1%. The 115th Congress is faced with addressing the ocean energy agencies' appropriations for the remainder of FY2017.

Bureau of Ocean Energy Management[3]

BOEM manages U.S. offshore oil and gas leasing, renewable energy development, and marine mineral leasing, with a mission to balance national interests in energy supply and environmental protection.[4] BOEM's responsibilities include developing a five-year offshore oil and gas leasing program, managing oil and gas lease sales and marine mineral agreements, reviewing exploration and development plans, facilitating renewable energy development on the OCS, conducting resource evaluations and economic analysis, and performing environmental reviews, among others.

BOEM's operations are funded both by discretionary appropriations under the agency's Ocean Energy Management account and by the authority to expend offsetting collections derived from a portion of OCS rental receipts and cost recovery fees.[5] The initial discretionary appropriation for

[1] The OCS consists of submerged lands, subsoil, and seabed that lie beyond the outer seaward reaches of a state's jurisdiction and are subject to U.S. jurisdiction (43 U.S.C. §1331(a)). For more information on domestic and international ocean jurisdictions, see CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by Adam Vann.

[2] BOEM, BSEE, and ONRR were established in a departmental reorganization following the *Deepwater Horizon* oil spill of April 2010. Prior to the spill, the nation's OCS energy resources were administered by the Minerals Management Service (MMS). An interim agency, the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), replaced MMS directly after the spill. The current structure of three agencies has been in place since October 2012.

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

[4] 43 U.S.C. §1344(a)(3).

[5] Language in annual appropriations acts since 1995 has contained authority for BOEM or its predecessor organizations to retain rental revenues above the $3.00/acre rate in effect on August 5, 1993, up to an annual cap, to fund current operations. The provisions also have allowed BOEM to use cost recovery fees authorized under the Outer Continental Shelf Lands Act (43 U.S.C. §§1131 ff.) to partially fund mission-related activities. For more information, see BOEM, *Budget Justifications and Performance Information: Fiscal Year 2017*, pp. 131-132, at http://www.boem.gov/BOEM-FY-2017-Budget-Justification/. Hereinafter this publication is referred to as "BOEM *Budget Justification FY2017*."

each fiscal year is reduced by the amount of eligible receipts and fees that are collected, so that the final amount appropriated to BOEM is the net of those collections.

For FY2017, the Obama Administration requested total appropriations of $175.1 million for BOEM, of which $94.9 million would be derived from offsetting collections, for a net appropriation of $80.2 million (**Table 1**). BOEM's total available funding under the request would be $4.3 million higher (+2.5%) than the FY2016 total. This reflects an increase of $6.0 million (+8.0%) in BOEM's net requested appropriation from Congress, along with BOEM's estimate of fewer offsetting collections than in FY2016 (1.7% less in offsetting collections).

Table 1. Appropriations for the Bureau of Ocean Energy Management (BOEM), FY2016-FY2017

(in millions of dollars)

BOEM	FY2016 Enacted	FY2017 Request	House-Passed FY2017 Bill (H.R. 5538)	Change from FY2016		Senate Comm. FY2017 Bill (S. 3068)	Change from FY2016	
				$	%		$	%
Ocean Energy Management								
—Renewable Energy	*24.3*	*23.9*	*23.4*	*-0.9*	*-3.6%*	*23.9*	*-0.4*	*-1.6%*
—Conventional Energy	*59.9*	*64.2*	*59.9*	*—*	*—*	*59.0*	*-0.9*	*-1.5%*
—Environmental Assessment	*68.0*	*68.4*	*68.0*	*—*	*—*	*68.0*	*—*	*—*
—Executive Direction	*18.7*	*18.7*	*18.0*	*-0.7*	*-3.6%*	*18.7*	*—*	*—*
Subtotal	170.9	175.1	169.3	-1.6	-0.9%	169.6	-1.3	-0.8%
Offsetting Rental Receipts	*-93.0*	*-88.5*	*-88.5*	*+4.5*	*+4.8%*	*-88.5*	*+4.5*	*+4.8%*
Cost Recovery Fees	*-3.7*	*-6.5*	*-6.5*	*-2.8*	*+76.4%*	*-6.5*	*-2.8*	*+76.4%*
Subtotal, Offsetting Collections	-96.6	-94.9	-94.9	+1.7	+1.7%	-94.9	+1.7	+1.7%
Net Appropriations	**74.2**	**80.2**	**74.4**	**+0.1**	**+0.2%**	**74.6**	**+0.4**	**+0.5%**

Sources: House Appropriations Committee detailed tables for BOEM and BSEE; U.S. Congress, House Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2017*, report to accompany H.R. 5538, 114th Cong., 2nd sess., H.Rept. 114-632 (Washington, DC: GPO, 2016); U.S. Congress, Senate Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2017*, report to accompany S. 3068, 114th Cong., 2nd sess., S.Rept. 114-281 (Washington, DC: GPO, 2016); P.L. 114-113, Division G, Explanatory Statement, *Congressional Record*, December 17, 2015, p. H10215.

Note: Figures may not sum precisely due to rounding.

On July 14, 2016, the House passed its Interior appropriations bill, H.R. 5538, with total appropriations of $169.3 million for BOEM, offset by the rental receipt and fee collections described above, for a net appropriation of $74.4 million. The House's total appropriation was $1.6 million less than the FY2016 enacted total and $5.8 million less than the Obama Administration's request. Comparing the net appropriations after offsets, the House's amount was $0.1 million more than the FY2016 enacted net appropriation and $5.8 million less than the request.

On June 16, 2016, the Senate Appropriations Committee reported its Interior appropriations bill, S. 3068. The Senate committee bill contained total appropriations of $169.6 million for BOEM, offset by the rental receipt and fee collections described above, for a net appropriation of $74.6 million. The total appropriation was $1.3 million less than the FY2016 enacted total and

$5.6 million less than the Obama Administration's request. Comparing the net appropriations after offsets, the Senate committee amount was $0.4 million more than the FY2016 enacted net appropriation and $5.6 million less than the request.

The 114th Congress did not enact full-year Interior appropriations for FY2017, and continuing funds were provided through April 28, 2017, under the CRs (P.L. 114-223 and P.L. 114-254). The CRs generally provide funding at the FY2016 level, minus an across-the-board reduction of less than 1%.

BOEM Budget Accounts

BOEM's appropriations are contained in a single budget account, titled Ocean Energy Management.[6] Within this account, the Conventional Energy budget activity funds development and administration of the agency's oil and gas leasing program, including the development of forward-looking five-year leasing plans.[7] In November 2016, BOEM published its oil and gas leasing program for 2017-2022, which includes 1 lease sale in the Alaska region and 10 sales in the Gulf of Mexico.[8] Appropriations for the Conventional Energy activity also go toward BOEM's administration of lease sales under the current oil and gas leasing program for 2012-2017.[9] Other BOEM Conventional Energy activities include managing existing leases, reviewing exploration and development/production plans, administering risk management and financial responsibility programs, evaluating ocean resources, mapping the OCS, and administering the Marine Minerals Program,[10] among others.

A different budget activity under the Ocean Energy Management account, the Renewable Energy activity, supports BOEM's management of renewable ocean energy resources under Section 388 of P.L. 109-58, the Energy Policy Act of 2005. Under this activity, BOEM has planned and conducted wind energy lease sales in the Atlantic and has issued 12 commercial wind energy leases offshore (in Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and Virginia).[11] The Block Island Wind Farm off of Rhode Island began regular operations in December 2016, marking the first commercial wind production in U.S. waters. BOEM has

[6] This report's descriptions of BOEM's budget activities are drawn from the BOEM *Budget Justification FY2017* and from other sources.

[7] Under Section 18 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§1331 ff., the Secretary of the Interior is to prepare and submit to Congress an oil and gas leasing schedule to implement the policies of the act. This schedule indicates the location of leasing activity that the Secretary determines will best meet national energy needs for the five-year period following the schedule's approval.

[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/. For more information, see CRS Report R44692, *Five-Year Program for Federal Offshore Oil and Gas Leasing: Status and Issues in Brief*, by Laura B. Comay; and CRS Report R44504, *The Bureau of Ocean Energy Management's Five-Year Program for Offshore Oil and Gas Leasing: History and Final Program for 2017-2022*, by Laura B. Comay, Marc Humphries, and Adam Vann.

[9] 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.

[10] The Marine Minerals Program addresses the development of all OCS minerals other than oil, gas, and sulfur under Section 8(k) of OCSLA.

[11] Most recently, BOEM held a wind lease sale in waters off of New York in December 2016. See DOI press release, "Interior Department Auctions Over 79,000 Acres Offshore New York for Wind Energy Development," December 16, 2016, at https://www.doi.gov/pressreleases/interior-department-auctions-over-79000-acres-offshore-new-york-wind-energy. In January 2017, BOEM announced a final notice for a planned lease sale of approximately 120,000 acres off of North Carolina for commercial wind energy leasing. See BOEM, "North Carolina Activities," at https://www.boem.gov/North-Carolina/.

identified wind, wave, and ocean current energy as offering the greatest potential among renewables for OCS development in the foreseeable future,[12] and it has issued research leases and grants for hydrokinetic energy research and testing projects under the Renewable Energy activity. Other responsibilities include data collection and stakeholder engagement related to renewable energy efforts.

BOEM's Environmental Assessment budget activity (referred to in agency budget documents as Environmental Programs) supports BOEM's responsibilities for assessing the environmental impacts of ocean energy activities and providing environmental safeguards. BOEM coordinates with BSEE in managing OCS environmental programs. Under the National Environmental Policy Act of 1969 (NEPA),[13] as well as the Outer Continental Shelf Lands Act (OCSLA)[14] and other statutes, BOEM must conduct environmental assessments of proposed ocean activities such as geological and geophysical (G&G) exploration, five-year leasing programs, lease sales, exploration plans, and development and production plans. For example, BOEM studied the environmental impacts of G&G seismic surveys in the Atlantic Ocean and approved such surveys in summer 2014.[15] This budget activity also supports BOEM's collaboration with other research agencies to develop scientific knowledge of the OCS.

BOEM's Executive Direction budget activity covers the agency's executive offices, such as the Office of the Director, the Office of Congressional Affairs, and others.

Proposed BOEM Budgetary Changes

The Obama Administration's FY2017 budget request for BOEM proposed funding changes in several areas. Some of the changes related to the agency's offsetting collections, which consist of a portion of OCS rental receipts and cost recovery fees that the agency is authorized to spend.[16] BOEM anticipated an 11% ($4.5 million) decline in its offsetting rental receipts for FY2017, as compared with FY2016. BOEM attributed the anticipated decline to multiple factors, including a reduction in the number of leases being sold in the Gulf of Mexico because the area is maturing and because of the decline in world oil prices, as well as changes in lease terms and a resulting increase in lease relinquishments.[17] Because "this decline in rental receipts is not meaningfully correlated to BOEM's workload," the agency requested that Congress provide direct appropriations of $4.1 million to offset the reduced rental receipts.[18] BOEM further stated that

[12] See BOEM *Budget Justification FY2017*, p. 43.

[13] 42 U.S.C. §§4321-4347. For an overview of NEPA requirements, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther.

[14] 43 U.S.C. §§1331 ff.

[15] BOEM, *Record of Decision: Atlantic OCS Proposed Geological and Geophysical Activities, Mid-Atlantic and South Atlantic Planning Areas, Final Programmatic Environmental Impact Statement*, July 2014, at http://www.boem.gov/Record-of-Decision-Atlantic-G-G/. However, on January 6, 2017, BOEM announced that the Obama Administration would deny permit applications from six companies to conduct seismic surveys in Atlantic waters, stating: "We believe that the value of obtaining the geophysical and geological information from new airgun seismic surveys in the Atlantic does not outweigh the potential risks of those surveys' acoustic pulse impacts on marine life.... Since federal waters in the Mid and South Atlantic have been removed from leasing consideration for the next five years, there is no immediate need for these surveys." BOEM press release, "BOEM Denies Atlantic Seismic G&G Permits," January 6, 2017, at https://www.boem.gov/press01062017/.

[16] See footnote 5.

[17] BOEM *Budget Justification FY2017*, p. 137.

[18] Ibid., p. 11. The agency proposed to achieve a general programmatic reduction of $0.5 million to account for the remainder of the decline in offsetting rental receipts.

"the projected decline in offsetting rental receipts is expected to continue to present a significant fiscal challenge in the coming years."[19] In addition to requesting direct appropriations from Congress to make up for the projected reduction, the Obama Administration proposed to change the proportion of offsetting rental receipts that go to BOEM and BSEE. Whereas in earlier years BOEM received 65% of the offsetting rental receipts and BSEE 35%, the proposal for FY2017 was for BOEM to receive 70% and BSEE 30%.[20]

Separately, BOEM also anticipated a net reduction of $99,000 in its existing cost recovery fees for FY2017. However, BOEM proposed a new cost recovery fee for costs associated with the agency's Risk Management Program.[21] BOEM estimated that this new fee would bring in revenues of $2.9 million for FY2017, so that the agency would have an overall gain of $2.8 million in cost recovery fees. The monies from the new fee would be used to fund continued implementation of the Risk Management Program, including adding staff with specializations in risk assessment and management.[22]

Both the House-passed and the Senate committee-reported bills reflected BOEM's anticipated changes to its offsetting collections, including BOEM's estimated reductions in rental receipts and cost recovery fees, its proposed new fee associated with the Risk Management Program, and the change in the proportion of offsetting rental receipts that would go to BOEM and BSEE. However, neither bill provided the level of direct appropriations that the agency had requested to make up for the reduction in offsetting collections.

Apart from the changes to offsetting collections, BOEM proposed a number of other funding changes for FY2017:

- An *increase* of $1.6 million in the Conventional Energy budget activity to fund special pay authority to attract and retain skilled geophysicists, geologists, and petroleum engineers. The pay rates would accord with special salary rate tables issued for these positions by the Office of Personnel Management (OPM).[23]
- An *increase* of $0.9 million across two budget activities (Conventional Energy and Environmental Assessment) for additional staffing. The agency stated that staffing increase was needed to accommodate a growth in the number of deepwater drilling plans BOEM must review and regulatory changes that add to the workload of the plan review process.[24]

[19] Ibid. The budget request includes a detailed discussion of the projected decline in rental receipts in Appendix B.

[20] Ibid., p. 138.

[21] More specifically, the fee would be assessed in the context of companies' submissions of tailored financial plans under an FY2016 revised notice to lessees (NTL 2016-N01) concerning supplemental financial assurance, and it would serve to partially recoup costs associated with the review of the tailored plans. On January 6, 2017, BOEM announced that it would delay implementation of certain aspects of NTL 2016-N01 for six months, to allow additional time for review of certain issues.

[22] Ibid., pp. 9-10. This new fee would be developed and used by BOEM under the authorities discussed in footnote 5.

[23] Prior to OPM's approval in August 2015 of special salary rate tables covering these employees, recent Interior appropriations laws had contained a provision to authorize higher minimum rates of basic pay for petroleum engineers and technicians at BOEM and BSEE. The FY2016 Interior appropriations law, P.L. 114-113, did not include this provision because the OPM approval rendered it unnecessary.

[24] BOEM *Budget Justification FY2017*, p. 10. The budget justification states: "BOEM anticipates regulations designed to promote environmentally responsible development of offshore energy and mineral resources to create an additional workload. All regulatory oversight and activities—whether for ensuring environmental stewardship, geological and geophysical permitting, exploration, or development and production—require a high level of detailed analysis to support Bureau decisions and the commensurate level of resources to effectively complete the activities."

- An *increase* of $0.2 million across all activities for fixed costs, which are non-programmatic, mandatory costs such as those for employee pay and benefits, workers' compensation, and rent to the General Services Administration.
- A *decrease* of $0.4 million in funding for methane hydrate research under the Conventional Energy budget activity to accommodate the higher pay for skilled positions described above.
- A *decrease* of $0.4 million for data collection and outreach under the Renewable Energy budget activity, also to accommodate the higher pay for skilled positions described above.

The House-passed and Senate committee-reported bills would have provided BOEM with less money in direct appropriations than the agency had requested. The House bill contained lower-than-requested totals for all of four of BOEM's budget activities (Renewable Energy, Conventional Energy, Environmental Assessment, and Executive Direction). The House Appropriations Committee did not specify in its report on the bill whether the specific requested increases were to be funded out of available totals. The Senate committee bill contained BOEM's requested amount for one budget activity—Renewable Energy—and less than requested for the other activities. For the Conventional Energy budget activity, the committee report stated that "the Committee concurs with the agency proposed reductions" but did not comment on the agency's requested increases.

Bureau of Safety and Environmental Enforcement[25]

BSEE provides oversight of oil and gas exploration, development, and production on the OCS. Its mission is to promote safety, protect the environment, and conserve resources offshore through regulatory oversight and enforcement. BSEE's functions include issuing permits for oil and gas operations, inspecting facilities, developing regulations and standards, conducting research and collecting data on offshore safety, assessing technology, and overseeing industry oil spill prevention and readiness activities, among other responsibilities.

Similar to BOEM, BSEE's operations are funded both by discretionary appropriations under the agency's Offshore Safety and Environmental Enforcement and Oil Spill Research accounts and by a portion of OCS rental receipts, cost recovery fees, and inspection fees,[26] which are treated as offsetting collections in the BSEE budget.

For FY2017, the Obama Administration requested total appropriations of $204.9 million for BSEE, of which $108.5 million would be derived from offsetting collections of OCS rental receipts, cost recovery fees, and inspection fees, for a net appropriation of $96.3 million (see **Table 2**). The total request was nearly level with the FY2016 enacted total, but because of an estimated drop in offsetting collections, the requested net appropriation was $7.9 million higher (+8.9%) than the FY2016 enacted net amount of $88.5 million.

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

[26] Annual appropriations laws have directed that total BSEE appropriations are to be reduced by amounts collected by DOI and credited to the BSEE appropriation from certain rental receipts and cost recovery fees (see footnote 5 for more information). In addition, BSEE's offsetting collections include inspection fees, although BOEM's do not. See the section below on "General Provisions" for more information on BSEE's offsetting collections of inspection fees.

Table 2. Appropriations for the Bureau of Safety and Environmental Enforcement (BSEE), FY2016-FY2017

(in millions of dollars)

BSEE	FY2016 Enacted	FY2017 Request	House-Passed FY2017 Bill (H.R. 5538)	Change from FY2016 $	Change from FY2016 %	Senate Comm. FY2017 Bill (S. 3068)	Change from FY2016 $	Change from FY2016 %
Offshore Safety and Environmental Enforcement (OSEE)								
—Environmental Enforcement	*8.3*	*8.3*	*8.3*	—	—	*8.3*	—	—
—Operations, Safety, and Regulation	*145.0*	*145.2*	*145.2*	*+0.2*	*+0.1%*	*145.0*	—	—
—Administrative Operations	*18.3*	*18.3*	*18.3*	—	—	*18.3*	—	—
—Executive Direction	*18.2*	*18.2*	*18.2*	—	—	*18.2*	—	—
Subtotal[a]	189.8	190.0	190.0	+0.2	+0.1%	189.8	—	—
Offsetting Rental Receipts	*-49.4*	*-37.9*	*-37.9*	*+11.5*	*+23.2%*	*-37.9*	*+11.5*	*+23.2%*
Inspection Fees	*-59.0*	*-65.0*	*-53.0*	*+6.0*	*+10.2%*	*-53.0*	*+6.0*	*+10.2%*
Cost Recovery Fees	*-7.8*	*-5.6*	*-5.6*	*+2.2*	*+28.2%*	*-5.6*	*+2.2*	*+28.2%*
Subtotal, Offsetting Collections	-116.2	-108.5	-96.5	+19.7	+16.9%	-96.5	+19.7	+16.9%
Rescission of Unobligated Balances[b]	—	—	-20.0	-20.0	N/A	-25.0	-25.0	N/A
Net Appropriation, OSEE	73.6	81.4	73.4	-0.1	-0.2%	68.2	-5.3	-7.2%
Oil Spill Research	14.9	14.9	14.9	—	—	14.9	—	—
Net Appropriation	**88.5**	**96.3**	**88.3**	**-0.1**	**-0.1%**	**83.1**	**-5.3**	**-6.0%**

Sources: House Appropriations Committee detailed tables for BOEM and BSEE; U.S. Congress, House Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill*, 2017, report to accompany H.R. 5538, 114th Cong., 2nd sess., H.Rept. 114-632 (Washington, DC: GPO, 2016); U.S. Congress, Senate Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2017*, report to accompany S. 3068, 114th Cong., 2nd sess., S.Rept. 114-281 (Washington, DC: GPO, 2016); P.L. 114-113, Division G, Explanatory Statement, *Congressional Record*, December 17, 2015, p. H10215.

Notes: Figures may not sum precisely due to rounding. N/A = not applicable.

a. Subtotals differ from those discussed in the text because the subtotals in the text include appropriations for both the OSEE account and the Oil Spill Research account (see second row from the bottom).

b. Both H.R. 5538 and S. 3068 contain rescissions of unobligated balances from BSEE's OSEE account. These rescissions function as an offset to the funding in the Interior appropriations bill for the fiscal year in which they are enacted. In other words, rescissions effectively allow the new appropriations for the agency to be at a higher level than might otherwise have been the case.

The House Interior appropriations bill, H.R. 5538, contained total appropriations of $204.9 million for BSEE, offset by rental receipt and fee collections of $96.5 million. The bill also included a rescission of $20.0 million in unobligated balances, which functions as an offset to the total, yielding a net appropriation of $88.3 million. The House's total appropriation for BSEE was $0.2 million more than the FY2016 enacted total and the same as the Obama Administration's FY2016 request. Although the House's *total* BSEE appropriation was the same as the request, because of different estimations of offsets, its *net* appropriation was $8.0 million less than the agency's request and $0.1 million less than the FY2016 enacted net appropriation.[27]

[27] The differences in BSEE's estimation of its offsetting collections versus the estimations by the House and Senate are

The Senate Appropriations Committee's Interior appropriations bill, S. 3068, contained total appropriations of $204.7 million for BSEE, offset by rental receipt and fee collections of $96.5 million, as well as a $25 million rescission of unobligated balances, for a net appropriation of $83.1 million. The Senate Committee's total appropriation was the same as the FY2016 enacted total and $0.2 million less than the Obama Administration's request. The committee's net appropriation, after offsets, was $5.3 million less than the FY2016 enacted net appropriation and $13.2 million less than the request, reflecting different estimations of offsetting collections.[28]

The 114th Congress did not enact full-year Interior appropriations for FY2017, and continuing funds were provided through April 28, 2017, under the CRs (P.L. 114-223 and P.L. 114-254). The CRs generally provide funding at the FY2016 level, minus an across-the-board reduction of less than 1%.

BSEE Budget Accounts

BSEE's funding is appropriated under two budget accounts, Offshore Safety and Environmental Enforcement (OSEE) and Oil Spill Research.[29] Under the OSEE account, the Operations, Safety, and Regulation (OSR) activity supports the agency's development of regulations and safety standards, review and approval of OCS operating permits, inspections of facilities and equipment, oversight of operators' Safety and Environmental Management Systems (SEMS) programs,[30] real-time monitoring of oil and gas drilling, and evaluation of emerging technologies, among other activities. Under this activity, BSEE in July 2016 coordinated with BOEM to issue final safety regulations for Arctic exploratory drilling,[31] and in April 2016, BSEE issued final regulations for blowout prevention systems and well control.[32]

Also under the OSEE account, the Environmental Enforcement activity supports BSEE's own compliance with NEPA and other environmental statutes, as well as the agency's oversight and

due, first, to the House's and Senate's rescissions of prior-year balances and, second, to the fact that the House and Senate Appropriations Committees estimated lower BSEE collections of inspection fees ($53.0 million) than the agency did in its budget justification ($65.0 million). BSEE estimated higher collections of inspection fees for FY2017 than in recent years, based partially on its request to Congress to allow the agency to collect fees for some types of inspections (such as follow-up facility inspections) for which it is not currently authorized to charge fees. The agency proposed language for the general provisions of the appropriations bill that would allow the new fees. However, the House and Senate committees did not include the requested language in their Interior appropriations bills.

[28] See footnote 27 and discussion under "Proposed BOEM Budgetary Changes."

[29] This report's descriptions of BSEE's budget activities are drawn from BSEE, *Budget Justifications and Performance Information: Fiscal Year 2017*, at https://www.bsee.gov/sites/bsee.gov/files/budget-justifications//bsee-fy-2017-budget.pdf, and from other sources. Hereinafter, this publication is referred to as "BSEE *Budget Justification FY2017*."

[30] The SEMS framework, based on BSEE's Workplace Safety Rule, as revised (BSEE, "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Revisions to Safety and Environmental Management Systems," 78 *Federal Register* 20423, April 5, 2013), requires operators to implement programs and practices to enhance workplace safety and environmental protection, including many different elements. For more information, see BSEE, "SEMS Fact Sheet," at http://www.bsee.gov/Regulations-and-Guidance/Safety-and-Environmental-Management-Systems—SEMS/Fact-Sheet/.

[31] Department of the Interior, "Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," 81 *Federal Register* 46477, July 15, 2016. For more information, see CRS Report R41153, *Changes in the Arctic: Background and Issues for Congress*, coordinated by Ronald O'Rourke, section on "Oil, Gas, and Mineral Exploration." In the 115th Congress, H.J.Res. 34 would disapprove the Arctic drilling rule under the Congressional Review Act.

[32] BSEE, "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control," 81 *Federal Register* 25887, April 29, 2016. For more information, see CRS Insight IN10484, *The Department of the Interior's Final Rule on Offshore Well Control*, by Laura B. Comay.

enforcement of environmental compliance by operators on the OCS. The program has pursued more than 200 cases of environmental violations since late 2011.[33]

The activities for Administrative Operations and Executive Direction, which are also within the OSEE account, support a range of administrative services as well as BSEE's executive offices.

A separate BSEE budget account is for Oil Spill Research. This account funds research and planning for oil spill responses, as well as oversight of operators' spill response plans. It also supports Ohmsett, the National Oil Spill Response Research and Renewable Energy Test Facility.

Proposed BSEE Budgetary Changes

Like BOEM, BSEE anticipated changes to its offsetting collections for FY2017. The agency estimated a drop of $11.5 million in rental receipts for FY2017 as compared to the previous year's collections.[34] BSEE estimated lower cost recovery fees as well (-$2.2 million). The agency estimated an increase of $6.0 million in anticipated inspection fees, based on its proposal for legislative changes to authorize the agency to charge additional fees for repeat visits to certain OCS facilities. However, neither the House nor the Senate Appropriations Committee included this new authorization in its bill, and the committees estimated $12.0 million less in FY2017 inspection fee collections for BSEE than the agency had suggested. Neither bill provided the level of direct appropriations requested by BSEE to address the estimated shortfall in offsetting collections. Both bills included rescissions of unobligated prior-year balances, which function as offsets to the funding in the Interior appropriations bill for the fiscal year in which they are enacted, as discussed above.

Separate from the estimated changes to offsetting collections, BSEE proposed other funding changes in its OSEE account, including the following:

- An *increase* of $0.5 million across four budget activities (Environmental Enforcement, OSR, Administrative Operations, and Executive Direction) for projected growth in fixed costs such as rent, salaries, and information technology.
- A *decrease* of $0.3 million across four budget activities (Environmental Enforcement, OSR, Administrative Operations, and Executive Direction), to be achieved through administrative savings efforts and implementation of new program management models.

BSEE, like BOEM, proposed to increase pay levels for certain skilled professionals, as authorized in August 2015 changes to OPM special salary tables. BSEE stated that base funding would be used to support the revised pay rates, resulting in no change to the OSR appropriation from the FY2016 enacted level.[35]

The House-passed and Senate committee-reported bills for the most part reflected BSEE's proposed changes, except for those concerning offsetting collections, as discussed above. Additionally, the Senate bill did not reflect BSEE's proposed changes for the OSR account and instead would have provided the same as the FY2016 enacted level.

[33] BSEE *Budget Justification FY2017*, p. 49.

[34] BOEM and BSEE also proposed a change in the proportion of offsetting rental receipts that would go to each agency; see discussion under "Proposed BOEM Budgetary Changes."

[35] BSEE *FY2017 Budget Justification*, pp. 14-15.

Office of Natural Resources Revenue[36]

ONRR was established under the DOI Office of the Assistant Secretary for Policy, Management, and Budget to collect, account for, analyze, audit, and disburse revenues from energy and mineral leases on the OCS as well as on federal onshore and American Indian lands.[37]

With regard to its disbursement function, in FY2016 ONRR disbursed $6.3 billion in revenues from mineral leases on federal and Indian lands, down from $9.9 billion in FY2015 and $13.4 billion in FY2014. Of the FY2016 total, approximately $2.8 billion came from leasing and production activity on the OCS. The revenue amounts disbursed fluctuate annually, based primarily on the prices of oil and natural gas, and have averaged about $10 billion per year for onshore and offshore production combined over the last five years (FY2012-FY2016). Sources of ONRR receipts include royalties, bonus bids, and rents for all leasable minerals including oil, natural gas, coal, and others.

ONRR distributes revenues under various authorities. Revenues from onshore leases are disbursed to the states in which they were collected, the General Fund of the U.S. Treasury, and the Reclamation Fund based on various statutory formulas.[38] Revenues from offshore leases are allocated among coastal states, the Land and Water Conservation Fund, the Historic Preservation Fund, and the Treasury.[39]

ONRR receives and processes approximately 49,000 royalty and production reports monthly. It annually collects royalties on some 32,000 offshore and onshore producing leases and rents on some 29,000 nonproducing leases.[40] ONRR uses an automated liquid verification system and gas verification system to ensure the accuracy of reported offshore production information.

FY2017 Budget and Appropriations

The Obama Administration submitted an FY2017 total funding request of $129.3 million for ONRR. There are no offsetting collections proposed for ONRR as there are for BOEM and BSEE. See **Table 3** for the FY2017 funding request and ONRR appropriations. ONRR identified three major areas of importance that support its mission to collect, disburse, and verify federal and Indian energy and other natural resource revenue: (1) Financial and Production Management, (2) Audit and Compliance Management, and (3) Coordination, Enforcement, Valuation, and Appeals.

The FY2017 request reflected resources proposed for ONRR to assume trust responsibility for the Osage Nation as it does for all other tribes receiving mineral revenue.[41] The Osage Nation is a

[36] This section was prepared by Marc Humphries, Specialist in Energy Policy.

[37] Secretarial Order 3306 established ONRR in 2010 as part of the reorganization of the MMS (DOI Secretarial Order 3306, "Organizational Changes Under the Assistant Secretary—Policy, Management and Budget," September 30, 2010).

[38] For information on the Reclamation Fund, see CRS In Focus IF10042, *The Reclamation Fund*, by Charles V. Stern.

[39] For a discussion of offshore revenue sharing issues and legislation, see CRS Report R40645, *U.S. Offshore Oil and Gas Resources: Prospects and Processes*, by Marc Humphries and Robert Pirog. For information on the Land and Water Conservation Fund, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by Carol Hardy Vincent.

[40] Department of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2017: Office of the Secretary and Department-Wide Programs*, p. 159, at https://www.doi.gov/sites/doi.gov/files/migrated/budget/appropriations/2017/upload/FY2017_OS_Greenbook.pdf.

[41] According to DOI, the federal Indian trust responsibility is a legal obligation under which the United States "has

federally recognized tribe located in Oklahoma. After a 2011 settlement ($380 million), DOI and the Osage Nation agreed to implement programs to strengthen management and improve communication. To date, the Osage oil and gas leasing program operates with support only from DOI's Bureau of Indian Affairs (thus, with no support from the Bureau of Land Management or ONRR). The addition of Osage to ONRR's portfolio would increase the amount of Indian leases under ONRR's management by 82%, or an additional 5,000 new leases and 30,000 producing wells. The Obama Administration's FY2017 request sought $968,000 to fully fund the Osage Trust Accounting program. The Osage Trust Accounting Program received $2.6 million in FY2016.

The Obama Administration requested $1.0 million in FY2017 for geospatial information systems (GIS) to improve the effectiveness of ONRR and to better understand the relationship between leases and transportation lines, among other things. The Administration also requested $1.2 million to improve ONRR's audit and compliance function.

ONRR's strategic goals include revenue management and royalty reform using ONRR-wide compliance measures. ONRR would like to improve its newly implemented compliance measures to fully reflect all of ONRR's compliance work. A major challenge confronting ONRR is to ensure that its audit and compliance program is consistently effective. Critics contend that less auditing and more focus on compliance review has led to a less rigorous royalty collection system and thus a loss of revenue to the federal Treasury. DOI's Inspector General and the Government Accountability Office (GAO) have made recommendations to strengthen and improve administrative controls of the compliance and asset management program, including adoption of a risk-based compliance approach.[42] In FY2015, ONRR, along with its state and tribal audit partners, closed 110 audits and 667 compliance reviews. Tribes can conduct mineral royalty audits on their tribal land, and states can do so on federal leases within their state boundaries. ONRR has agreements with 10 states and 6 tribes to conduct leasing-compliance activities in their jurisdictions.

Congressional Action

The House-passed FY2017 Interior appropriations bill, H.R. 5538, would have supported ONRR's programs at $126.5 million, $2.8 million below the Obama Administration's request and $1.0 million above last year's appropriation. The Senate committee-reported bill, S. 3068, would have provided $121.8 million for ONRR, $7.6 million below the Administration's request and $3.8 million below the FY2016 appropriation. The 114th Congress did not enact full-year Interior appropriations for FY2017, and continuing funds were provided through April 28, 2017, under the CRs (P.L. 114-223 and P.L. 114-254). The CRs generally provide funding at the FY2016 level, minus an across-the-board reduction of less than 1%.

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charged itself with moral obligations of the highest responsibility and trust" toward Indian tribes (Seminole Nation v. United States, 1942). This obligation was first discussed by Chief Justice John Marshall in Cherokee Nation v. Georgia (1831). Over the years, the trust doctrine has been at the center of numerous other Supreme Court cases, thus making it one of the most important principles in federal Indian law. See DOI, Indian Affairs, "Frequently Asked Questions," at http://www.bia.gov/FAQs/.

[42] For more information, see Department of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2012: Office of the Secretary, Department-Wide Programs*, p. DO-208, at https://edit.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/FY2012_DOI-OS_Greenbook.pdf.

Table 3. Appropriations for the Office of Natural Resources Revenue (ONRR), FY2016-FY2017
(in millions of dollars)

ONRR	FY2016 Enacted	FY2017 Request	House-Passed FY2017 Bill (H.R. 5538)	Change from FY2016		Senate Comm. FY2017 Bill (S. 3068)	Change from FY2016	
				$	%		$	%
Total Appropriations	**125.5**	**129.3**	**126.5**	**+1.0**	**+0.8%**	**121.8**	**-3.8**	**-3.0%**

Sources: House Appropriations Committee detailed tables for BOEM and BSEE; U.S. Congress, House Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2017*, report to accompany H.R. 5538, 114th Cong., 2nd sess., H.Rept. 114-632 (Washington, DC: GPO, 2016); U.S. Congress, Senate Appropriations Committee, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2017*, report to accompany S. 3068, 114th Cong., 2nd sess., S.Rept. 114-281 (Washington, DC: GPO, 2016); P.L. 114-113, Division G, Explanatory Statement, *Congressional Record*, December 17, 2015, p. H10215.

General Provisions

H.R. 5538 and S. 3068 contained general provisions related to offshore energy.[43] Section 107 of both bills directed the ocean energy agencies to collect nonrefundable inspection fees in FY2017 to be deposited into BSEE's OSEE account and specified fee amounts. Section 108 of both bills authorized the Secretary of the Interior to transfer funds among and between BSEE, BOEM, and ONRR in accordance with reprogramming guidelines related to the earlier departmental reorganization. Both of these provisions are similar to those in previous years' Interior appropriations laws.

Section 124 of the House bill would have prohibited the use of funds in FY2017 or any other fiscal year to implement new regulations pertaining to drilling margins or static downhole mud weight in offshore wells. The provision referred to regulatory changes contained in BSEE's April 2016 final rule on offshore well control.[44]

Obama Administration's Legislative Proposals

The Obama Administration included as part of its DOI budget some legislative proposals that pertained to the ocean energy agencies.[45] One DOI proposal, concerning offshore revenue-sharing payments under P.L. 109-432, the Gulf of Mexico Energy Security Act of 2006, sought to redirect the payments from their current recipients—the states of Alabama, Louisiana, Mississippi, and Texas—to broad federal natural resource and conservation programs. More than half of the funding would be redirected to a new Coastal Climate Resilience Program for at-risk coastal states, local governments, and communities to prepare for and adapt to climate change. A separate proposed package of federal oil and gas legislation for both offshore and onshore activities

[43] This report addresses general provisions that are specifically related to offshore energy and does not cover general provisions that apply across DOI, such as department-wide emergency funding transfer authorities.

[44] BSEE, "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control," 81 *Federal Register* 25887, April 29, 2016. For more information, see CRS Insight IN10484, *The Department of the Interior's Final Rule on Offshore Well Control*, by Laura B. Comay.

[45] DOI, *Fiscal Year 2017: The Interior Budget in Brief*, "Legislative Proposals and Offsetting Collections," February 2016, at https://www.doi.gov/sites/doi.gov/files/uploads/FY2017_BIB_DH067.pdf. In addition to the legislative proposals discussed here, footnote 27 discusses DOI's proposal for a new fee for onshore oil and gas inspections.

included changes such as evaluating minimum royalty rates, adjusting the onshore royalty rate, repealing legislatively mandated royalty relief, providing for shorter primary lease terms, instituting a new fee on nonproducing leases, and making certain changes in revenue collections, among other elements. Congressional action, if any, on such proposals could take place outside of the appropriations process.

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