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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).[2] Currently, offshore leasing is taking place under a program for mid-2017 through mid-2022 developed by the Obama Administration.[3] The Trump Administration published the first draft of a new program in 2018.[4] No further versions have been released to date. Given timing requirements specified in law and regulations, it appears the remaining steps to finalize a new program could not be completed before the current program expires on June 30, 2022, and thus the federal government faces a gap between programs. The OCSLA does not establish a federal authority for offshore oil and gas lease sales outside of a five-year program.[5]

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 (NEPA),[6] 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 add any sales that were not previously proposed. 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 has expressed ongoing interest in the planning and implementation of the five-year programs. The following discussion summarizes developments regarding the next leasing program and analyzes selected issues 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 address the timing for publishing a new program, or could add new sales or remove scheduled sales from an active program, or could change other 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.

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[1] 43 U.S.C. §§1331-1356b.

[2] The programs must cover a five-year horizon (43 U.S.C. §1344(a)) and are typically in force for five years. However, the Trump Administration's draft proposed program for 2019-2024 would have replaced the final three years of the current (2017-2022) program. Also see footnote 7.

[3] Department of the Interior (DOI), *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/.

[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] The five-year program requirements pertain to new sales rather than exploration and production of existing leases.

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

Leasing Program Status

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. This draft program would have replaced the final years of the current program.[7] The 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.[8] 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. BOEM received more than 2 million comments on the DPP.[9] The next stage 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). After receipt and consideration of public comments on the PP and draft EIS, BOEM would publish a final EIS and leasing program. BOEM did not move to the PP and draft EIS stage under the Trump Administration.[10]

To date, the Biden Administration also has not published a PP or a draft EIS.[11] In BOEM's FY2023 budget justification, the Administration stated that "BOEM continues to meet its statutory obligations required by OCSLA, which include ... developing the next National OCS Oil and [Gas] Leasing Program.... Development of and decisions regarding the next National OCS Program are ongoing as the Department evaluates all options and determines the best pathway to accomplish its mission."[12] Among other things, BOEM may consider recommendations from a

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

[8] 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/.

[9] "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."

[10] Then-Secretary of the Interior David Bernhardt stated in hearing testimony (House Committee on Natural Resources, *U.S. Department of the Interior Budget and Policy Priorities for FY2020*, oversight hearing, May 15, 2019) that publication of the 2019-2024 PP was delayed while the Trump Administration considered its response to a March 2019 judicial ruling. 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 for oil and gas leasing certain previously withdrawn parts of the Arctic and Atlantic Oceans. For more information, see CRS Legal Sidebar WSLG1799, *Trump's Executive Order on Offshore Energy: Can a Withdrawal be Withdrawn?*, by Adam Vann.

[11] Biden Administration officials have indicated that they intend to work from the existing DPP, with the PP and draft EIS being the next documents published. See, for example, BOEM, *Budget Justifications and Performance Information, Fiscal Year 2023*, p. 61. Because the leasing program uses a winnowing process, the Biden Administration could potentially remove sales proposed in the DPP from later versions of the program, based on public comments, further analysis, and NEPA review.

[12] BOEM, *Budget Justifications and Performance Information, Fiscal Year 2023*, p. 10. BOEM also requested a reduction in funding of $3.4 million in its FY2023 budget for activities related to the execution of the five-year oil and gas leasing program, stating that "the Bureau can sustain some levels of reduction to this funding, as some resources for National OCS Program implementation are not currently being utilized."

November 2021 DOI review of the federal oil and gas leasing program that relate to the scope and terms of future offshore lease sales.[13]

Additionally, the timing for implementing approved lease sales under the current (2017-2022) leasing program has been affected by the "pause" of federal oil and gas leasing mandated by President Biden in Executive Order 14008 of January 27, 2021.[14] Pursuant to the executive order, BOEM halted planning for 2021 sales in the Gulf of Mexico and Alaska's Cook Inlet. In response to a June 2021 court order,[15] BOEM subsequently resumed planning and held Lease Sale 257 for the Gulf of Mexico on November 17, 2021, but that lease sale was later vacated by another judicial order.[16] On October 22, 2021, BOEM published a draft EIS for Lease Sale 258 in Alaska's Cook Inlet.[17] The comment period for the draft EIS closed on December 13, 2021. DOI has not yet published a final EIS or decision regarding Lease Sale 258.

Lease Sales 257 and 258 are the eighth and ninth of 11 scheduled lease sales in the 2017-2022 program. Seven previous sales have been held, all for the Gulf of Mexico.[18] 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. However, given timing considerations associated with individual lease sales and their environmental analysis, it appears that BOEM would not have time to plan and conduct these sales before the current program expires on June 30, 2022.[19]

Selected Issues for Congress

Timing Considerations for the Upcoming Five-Year Program

As with the remaining sales in the current program, it also appears that the steps to finalize a new five-year program could not be completed by the time the current program expires on June 30, 2022. Consequently, the federal government faces a gap between offshore leasing programs. The OCSLA does not establish a federal authority for new offshore oil and gas lease sales outside of a five-year program.

More specifically, for the next program, BOEM has thus far published only the DPP proposed by the Trump Administration in January 2018. The OCSLA and its implementing regulations call for two subsequent drafts—a PP, which is opened for public comment for a period of at least 90 days,

[13] DOI, *Report on the Federal Oil and Gas Leasing Program: Prepared in Response to Executive Order 14008*, November 2021, at https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf, hereinafter referred to as "DOI, *E.O. 14008 Report*." See section on "Timing Considerations for the Upcoming Five-Year Program" for more information.

[14] For more information, see CRS In Focus IF11909, *Offshore Oil and Gas: Leasing "Pause," Federal Leasing Review, and Current Issues*, by Laura B. Comay.

[15] Louisiana v. Biden, 543 F. Supp. 3d. 388 (W.D. La. 2021).

[16] Friends of the Earth v. Haaland,—F. 3d.—, 2022 WL 254526 (D.D.C. 2022). For more information on Lease Sale 257, see BOEM, "Lease Sale 257," at https://www.boem.gov/Sale-257.

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

[18] 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.

[19] The approved leasing schedule for a five-year program applies only in the five-year time frame (43 U.S.C. 1344(a)).

and then a proposed final program (PFP), which is submitted to Congress and the President for 60 days before implementation.[20] 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 to succeed the 2018 DPP. BOEM stated in its FY2023 budget justification that development is "ongoing as the Department evaluates all options and determines the best pathway to accomplish its mission";[21] and in an April 28, 2022, hearing of the House Committee on Appropriations, the Secretary of the Interior stated that "there is a significant amount of internal work that still needs to be done" on the new program.[22] Also unclear is how a gap between programs may interact with requirements of the OCSLA. The OCSLA states that the Secretary of the Interior must "prepare and periodically revise, and maintain an oil and gas leasing program"; to date, each PFP has been published before the expiration of the previous program.[23] 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 effective date of the next program.[24] Some bills introduced in the 117th Congress contain provisions to explicitly prohibit gaps between programs.[25]

Regional Leasing Decisions

Under the OCSLA, BOEM must take into account economic, social, and environmental values in making its leasing decisions.[26] 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.[27] **Figure 1** and

[20] 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)).

[21] BOEM, *Budget Justifications and Performance Information, Fiscal Year 2023*, p. 10.

[22] Testimony of Secretary of the Interior Deb Haaland, House Committee on Appropriations, *Fiscal Year 2023 Budget Request for the United States Department of the Interior*, hearing, April 28, 2022, at https://appropriations.house.gov/events/hearings/fiscal-year-fy2023-budget-request-for-the-united-states-department-of-the-interior.

[23] 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.

[24] 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.

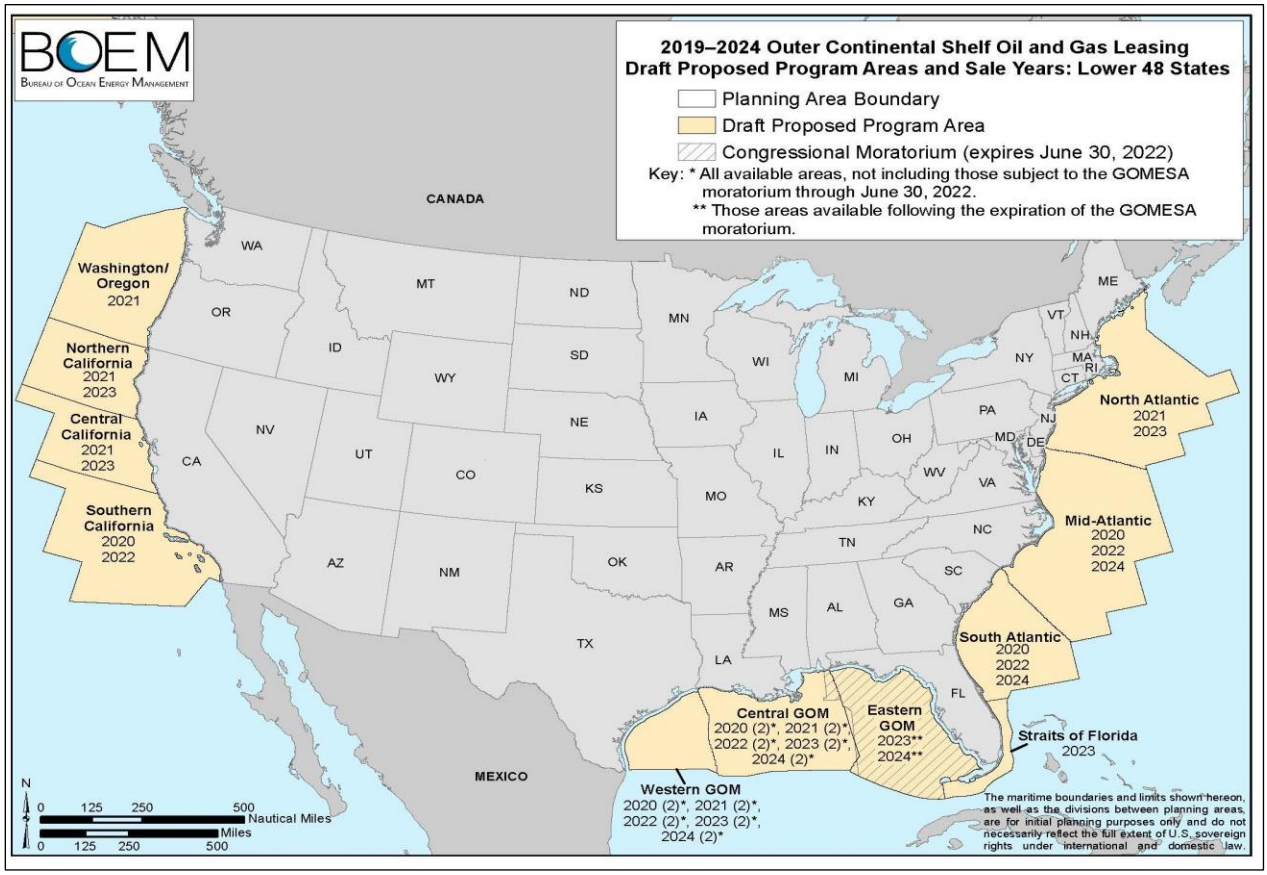
[25] H.R. 6858, H.R. 7012, S. 3214, S. 3752. For other legislative proposals, see the "Role of Congress" section.

[26] 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.

[27] See the "Role of Congress" section for more information.

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.

Figure 1. January 2018 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: Planned lease sales that are shown for the Eastern Gulf of Mexico, the South Atlantic, and the Mid-Atlantic would be affected by leasing withdrawals promulgated by President Trump after publication of the DPP.

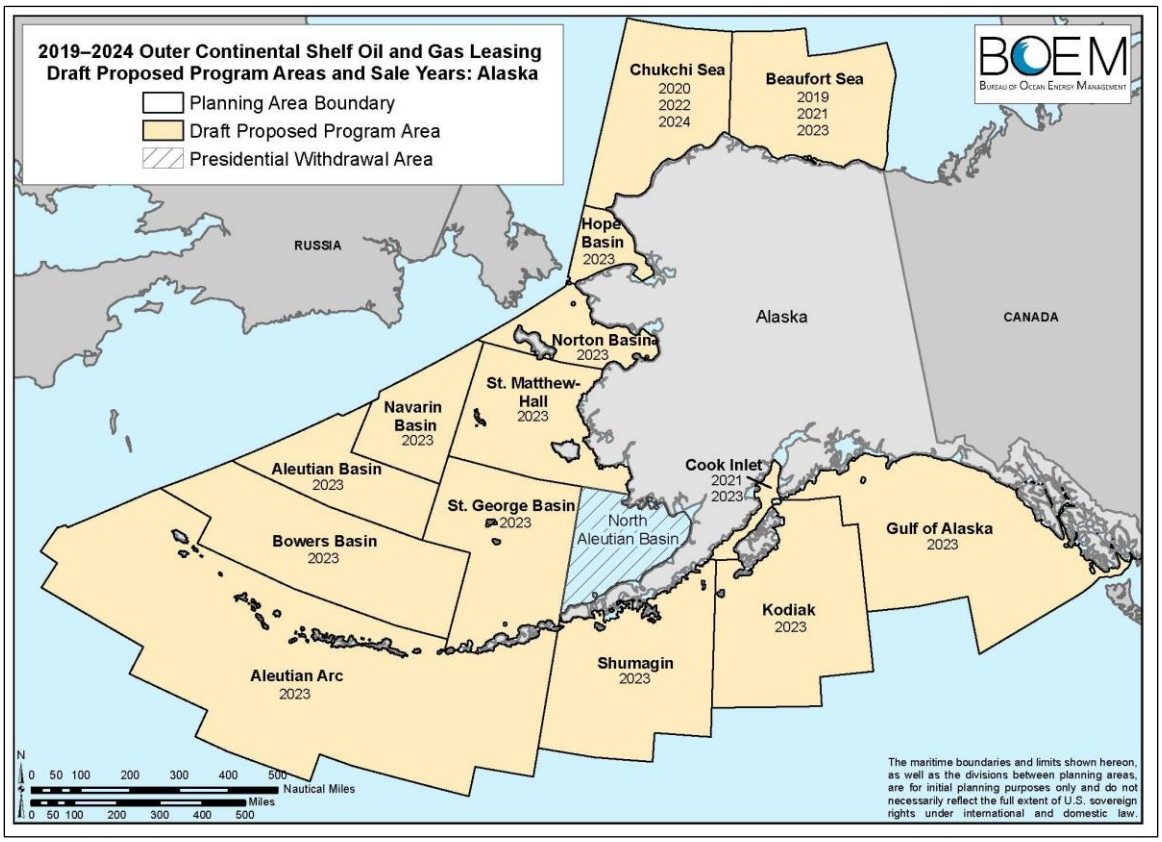
The DPP would make available nearly all of the OCS for oil and gas leasing, except for areas that BOEM is prohibited from leasing (e.g., by an act of Congress or a presidential withdrawal). Because the leasing program proceeds through a winnowing process, the Biden Administration could remove sales proposed in the DPP from later versions of the program, based on public comments and additional analysis and review, including NEPA review.[28] Also, some areas included in the DPP—the Chukchi Sea and most of the Beaufort Sea in the Alaska region, most of

[28] 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. In January 2021, under the Trump Administration, the DOI Solicitor issued an opinion finding that the OCSLA requires a five-year program to contain at least two lease sales, but in April 2021, under the Biden Administration, the DOI Solicitor withdrew the opinion. Memorandum from the DOI Solicitor to the Secretary of the Interior, "Secretarial Discretion in Promulgating a National Outer Continental Shelf Oil and Gas Leasing Program," January 13, 2021; and Memorandum from the DOI Solicitor to the Secretary of the Interior, "Withdrawal of M-37062, *Secretarial Discretion in Promulgating a National Outer Continental Shelf Oil and Gas Leasing Program*," April 16, 2021, both available at https://www.doi.gov/solicitor/opinions.

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.

Figure 2. January 2018 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: Planned lease sales that are shown for the Chukchi and Beaufort Seas would be affected by executive and judicial actions related to leasing withdrawals that took effect after publication of the DPP.

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 each region for the next five-year period within the existing framework.[29]

[29] As discussed above, under the OCSLA (43 U.S.C. §1344(d)(2), 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.

Gulf of Mexico Region

Almost all U.S. offshore oil and gas production currently takes place in the Gulf of Mexico.[30] 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.[31] The lease schedules promulgated 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 year for 2019-2022, with a third sale specifically for the Eastern and Central Gulf of Mexico in 2023 and 2024 (**Figure 1**).[32]

In Executive Order 14008, President Biden temporarily halted new oil and gas leasing in the Gulf and throughout the OCS, and ordered DOI to review 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." DOI released the required review in November 2021.[33] Among other things, the review included a recommendation that BOEM reconsider its traditional practice of area-wide leasing—under which all eligible lease blocks in a given planning area or broader offshore region are offered in a single lease sale—and instead consider sales for "smaller areas" based on specified criteria.[34] This would be a change to the area- and region-wide leasing approaches heretofore employed for the Gulf.

Recent judicial actions related to BOEM's climate analyses for the leasing program could potentially affect considerations for the Gulf in the next program. For the current (2017-2022) program, BOEM had 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.[35] This was largely based on "assumed substitution of more GHG-intensive oil and gas sources in the absence of a new OCS leasing program."[36] However, a January 2022 ruling by the U.S. District Court for the District of Columbia found

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

[31] 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. 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.

[32] 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").

[33] DOI, *E.O. 14008 Report*.

[34] Ibid., p. 13.

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

[36] Ibid. Also see BOEM, *OCS Oil and Natural Gas: Potential Lifecycle Greenhouse Gas Emissions and Social Cost of Carbon*, November 2016.

deficiencies in the analysis BOEM used to arrive at this conclusion, and BOEM has made changes to its methodology since publication of the 2017-2022 program.[37] The analysis of lifecycle greenhouse gas emissions is among multiple factors BOEM would consider as it determines economic, social, and environmental implications of potential Gulf leasing decisions for the next five-year program.

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.[38] In September 2020, President Trump effectively extended this moratorium through June 2032 by withdrawing the area from leasing consideration until that time, using the presidential authority under Section 12(a) of the OCSLA.[39] Some Members of Congress and other stakeholders wish to make the 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.

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 have contributed to the increased interest.[40] 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 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

[37] Friends of the Earth v. Haaland,—F. 3d.—, 2022 WL 254526 (D.D.C. 2022). For discussion of changes to BOEM's methodology, see BOEM, *Cook Inlet Planning Area, Oil and Gas Lease Sale 258 in Cook Inlet, Alaska: Draft Environmental Impact Statement*, Volume 1, Section 4.3.5, "Lifecycle Greenhouse Gas Emissions and Social Cost of Greenhouse Gas Emissions," p. 42, at https://www.boem.gov/oil-gas-energy/leasing/ls258-deis. BOEM made the changes prior to the January 2022 ruling, based on earlier court decisions that addressed similar issues.

[38] 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. This report refers to the moratorium area as the "Eastern Gulf" moratorium area for simplicity.

[39] 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."

[40] 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.

groups oppose offshore oil and gas drilling in the region, due to concerns about potential oil spills and 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.[41] (Industry interest in some other Alaska region planning areas may be lower, as many are thought to have relatively low or negligible petroleum potential.) However, large parts of the Beaufort and Chukchi Sea planning areas are now withdrawn indefinitely from leasing disposition following a March 2019 judicial ruling and a January 2021 executive order by President Biden.[42]

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.[43] 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.[44] Opponents of increased Arctic leasing also express concern that it would represent 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.[45] Others assert, however, that tepid industry interest in the region is due more to the overly demanding federal regulatory environment than to market conditions.[46]

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[41] BOEM, 2021 UTRR map. The Obama Administration had at times also expressed support for leasing in these areas, and in early drafts of the 2017-2022 had included sales for the Beaufort and Chukchi Seas. However, the Obama Administration removed these sales from the final program, and President Obama later withdrew most of the Beaufort and Chukchi Seas from leasing consideration.

[42] League of Conservation Voters v. Trump, 363 F.Supp.3d 1013 (D.Alaska 2019); see footnote 10 for more information. Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," Section 4(b), 86 *Federal Register* 7037. Also 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."

[43] 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.

[44] 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." The Obama Administration issued Arctic offshore drilling regulations that 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. DOI, "Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf," 81 *Federal Register* 46477, July 15, 2016.

[45] 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).

[46] 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."

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 financially struggling localities. Other Alaska Native communities have opposed offshore leasing in the region, citing concerns about environmental threats to subsistence lifestyles. Alaska's former governor submitted comments on the DPP supporting the proposed sales in Cook Inlet and the Beaufort and Chukchi Seas but opposing sales in the other Alaska planning areas.[47]

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.[48] 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.[49]

Political leaders in the Atlantic states, and stakeholders within each state, disagree about whether oil and gas drilling should occur in the region.[50] Supporters of leasing contend that oil and gas development 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 and state 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 recent years, the Atlantic region has increasingly been a focus for BOEM's offshore wind leasing; some see this as potentially compatible with oil and gas development, some favor one or the other type of energy development, and some oppose both wind development and oil and gas development as conflicting with other uses of the Atlantic.[51]

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."[52] The Trump Administration's DPP proposed nine

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

[48] 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).

[49] 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.

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

[51] For more information on offshore wind leasing, see CRS Report R46970, *Offshore Wind Energy: Federal Leasing, Permitting, Deployment, and Revenues*, by Laura B. Comay and Corrie E. Clark.

[52] BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing: Proposed Program*, March 2016, at http://www.boem.gov/2017-2022-Proposed-Program-Decision/. 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). The 2017-2022 DPP had included a 50-mile buffer zone off the

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, from July 2022 through June 2032, the waters off of North Carolina, South Carolina, Georgia, and Florida.[53] Thus, these areas are no longer eligible for consideration in the next leasing program.

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.[54] Like the Atlantic region, the Pacific region was subject to congressional and presidential leasing moratoria for most of the past 30 years.[55] 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.[56] (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.)[57]

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.[58] Members concerned about environmental damage from oil and gas activities in the region have introduced legislation that would prohibit Pacific oil and gas leasing.[59]

coast where Atlantic 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, BOEM assessed that the areas of DOD and NASA concern "significantly overlap the known geological plays and available resources" (p. S-10), which contributed to its decision to remove the Atlantic sale altogether from the final program.

[53] President Trump withdrawal memorandum, September 8, 2020; and President Donald Trump, "Presidential 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/.

[54] 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.

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

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

[57] 2019-2024 DPP, Chapter 1, p. 2.

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

[59] 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.

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.[60] Some Members of Congress 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.[61]

Congress also has considered directly modifying the terms of the five-year program through legislation. Some bills in the 117th Congress (H.R. 6858, H.R. 7012, S. 3214, S. 3752) would require that BOEM conduct the remaining lease sales in the current (2017-2022) program even after expiration, and that future five-year programs be prepared and approved within a time frame that would prevent gaps between programs. These and other bills (H.R. 4334, S. 69) also would mandate minimum numbers of oil and gas lease sales in the Gulf of Mexico and/or Alaska regions.[62] 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).[63] 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, S. 76, and others 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 extend 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 any future five-year leasing program, Congress could affect the program by pursuing bills such as these or other legislation. Alternatively, Congress could choose not to intervene, allowing a new program to proceed as developed by BOEM.

[60] 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. Congress could make changes to the final program during or after the 60-day review period through legislation.

[61] 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.

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

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

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