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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). In December 2023, the Secretary of the Interior approved a five-year program for the 2024-2029 period. The program schedules three offshore oil and gas lease sales for this period, all in the Gulf of Mexico.

BOEM's development of a new five-year program typically takes two to three years, although the development period for the 2024-2029 program was longer. During program preparation, 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),[2] to arrive at a final leasing schedule. Under the OCSLA, the proposed final program (PFP) is submitted to the President and to Congress for at least 60 days (although the President and Congress do not have formal approval roles). The proposal may then receive final approval from the Secretary of the Interior and may take effect.

Congress can influence the five-year program through oversight or by enacting legislation with requirements for the program. For example, bills in the 118th Congress would mandate certain lease sales, set new terms for program development under the OCSLA, impose leasing moratoria in specified areas, or make other types of changes.

This report discusses developments related to the 2024-2029 leasing program, selected issues for congressional consideration, and pending legislation. The broader history, legal framework, and process for developing the five-year programs are addressed in CRS Report R44504, *Five-Year Offshore Oil and Gas Leasing Program: History and Background*.

Leasing Program Status

The Secretary of the Interior issued a record of decision (ROD) allowing the 2024-2029 program to take effect on December 14, 2023.[3] BOEM had submitted the final version of the program—the PFP—to Congress and the President on September 29, 2023.[4]

The approved PFP follows on an earlier proposed program (PP) released by the Biden Administration in July 2022 and a draft proposed program (DPP) released by the Trump Administration in January 2018.[5] The Trump Administration DPP originally had proposed a total of 47 OCS oil and gas lease sales over a five-year period: 12 in the Gulf of Mexico region, 19 in the Alaska region, 9 in the Atlantic region, and 7 in the Pacific region. The Biden

[1] Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. §§1331-1356b; see especially §1344.

[2] National Environmental Policy Act (NEPA), 42 U.S.C. §4321. For more information, see CRS In Focus IF12417, *Environmental Reviews and the 118th Congress*, by Kristen Hite.

[3] Secretary of the Interior Deb Haaland, "Record of Decision and Approval of the 2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program," December 14, 2023, at https://www.boem.gov/sites/default/files/documents/oil-gas-energy/Decision-Memo-National-Program-SIGNED.pdf; hereinafter referred to as 2024-2029 ROD.

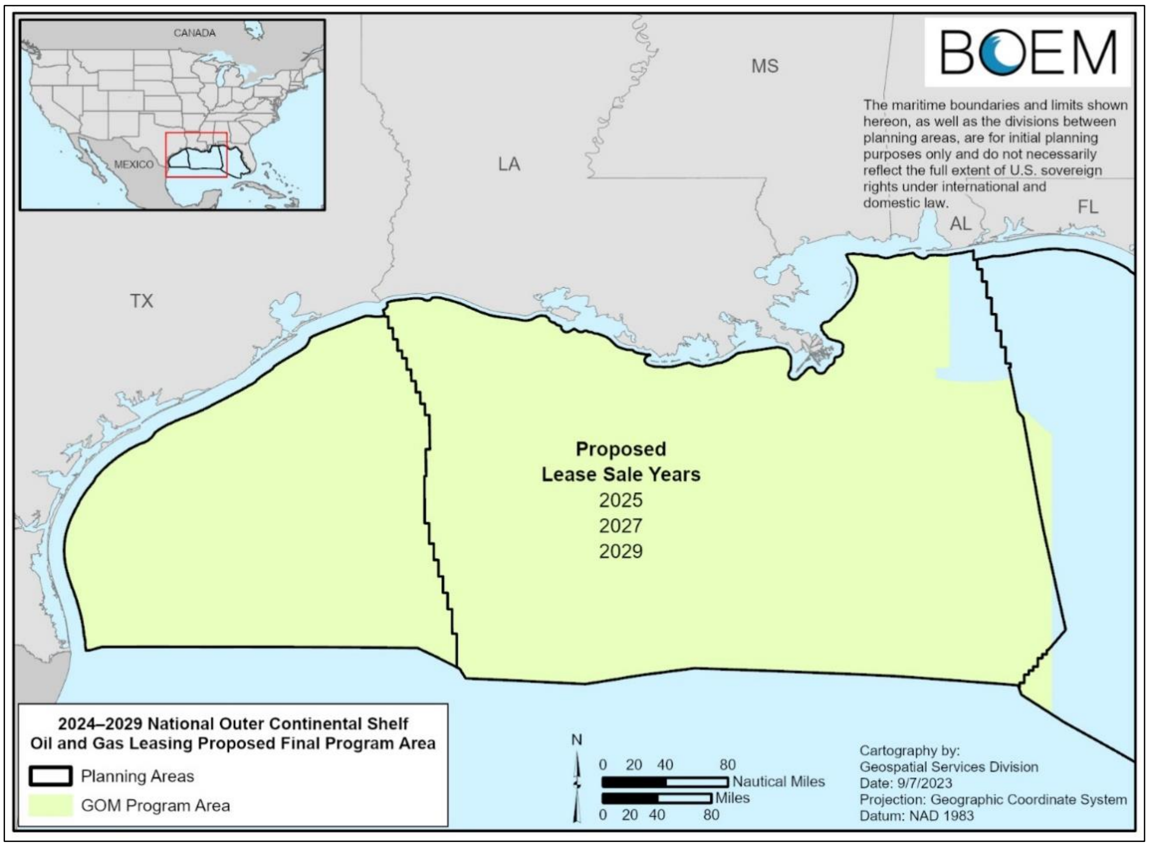
[4] Bureau of Ocean Energy Management (BOEM), *2024-2029 National Outer Continental Shelf Oil and Gas Leasing: Proposed Final Program*, September 2023, at https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029_NationalOCSProgram_PFP_Sept_2023.pdf; hereinafter referred to as 2024-2029 PFP.

[5] BOEM, *2023-2028 National Outer Continental Shelf Oil and Gas Leasing: Proposed Program*, July 2022, at https://www.boem.gov/oil-gas-energy/national-program/2023-2028-proposed-program; hereinafter referred to as the 2023-2028 PP; and 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. The DPP would have applied to the five-year period from late 2019 through mid-2024, replacing the final years of the 2017-2022 program.

Administration's PP proposed a maximum of 11 OCS oil and gas lease sales over five years (10 in the Gulf of Mexico region and 1 in the Cook Inlet planning area of the Alaska region), while stating that fewer lease sales—and potentially no lease sales—might be included in the final version of the program. The final program contained three Gulf of Mexico oil and gas lease sales for the 2024-2029 period, scheduled every two years starting in 2025 (**Figure 1**). No sales are scheduled for the Alaska, Atlantic, or Pacific regions in the final program. Along with the PFP, BOEM published a final programmatic environmental impact statement (PEIS).[6]

BOEM has begun the next stages of planning to conduct the three Gulf lease sales scheduled under the program. On October 2, 2023, BOEM issued a notice of intent to prepare a PEIS for the lease auctions.[7] A comment period closed on November 1, 2023.

Figure 1. Lease Areas in the 2024-2029 Final Program



Source: BOEM, *2024-2029 National Outer Continental Shelf Oil and Gas Leasing: Proposed Program*, September 2023, p. 4, at https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029_NationalOCSProgram_PFP_Sept_2023.pdf.

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6 BOEM, *2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program: Final Programmatic Environmental Impact Statement*, September 2023, at https://www.boem.gov/oil-gas-energy/national-program/national-ocs-oil-and-gas-leasing-program. A programmatic environmental impact statement (PEIS) typically evaluates the effects of broad proposals or planning-level decisions.

7 BOEM, "Notice of Intent to Prepare a Gulf of Mexico Regional Outer Continental Shelf Oil and Gas Programmatic Environmental Impact Statement," 88 *Federal Register* 67803. This PEIS, associated with the lease sale stage, tiers from the PEIS developed for the proposed final program (PFP). In turn, further environmental analyses related to lessees' post-sale activities would tier from the PEIS for the lease sale stage.

Selected Issues for Congress

Number of Sales in the 2024-2029 Program

The total of three lease sales in the 2024-2029 program is the lowest for any offshore five-year leasing program to date; previously, the lowest total had been 11 sales scheduled in the program for 2017-2022 under the Obama Administration.[8] Notably, all past programs (including the 2017-2022 program) had scheduled lease sales at least annually for the Western and Central Gulf of Mexico planning areas, the primary U.S. locations for offshore oil and gas production.[9] By contrast, the 2024-2029 program contains some years in which no Gulf lease sale would be held.

Oil and gas industry representatives, as well as some Members of Congress, have expressed concern about the number of sales in the program.[10] They contend that the reduction in leasing from past programs creates uncertainty for industry, compromises U.S. energy security, and will force reliance on oil and gas from other countries that have fewer environmental safeguards on development. Some 118th Congress bills would require BOEM to hold additional lease sales in the upcoming five-year period, regardless of the Secretary of the Interior's program decision.[11]

Other stakeholders favor a U.S. transition away from oil and gas toward renewables and see the 2024-2029 program as supporting that transition, with long-term climate benefits.[12] Still others feel the program does not go far enough in moving away from fossil fuel development and contend that no future lease sales should be held on the U.S. OCS. The PP had considered a no-lease-sale scenario,[13] but BOEM stated that three sales were "the minimum number that will enable the Interior Department to continue to expand its offshore wind leasing program through 2030," given provisions in P.L. 117-169 (discussed below) that prohibit BOEM from issuing offshore wind leases unless oil and gas lease offerings of a certain acreage have taken place in the past year.[14]

Effects of the 2024-2029 Program on Offshore Wind Leasing

BOEM's decisions regarding oil and gas leasing in the 2024-2029 program also have implications for U.S. offshore wind leasing, owing to certain provisions enacted in P.L. 117-169, commonly known as the Inflation Reduction Act (IRA). Section 50265 of the IRA provided that, for the 10 years following enactment of the law, BOEM may not issue an offshore wind lease unless the

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[8] Five-year programs prior to 2017 all had higher numbers of sales, but the comparison is not straightforward because, until 2017, the programs had scheduled separate lease sales for the Western, Central, and Eastern planning areas of the Gulf of Mexico. Since 2017, BOEM has combined all planning areas of the Gulf into a regionwide lease sale, thus allowing similar acreage amounts to be offered in one sale rather than three.

[9] Although all previous programs scheduled Gulf lease sales at least annually, two lease sales were canceled or consolidated with other sales following the 2010 *Deepwater Horizon* oil spill.

[10] For a discussion of competing views, see House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, *Examining the Biden Administration's Unprecedented Obstruction of the BOEM Offshore Leasing Program*, oversight hearing, October 18, 2023, at https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414951; hereinafter referred to as House Natural Resources Committee October 2023 oversight hearing.

[11] See the "Role of Congress" section for further discussion.

[12] For a range of views, see House Natural Resources Committee October 2023 oversight hearing.

[13] Stakeholders have disagreed about whether the OCSLA's provisions at 43 U.S.C. §1344(a) would permit a zero-lease program, and the question has not been tested in the courts, because no program has been finalized without any scheduled sales.

[14] BOEM press release, "Reflecting America's Rapid and Accelerating Shift to Clean Energy, Interior Department Announces Fewest Offshore Oil and Gas Lease Sales in History in Proposed Final Program for 2024–2029," September 29, 2023, at https://www.doi.gov/pressreleases/reflecting-americas-rapid-and-accelerating-shift-clean-energy-interior-department.

agency has held an oil and gas lease sale in the previous year and has offered at least 60 million acres for oil and gas development on the OCS. Under the 2024-2029 program, each of the three scheduled lease sales could potentially satisfy the IRA's acreage condition (based on the acreage of previous Gulf lease sales), thus allowing wind leases to be issued in the one-year period following each of those sales. Because the program schedules the Gulf sales once every two years rather than annually, it appears there would be periods during the five-year time frame when wind lease issuance would not be permitted under the IRA provisions. Some pending bills in the 118th Congress would repeal the IRA's provision tying offshore wind leasing to oil and gas leasing; other bills would require oil and gas lease sales at least annually, thus creating a continuous authority for offshore wind leasing under the IRA. See the "Role of Congress" section for further discussion.

Timing Considerations for the 2024-2029 Program

Development of the 2024-2029 program proceeded more slowly than for previous programs. In almost all previous program transitions, a new program had been finalized by the time the earlier one expired, allowing a new leasing schedule to take effect immediately.[15] By contrast, after the expiration of BOEM's 2017-2022 leasing program, the federal government experienced a gap between oil and gas leasing programs. Despite the gap, some lease sales took place after the expiration of the 2017-2022 program, owing to provisions in the IRA that required BOEM to conduct certain lease sales during the gap period.[16]

It is unclear how the gap experienced between the 2017-2022 program and the 2024-2029 program 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."[17] Stakeholders have differed in their interpretations of the extent to which this and other language in the act would require that a program must continuously be in force.[18] Some bills introduced in the 117th and 118th Congresses would explicitly prohibit a future gap between five-year programs.[19] These bills would mandate required timing for the Secretary of the Interior to begin preparation of a new program and to approve a final version.

In addition to questions about the timing for publication of the 2024-2029 program, some Members of Congress have raised questions about BOEM's timing with respect to preparing for individual lease sales in the program.[20] Typically, BOEM initiates planning and environmental

[15] A partial exception is the transition to the 2012-2017 program. The 2012-2017 PFP was published on June 28, 2012, two days before the previous program expired, but because of the required 60-day waiting period before final secretarial approval, the program did not officially take effect until 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). However, this timing still allowed for the program's first scheduled sale to be held as planned in November 2012.

[16] The lease sales required under Section 50264 of the IRA were sales that had originally been scheduled in the 2017-2022 program, but had been canceled as that program approached expiration. These included Lease Sale 258 for Alaska's Cook Inlet, Lease Sale 259 for the Gulf of Mexico, and Lease Sale 261 for the Gulf of Mexico. These lease sales were held on December 30, 2022; March 29, 2023; and December 20, 2023, respectively. For more information, see BOEM, "Lease Sales: 2017-2022," at https://www.boem.gov/oil-gas-energy/lease-sales.

[17] 43 U.S.C. §1344(a).

[18] For the view that the OCSLA prohibits a gap between programs, see DOI Solicitor's Memorandum M-37062, "Secretarial Discretion in Promulgating a National Outer Continental Shelf Oil and Gas Leasing Program," January 13, 2021, at https://www.doi.gov/sites/doi.gov/files/m-37062.pdf; hereinafter cited as January 2021 DOI Solicitor's Memorandum. This memorandum, issued toward the end of the Trump Administration, was withdrawn during the Biden Administration. For the view that the OCSLA does not clearly prohibit a gap between programs, see remarks of Earthjustice attorney Brettny Hardy in "Biden faces legal fight over delayed offshore leasing plan," *EnergyWire*, April 21, 2022, at https://www.eenews.net/articles/biden-faces-legal-fight-over-delayed-offshore-leasing-plan/.

[19] See the "Role of Congress" section for further discussion.

[20] See remarks of Rep. Bruce Westerman and Rep. Garret Graves at House Committee on Natural Resources, (continued...)

compliance for proposed sales in a new program before the program is finalized,[21] because the planning process involves multiple steps that may take up to two years to complete.[22] For the 2024-2029 program, BOEM published initial planning notices for the program's individual lease sales along with the PFP, which is later than is typical.[23] Some Members expressed concern that the later-than-usual initiation of planning steps for proposed sales could result in delays in executing the scheduled sales.[24] The BOEM Director stated in hearing testimony that BOEM feels "confident we can complete [the NEPA process] before the scheduled lease sale in 2025."[25]

Regional Leasing Decisions

Under the OCSLA, BOEM must take into account economic, social, and environmental values in making its leasing decisions.[26] The balancing of these factors could lead to various decisions regarding leasing in each of the four OCS *regions*—the Atlantic, Pacific, Alaska, and Gulf of Mexico regions—and their component *planning areas*. The regional leasing choices made by the Biden Administration in the final program differ from those proposed by the Trump Administration in its DPP. Whereas the DPP proposed lease sales in all four regions and in every available planning area (where leasing is not prohibited by executive or congressional action), the final program schedules sales only in the Gulf of Mexico region (**Figure 1**).

Gulf of Mexico Region

Almost all U.S. offshore oil and gas production takes place in the Gulf of Mexico.[27] 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.[28]

Subcommittee on Energy and Mineral Resources, "Examining the President's FY 2024 Budget Request for the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the U.S. Geological Survey," oversight hearing, April 26, 2023, at https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413082, hereinafter referred to as House Natural Resources Committee April 2023 budget hearing.

[21] For example, the 2017-2022 program was finalized on January 17, 2017, but BOEM issued a call for information and nominations for some proposed sales in the program on September 4, 2015 (80 *Federal Register* 53565) and a notice of availability of a draft environmental impact statement for these sales on April 22, 2016 (81 *Federal Register* 23700). The 2012-2017 program was finalized on August 27, 2012, but BOEM issued a call for information and nominations for proposed sales in the program on November 18, 2011 (76 *Federal Register* 71595) and a notice of availability of a draft environmental impact statement for these sales on December 30, 2011 (76 *Federal Register* 82296).

[22] For a diagram showing steps in the process, see BOEM, "OCS Oil and Gas Leasing, Exploration, and Development Process," at https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/Process-Diagram.pdf.

[23] BOEM, "Call for Information and Nominations for Western, Central, and Eastern Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales for 2024-2029," 88 *Federal Register* 67801, October 2, 2023; and BOEM, "Notice of Intent to Prepare a Gulf of Mexico Regional Outer Continental Shelf Oil and Gas Programmatic Environmental Impact Statement," 88 *Federal Register* 67803, October 2, 2023.

[24] See, for example, remarks of Rep. Pete Stauber, Rep. Garret Graves, and Rep. Bruce Westerman at House Natural Resources Committee April 2023 budget hearing; and remarks of Rep. Pete Stauber at House Natural Resources Committee October 2023 oversight hearing.

[25] Testimony of BOEM Director Liz Klein at House Natural Resources Committee October 2023 oversight hearing.

[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 the federal government receives fair market value for leased tracts.

[27] The Gulf accounts for more than 99% of U.S. offshore oil and gas production. BOEM, 2024-2029 PFP, p. 3.

[28] 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/

(continued...)

Based on the OCSLA's required analysis of economic, environmental, and social factors,[29] BOEM determined that three Gulf sales over the five-year period would "best … meet national energy needs."[30] The final number was selected from options considered in the earlier PP for as many as 10, or as few as zero, Gulf lease sales. BOEM determined that, compared with a zero-sale program, the three-sale choice would bring higher "net benefits for the American public," because "substitute energy sources would be needed to meet projections for continued domestic oil and natural gas demand" under a zero-sale program, and "reliance on these [substitute] sources is estimated to result in less net economic value, greater environmental and social costs, and reduced net consumer surplus."[31] BOEM further noted that the IRA requires continued oil and gas leasing in order to enable offshore wind lease issuance (see discussion above). However, BOEM determined that three sales rather than the earlier-proposed maximum of 10 would "provide adequate access to the region's oil and gas resources to meet national energy needs."[32] Some Members of Congress and other stakeholders contend that three Gulf sales in the 2024-2029 period will be insufficient to meet U.S. energy needs and will compromise U.S. energy security by forcing reliance on energy from foreign countries such as Russia, China, and Iran.[33] Others take the contrasting view that the three planned Gulf sales are too many and represent a long-term investment in fossil fuels that compromises climate goals.[34]

BOEM further noted that, depending on future sale-specific analysis, the three planned lease sales might include only "targeted" areas within the Gulf, rather than the entire Gulf program area.[35] For example, a targeted approach could exclude "acreage that has not recently had extensive bidding, exploration, or development activity"; "biologically sensitive areas"; and "areas of potential conflict with other uses and users of the marine environment."[36] One type of acreage exclusion that could potentially be considered relates to the Rice's whale in the Gulf of Mexico. The National Oceanic and Atmospheric Administration's (NOAA's) National Marine Fisheries Service (NMFS) issued a proposed rule to designate critical habitat for the Rice's whale under the

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2021_National_Assessment_Map_BTU.pdf; hereinafter cited as BOEM, 2021 UTRR map. BOEM estimates the *undiscovered, technically recoverable resources* (UTRR) for each region—resources that could be produced using conventional techniques without any economic considerations. BOEM estimates the Gulf of Mexico to have the highest UTRR of any OCS region with regard to oil; the Gulf is second to the Alaska region in terms of UTRR for natural gas.

[29] 43 U.S.C. §1344(a).

[30] BOEM, 2024-2029 PFP, p. 5.

[31] BOEM, 2024-2029 PFP, p. 6. BOEM defines "net economic value" as "the discounted gross revenues from the produced oil and natural gas minus the private costs required to realize the economic value of the resources" (2024-2029 PFP, chapter 5, p. 19), and "consumer surplus" as "the shift in consumer welfare that results from a change in energy prices minus the loss to domestic energy producers from the same price change" (chapter 5, p. 26).

[32] Ibid.

[33] See, for example, Rep. Garret Graves, "Graves Statement on U.S. Department of the Interior's Offshore Energy Development Plan," September 29, 2023, at https://garretgraves.house.gov/media-center/press-releases/graves-statement-us-department-interiors-offshore-energy-development; Sen. Joe Manchin, "Manchin Statement on the New Five-Year Oil and Gas Offshore Leasing Plan," September 29, 2023, at https://www.manchin.senate.gov/newsroom/press-releases/manchin-statement-on-the-new-five-year-oil-and-gas-offshore-leasing-plan; and National Ocean Industries Association, "New Federal Offshore Oil and Gas Leasing Program Utter Failure for the Country," September 29, 2023, at https://www.noia.org/federal-offshore-oil-gas-leasing-program/.

[34] See, for example, Rep. Jared Huffman, Rep. Raúl Grijalva, and Rep. Alexandria Ocasio-Cortez, "Ranking Members Huffman, Grijalva, Ocasio-Cortez React to New 5-Year Offshore Oil & Gas Leasing Plan," September 29, 2023, at https://huffman.house.gov/media-center/press-releases/ranking-members-huffman-grijalva-ocasio-cortez-react-to-new-5-year-offshore-oil-and-gas-leasing-plan; and Center for Biological Diversity, "Biden Offshore Drilling Plan Exposes U.S., Climate to More Harm," September 29, 2023, at https://biologicaldiversity.org/w/news/press-releases/biden-offshore-drilling-plan-exposes-us-climate-to-more-harm-2023-09-29/.

[35] BOEM, 2024-2029 PFP, p. 7.

[36] Ibid. A potential issue in narrowing the lease sales to targeted areas is that, if fewer than 60 million offshore acres were offered for oil and gas leasing in a given year, the IRA's conditions for subsequent offshore wind leasing would not be met.

Endangered Species Act.[37] In planning for Lease Sale 261 under the IRA, BOEM excluded certain lease blocks totaling approximately 6 million acres in the northern part of the Gulf based on "recent limited evidence show[ing] that the Rice's whale may be present in this area."[38] In response to a September 2023 court order,[39] BOEM revised the sale to include the previously removed areas. Some legislation in the 118th Congress would limit or set conditions for BOEM and NMFS actions related to the Rice's whale.[40]

The Gulf program area scheduled for leasing in the 2024-2029 final program does not include the Eastern Gulf near the state of Florida. The Gulf of Mexico Energy Security Act of 2006 (GOMESA) prohibited oil and gas leasing in a defined area of the Gulf off the Florida coast.[41] Although the GOMESA moratorium expired on June 30, 2022, President Trump effectively extended this moratorium through June 2032 by withdrawing this area from leasing consideration until that time, using his presidential authority under Section 12(a) of the OCSLA.[42] Some Members of Congress and other stakeholders wish to make the Eastern Gulf leasing moratorium permanent. Among other concerns, they contend that oil and gas leasing in Gulf waters around Florida could damage the state's beaches and fisheries, which support strong tourism and fishing industries, and could jeopardize mission-critical defense activities at Pensacola's Eglin Air Force Base. By contrast, others have advocated 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 oil and gas leasing in the Alaska region. Decreases in summer polar ice, along with estimates of substantial undiscovered oil and gas resources in Arctic waters, have contributed to increased interest by some in offshore oil and gas exploration in the region.[43] 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 Alaska region because Alaskan production is relatively costly. Among

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[37] National Oceanic and Atmospheric Administration (NOAA), "Endangered and Threatened Species; Designation of Critical Habitat for the Rice's Whale," proposed rule, 88 *Federal Register* 47453, July 24, 202. For information on the Endangered Species Act (16 U.S.C. §§1531-1544), see CRS Report R46677, *The Endangered Species Act: Overview and Implementation*, by Pervaze A. Sheikh and Erin H. Ward.

[38] Department of the Interior, *Record of Decision for Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 261*, August 22, 2023, at https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/GOM%20LS%20261%20ROD_signed.pdf.

[39] Louisiana v. Haaland, No. 2:23-CV-01157, 2023 WL 6450134 (W.D. La. September 21, 2023).

[40] See, for example, H.R. 5239, H.R. 6008, H.R. 8998, H.R. 9026, and S. 2986 in the 118th Congress.

[41] P.L. 109-432. For more information on GOMESA, see CRS Report R46195, *Gulf of Mexico Energy Security Act (GOMESA): Background and Current Issues*, by Laura B. Comay. Specifically, GOMESA banned 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 GOMESA moratorium area as the "Eastern Gulf" moratorium area for simplicity.

[42] President Donald Trump, "Memorandum on 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. 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."

[43] 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.

Alaska's 15 BOEM planning areas, the Beaufort Sea and Cook Inlet are the only two areas with existing federal leases, and only the Beaufort Sea has producing wells in federal waters. Some stakeholders, including the State of Alaska and some Members of Congress, seek to expand offshore oil and gas activities in the region. Other Members of Congress and many environmental groups oppose offshore oil and gas drilling in the region, due to concerns about potential oil spills and the possible contributions of these activities to climate change.

The Trump Administration had stated its interest in promoting offshore development in the Alaska region, and the 2019-2024 DPP scheduled lease sales in all 15 Alaska planning areas. 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.[44] (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, the Beaufort and Chukchi Sea planning areas are now withdrawn indefinitely from leasing disposition following a March 2019 judicial ruling and executive actions by President Biden.[45] The Biden Administration's PP included a potential sale in one Alaska planning area—Cook Inlet—which is adjacent to existing areas of natural gas production in state waters. However, the final program removed this lease sale, based on "limited expressed interest of potential oil and gas producers, the lack of development on existing OCS leases, and the potential for higher environmental risks associated with new leasing in relatively undeveloped areas."[46] As required by the IRA, on December 30, 2022, BOEM held a Cook Inlet lease sale originally scheduled under the 2017-2022 program, which received one bid.[47]

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. They further assert that offshore energy development in the region could 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.[48] Opponents of increased leasing in the region 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 are unnecessary, since industry has pulled back on investing in the Alaska region.[49]

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[44] BOEM, 2021 UTRR map.

[45] League of Conservation Voters v. Trump, 363 F.Supp.3d 1013 (D.Alaska 2019); Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," Section 4(b), January 20, 2021, 86 *Federal Register* 7037; and Presidential Memorandum, "Withdrawal of Certain Areas Off the United States Arctic Coast of the Outer Continental Shelf from Oil or Gas Leasing," March 13, 2023.

[46] 2024-2029 PFP, p. 7.

[47] BOEM, "Lease Sale 258," at https://www.boem.gov/oil-gas-energy/leasing/lease-sale-258.

[48] 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.

[49] 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."

Others assert, however, that tepid industry interest in the region has been due more to the overly demanding federal regulatory environment than to market conditions.[50]

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, citing concerns about environmental threats to subsistence lifestyles. Alaska's governor submitted comments on the PP supporting additional sales in Cook Inlet and analysis of potential leasing in the Beaufort and Chukchi Seas despite the leasing withdrawals.[51]

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 leasing withdrawals for 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.[52] 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.[53]

Political leaders in the Atlantic states, and stakeholders within each state, disagree about whether oil and gas drilling should occur in the region.[54] 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 and National Aeronautics and Space Administration (NASA). In recent years, the Atlantic region has 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 for the region, and some oppose both wind and oil and gas development as conflicting with other uses of the Atlantic.[55]

The Trump Administration's DPP proposed nine lease sales for the Atlantic region, including sales in all Atlantic region planning areas. However, subsequent to publication of the DPP, President Trump withdrew from leasing consideration, from July 2022 through June 2032, certain waters off of North Carolina, South Carolina, Georgia, and Florida.[56] Thus, these areas were no longer eligible for consideration in the later program stages. The PP and final program, while

[50] Ibid.

[51] Letter from Alaska Governor Mike Dunleavy to BOEM, October 6, 2022, at https://www.regulations.gov/comment/BOEM-2022-0031-6328.

[52] 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).

[53] 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.

[54] See, for example, summaries of state comments in the 2019-2024 DPP, pp. A-19 to A-23; and PP, pp. A-10 to A-16.

[55] For more information on offshore wind leasing, see CRS Report R46970, *U.S. Offshore Wind Energy Development: Overview and Issues for the 118th Congress*, by Laura B. Comay and Corrie E. Clark.

[56] 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/.

analyzing several options, included no Atlantic lease sales. The PP stated that "frontier areas" such as the Atlantic, with no recent history of leasing, are less certain to yield production benefits than the better-explored Gulf of Mexico, would require higher-impact infrastructure buildout, and would likely be of lower interest to industry "under a scenario in which domestic fossil energy needs fall in response to global decarbonization."[57]

Pacific Region

The DPP proposed seven lease sales in the Pacific region, including sales in all of the region's planning areas, but the PP and final program contained no Pacific lease sales. 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.[58] As in the Atlantic region, the Pacific region was subject to congressional and presidential leasing moratoria for much of the past 40 years.[59] These restrictions were lifted in FY2009, but no lease sales have since taken place for the Pacific. The governors of California, Oregon, and Washington have expressed their opposition to new offshore oil and gas leasing in the region.[60] (Administratively, the Pacific region also includes the state of Hawaii, but Hawaii is not part of the oil and gas leasing program because no known hydrocarbon resources are present offshore of the state.)

Congressional stakeholders have disagreed over whether oil and gas leasing should occur in the Pacific. Members of Congress who favor broad oil and gas leasing across the entire OCS have introduced legislation in previous Congresses that would have required BOEM to hold sales in the Pacific region.[61] Members concerned about environmental damage from oil and gas activities in the region have introduced legislation that would permanently prohibit Pacific oil and gas leasing.[62]

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.[63] Some Members of Congress have pursued these types of influence with respect to the 2024-2029 program. For example, Members submitted public comments on both the PP and DPP, and committees in both chambers held oversight hearings to examine BOEM's recommendations in the PFP.[64]

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[57] 2023-2028 PP, p. 4.

[58] 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.

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

[60] See, for example, 2023-2028 PP, pp. A-6 to A-9.

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

[62] See examples in the "Role of Congress" section.

[63] 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.

[64] For Members' comments on the DPP, see 2023-2028 PP, pp. A-125 to A-133. For Members' comments on the PP, see 2024-2029 PFP, pp. A-57 to A-58. For the oversight hearings, see House Natural Resources Committee October 2023 oversight hearing; and Senate Committee on Energy and Natural Resources, *Full Committee Hearing to Examine Federal Offshore Energy Strategy and Policies*, October 26, 2023, at https://www.energy.senate.gov/hearings/2023/10/full-committee-hearing-to-examine-federal-offshore-energy-strategy-and-policies.

Some Members also have proposed legislative modifications to the five-year program. In the 118th Congress, House-passed H.R. 1 and H.R. 2811 would mandate at least two annual oil and gas lease sales for both the Gulf of Mexico and Alaska regions, and other 118th Congress bills also contain provisions for ongoing sales in one or both of these regions (H.R. 356, H.R. 1335, H.R. 1559, H.R. 5616, S. 879, S. 1456, S. 2389). Many of these bills would additionally require that future five-year programs be prepared and approved within a timeframe that would prevent gaps between programs. The House Committee on Natural Resources reported H.R. 5616, which would require semiannual lease sales in the Gulf of Mexico as well as three Cook Inlet sales through 2028, and would set lease terms and conditions for judicial review of those sales. The Senate Committee on Energy and Natural Resources ordered reported S. 4753, the Energy Permitting Reform Act of 2024, which would require offshore oil and gas lease sales offering at least 60 million acres annually from 2025 through 2029, with specified lease terms and procedures. H.R. 1559 would allow state governors to nominate areas for inclusion in a five-year program. H.R. 1067 and H.R. 2811 would limit judicial authority to vacate lease sales under a program. H.R. 923 would facilitate wider options for leasing by restricting the President's authority to withdraw areas from leasing consideration. By contrast, other bills in the 118th Congress—H.R. 470, H.R. 956, H.R. 970, H.R. 1172, H.R. 1320, H.R. 1327, H.R. 1443, H.R. 3978, H.R. 4030, H.R. 4031, H.R. 6212, H.R. 9273, S. 22, S. 279, S. 617, S. 3201, S. 4852—would establish new moratoria or extend existing moratoria on oil and gas leasing, 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 or Atlantic regions. H.R. 4936 and S. 3026 would repeal the IRA provision that requires a minimum level of oil and gas leasing to enable wind lease issuance.

Notwithstanding the final approval of the 2024-2029 program, Congress could affect the program by pursuing bills such as these or other legislation. Alternatively, Congress could choose not to intervene, allowing the new program to proceed as approved by the Secretary of the Interior.

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