

# Offshore Oil and Gas Development: Legal Framework



The development of offshore oil, gas, and other mineral resources in the United States is impacted by a number of interrelated legal regimes, including international, federal, and state laws. International law provides a framework for establishing national ownership or control of offshore areas, and domestic federal law mirrors and supplements these standards. Governance of offshore minerals and regulation of development activities are bifurcated between state and federal law. Generally, states have primary authority in the three-geographical-mile area extending from their coasts. The federal government and its comprehensive regulatory regime govern those minerals located under federal waters, which extend from the states offshore boundaries out to at least 200 nautical miles from the shore. The basis for most federal regulation is the Outer Continental Shelf Lands Act (OCSLA), which provides a system for offshore oil and gas exploration, leasing, and ultimate development. Regulations run the gamut from health, safety, resource conservation, and environmental standards to requirements for production based royalties and, in some cases, royalty relief and other development incentives. In 2008, both the President and the 110th Congress removed previously existing moratoria on offshore leasing on many areas of the outer continental shelf. As of the date of this report, Congress has not reinstated the appropriations-based moratoria that were not renewed by the 110th Congress. Other recent legislative and regulatory activity suggests an increased willingness to allow offshore drilling in the U.S. Outer Continental Shelf. In 2006, Congress passed a measure that would allow new offshore drilling in the Gulf of Mexico. Areas of the North Aleutian Basin off the coast of Alaska have also been made available for leasing by executive order. Most recently, the five-year plan for

offshore leasing for 2012-2017 adopted by the Bureau of Ocean Energy Management (BOEM) scheduled 16 more lease sales in the Gulf of Mexico and off the coast of Alaska, but did not schedule new lease sales in other areas. The 113th Congress has also shown an interest in this area, including the introduction of H.R. 2231, which would open new offshore areas to leasing and amend other aspects of the offshore leasing program. In addition to legislative and regulatory efforts, there has also been significant litigation related to offshore oil and gas development. Cases handed down over a number of years have clarified the extent of the Secretary of the Interior's discretion in deciding how leasing and development are to be conducted.

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