

**BRIAN E. FROSH**

*Attorney General*



**ELIZABETH F. HARRIS**

*Chief Deputy Attorney General*

**THIRUVENDRAN VIGNARAJAH**

*Deputy Attorney General*

**STATE OF MARYLAND**

**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

Ms. Abigail Ross Hopper  
Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior  
(HM-3120)  
381 Elden Street  
Herndon, Virginia 20170

Submitted online at <http://www.regulations.gov>

Re: Maryland Attorney General Comments on the Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program (BOEM-2014-0096)

Dear Ms. Hopper:

As Attorney General of Maryland, I write to express my strong opposition to the proposed lease sale which would open the Atlantic Region Outer Continental Shelf to oil and gas exploration and drilling. Maryland's irreplaceable natural resources would be degraded at every step of this unnecessary and unwise process: from the testing and drilling needed to locate deposits; to the toll taken during extraction, transfer and transport of fuels; to the inevitable spills and blowouts that occur during drilling activity.

The Atlantic Coast boasts some of the most pristine beaches in the country. And at the northern edge of the proposed drilling area lies the Chesapeake Bay, the cherished but imperiled estuary which federal and state authorities are working strenuously to restore.

Fully one-half of the 18 trillion gallons of water in the Chesapeake Bay come from the Atlantic Ocean, and about one-third of the total area of the State of Maryland is covered by the Bay. But where striped bass once ran thick, blue crabs scuttled and oysters grew in mounds along the shallow bottom, the Chesapeake Bay is now a shadow of its former self, crippled by polluted run-off, nearby development and diseases. The states that surround and feed the Bay, along with our federal partners, are committed to returning this national treasure to its former glory. In May 2009, President Obama issued an executive order calling for a renewed commitment to

controlling Chesapeake Bay pollution from all sources, as well as protecting and restoring habitat and living resources. BOEM must not undermine the nation's commitment to the Bay, or the protective measures adopted by Maryland and other states.

Drilling-related contamination from the Atlantic Ocean reaching the coastline and the Chesapeake would have catastrophic impacts on fragile ecosystems and important economies. I therefore urge you to remove the Atlantic Region OCS from the list of proposed leasing and exploration sites.

### **Maryland's Economic and Natural Resources Face Significant Impacts from Atlantic Region OCS Activity**

Maryland's ocean beaches have been rated among the best in the nation for ocean water quality, but oil exploration and drilling in the Atlantic Region puts this pristine coastline at risk.

The Assateague Island National Seashore includes more than 37 miles of high-quality ocean beaches in Maryland and Virginia, and is one of the few remaining undeveloped barrier island environments along the Mid-Atlantic Coast. Assateague Island State park has been named in the Top 10 in the nation, and the seashore is an important regional destination visited by more than two million people annually, resulting in a net economic benefit of \$84 million annually.

Further north, approximately eight million visitors annually visit Ocean City, Maryland, a year-round resort on Maryland's Eastern Shore that boasts a 10-mile beachfront, with tourism spending of at least \$1 billion.

Maryland's Chesapeake Bay and Eastern Shore also support an historic seafood-based economy. A number of commercially important fisheries in the Chesapeake depend on a dynamic exchange with offshore ocean waters in the Atlantic, and the Bay serves as nursery grounds for hundreds of species which spend part of their lives in the Atlantic, including striped bass, flounder and crabs. The Mid-Atlantic seafood industry supports more than 130,000 jobs, generating \$4 billion in income.

The Atlantic coastline also provides critical resting and foraging habitat for migratory birds using the Atlantic Flyway.

All of these resources would be imperiled by both the search for and extraction of gas and oil, and the inevitable spills and blow-outs that would occur during the process, regardless of the safety measures put into place.

An accident similar to the 2010 BP Deepwater Horizon incident would have a devastating effect on Mid-Atlantic coastal communities. The long-term impacts of the Deepwater spill – which reached the coastlines of all five Gulf Coast states and spread for hundreds of miles -- still reverberate today. In many cases, the long-term ecological effects to ocean-floor environments, fisheries and coastal waters may not be understood for decades.

Oil spills and blow-outs have devastating impacts on birds, mammals, fish, and other creatures, and can ruin coastal economies reliant on recreation and fisheries. Oysters in particular are

vulnerable to oil spills, as the experience in the Gulf of Mexico is showing. Maryland and the federal government have expended tremendous resources to increase the population of native oysters in the Chesapeake. By establishing sanctuaries, restoring oyster beds, and supporting a burgeoning aquaculture industry, progress has been made. But it will take years of sustained effort and stewardship for the population to meaningfully rebound. An Atlantic spill would undermine extensive efforts to restore oysters in the Chesapeake and in coastal bays.

Despite best practices, the likelihood of spills cannot be eliminated. Sources of accidents are many, including human error, short-cuts in safety and protocol, vessel collisions and storms and other natural disasters.

And when spills occur, the so-called remedy may cause as much damage as the original accident. Dispersants used during the Deepwater spill may have caused more harm by integrating the oil and toxic chemicals into zones that had not been impacted. Dispersants break oil into small particles, making them more toxic to smaller organisms in the food chain.

While large spills dominate national attention, more routine spills also have a significant impact. When oil products are transported, hydrocarbons spill as part of regular operations. These spills can occur at the platform, along a pipeline or a coastal pumping facility. The cumulative effect of lesser events cannot be overlooked.

Maryland recognized the potential adverse impacts of oil and gas drilling on the Bay's estuarine environment when it passed a law prohibiting drilling in the waters of the Chesapeake Bay and its tributaries. BOEM should respect the intent of these restrictions, and continue to block Atlantic Region drilling.

### **Exploration Poses Unacceptable Risk**

Even before extraction begins, the dangers associated with oil exploration in the Atlantic Region are at best unknown, and at worst devastating.

Lease purchasers would need to conduct localized geological and geophysical surveys to better understand the subsurface resources in each lease area. The techniques used for those surveys -- high-energy seismic activities, coring, and electro-surveys -- can disrupt the migration, feeding and reproduction of mammals, fish, and creatures on the ocean floor. The techniques can kill marine animals, or cause a loss of hearing. It is irresponsible and premature to allow such activity to begin, since there are significant data and information gaps regarding marine mammal density and distribution in the Mid-Atlantic ocean region.

In 2014, Maryland entered into a cooperative agreement with BOEM to collect data to understand better the geographic distribution, abundance, and densities of large whales, dolphins, and porpoises in the Atlantic Region. At a minimum, information from this study should be used in order to ensure an accurate analysis of the potential impacts of geological and geophysical activities on marine mammals off the Maryland coast.

Data and information is also lacking regarding the potential impacts of surveys on a critical ocean feature known as submarine canyons. These canyons, located about 60 to 80 miles offshore, are important foraging areas for several ecologically and economically important species such as white and blue marlin, tunas, black sea bass, monkfish, and golden tilefish. They are home to unique organisms found nowhere else on earth. The gaps in data and analysis need to be filled before surveying can begin.

Drilling operations often cause considerable damage to marine environments as well. Drilling involves a myriad of chemicals, materials, technologies, energy, water, and industrial infrastructure that produce atmospheric emissions, waste and water discharges, and impact the water, ocean floor, subsurface and nearby coastal lands.

### **The Damage of Building and Maintaining Infrastructure and Transportation Networks**

Infrastructure and transportation associated with oil and gas activities can have profound impacts on coastal wetlands and barrier islands, which Maryland and neighboring states are working to protect.

Ocean-bottom habitats and near-shore environments are often severely impaired from traffic and infrastructure associated with oil and gas development. Vessel traffic increases year-round for operations and maintenance activities. Pipelines, barges, ships and boats are needed to convey the oil and gas to refineries and markets. Dredging associated with vessel traffic and pipelines can profoundly alter wetland and bottom habitat. In Louisiana, many wetlands and barrier islands have disappeared or have become severely fragmented due to channelization that supports barge and shipping traffic. These ecological systems are absolutely essential to the health of ocean and estuarine systems as well as protecting coastal regions from storms and sea-level rise. Similar impacts could be anticipated with Maryland's coastal bays, the Chesapeake Bay, dunes and wetlands if oil and gas development proceeds in the Atlantic Region.

### **State Legal and Regulatory Authority**

Maryland has a robust suite of regulations and protections, built over time, to protect the Chesapeake Bay, the state's coastal bays, wetlands, coastline and other natural resources. Because of the risks to the state's waterways, coastline and economy, Maryland's regulatory and enforcement authority will likely be triggered under state and federal law if OCS exploration moves forward.

Under the Maryland Coastal Zone Management Act, the Office of the Attorney General has the ability to protect the State's interests in regards to consistency between coastal zone decisions and the approved Management Program. The Office is also charged with enforcing the state's prohibition against the discharge of any pollutants into waters of the State without authorization.

Additionally, the certification process under Section 401 of the Clean Water Act requires State certification of federal activities which may result in discharge to Maryland's navigable waters,

to ensure that such activities will meet the State's water quality standards and the protection of fish and wildlife.

Furthermore, the risk of an oil spill could be a basis to advocate for more conservative management of a fish species through the Atlantic States Marine Fisheries Commission, on which Maryland sits.

If the production of oil and gas from the OCS necessitates the construction of facilities in Maryland, then a host of regulatory and enforcement programs would be implicated, including the Coastal Facilities Review Act, Maryland's Tidal Wetlands License laws, Maryland's Critical Area Law, and Maryland Clearinghouse Review.

### **Conclusion**

As history shows, the impacts of drilling for oil and gas are widespread, severe and do not respect state boundaries. The impact from exploration and drilling activity in the Atlantic Region would significantly erode the health of Maryland's coastline and the Chesapeake Bay, and could wreak havoc on coastal communities for hundreds of miles. Regional economies based on tourism, recreation and fishing would be at risk.

The costs of this proposal are simply too great, and far outweigh any potential benefits, especially given the number and amount of unused off-shore leases in other regions of the country. The federal government has long maintained protections for the Atlantic Region, and has prohibited oil exploration in this critical and sensitive area. I implore you to keep those protections in place.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Brian E. Frosh". The signature is fluid and cursive, with a large initial "B" and "F".

**Brian E. Frosh**

**Attorney General of Maryland**

**March 30, 2015**