OCEANA Protecting the World's Oceans

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Via Federal e-Rulemaking Portal and Hand Delivery

January 23, 2026

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National Oil and Gas Leasing Program Development
Bureau of Ocean Energy Management
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Sterling, VA 20166

Re: Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program: 1st Analysis and Proposal MAA104000; 90 Fed. Reg. 52,996 (November 24, 2025).

Dear Ms. Hammerle:

Oceana[1] thanks you for the opportunity to comment on the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program (11th Program). Oceana is disappointed that the Bureau of Ocean Energy Management (BOEM) is once again considering expanding the footprint of oil and gas leasing on the Outer Continental Shelf (OCS). For the extensive reasons documented in this comment letter, BOEM should abandon its efforts to create an unnecessary 11th Program. If BOEM moves forward, Oceana strongly recommends that the agency:

1. not include any lease sales in the program other than those mandated by the One Big Beautiful Bill Act (OBBBA); and
2. prepare an environmental document under the National Environmental Policy Act (NEPA).

Expanded offshore drilling is incompatible with BOEM's requirement to consider the economic, social, and environmental values of the OCS and does not best meet the nation's energy needs. Offshore drilling threatens human health; coastal and marine environments and the local economies that depend on them; and national security. A proper balancing of OCSLA's factors should lead BOEM to not include any lease sales in the 11th Program not included in the OBBBA. For any new leasing program, now or in the future, BOEM must also comply with NEPA as the action will certainly lead to significant effects for coastal communities, economies, and wildlife and constitutes an irreversible and irretrievable commitment of resources.

In addition to this letter, you are also receiving comments from thousands of Oceana members opposing the inclusion of new lease sales in the 11th Program. The opposition to new offshore drilling is widespread and bipartisan.

[1] Oceana is the largest international conservation organization solely focused on protecting the world's oceans, with more than 1 million members and supporters in the United States. For more than 20 years, Oceana has campaigned to win strategic, directed campaigns that achieve measurable outcomes to help make our oceans more biodiverse and abundant. For more than 15 years, Oceana has opposed expanded offshore oil and gas exploration and development.

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I. BOEM SHOULD ABANDON ITS WASTEFUL EFFORTS TO PREMATURELY DEVELOP THE 11TH PROGRAM

BOEM should not waste time, money, or effort in attempts to develop the 11th Program ahead of schedule. The existing 10th Program lasts until 2029 and was developed carefully through a multi-year process with ample opportunities for public comment. After considering existing leases and future mandated lease sales, it is clear that more oil and gas leasing in our oceans does not best meet our national energy needs, and expanded offshore drilling is incompatible with the economic, social, and environmental values of the OCS.

The U.S. is the top oil producing country in the world[2] and a net exporter of petroleum products.[3] Crude oil and natural gas production in the U.S. hit record highs in 2023 and 2024 and likely in 2025.[4] This record level is unlikely to be exceeded by any other nation in the near future, according to the Energy Information Administration.[5]

Additionally, oil and gas companies are stockpiling leases, a practice that is encouraged by BOEM's issuance of primary terms that go beyond the terms allowed by OCSLA. As of January 1, 2026, oil companies owned nearly 8.5 million acres of unused leases, more than 80% of the total leased acreage of federal public waters.[6]

In the Cook Inlet OCS, no lease is currently producing.[7] In the Gulf of Mexico (also called the Gulf of America (Gulf)), only two million acres out of 10.4 million acres of total active leases are producing as of January 1, 2025.[8] And the number of unused acres will likely increase with continued leasing, particularly since the OBBBA mandated a minimum of 30 region-wide lease sales in the Gulf through 2040.[9] On average, each of the 10 Gulf-wide lease sales in 2017-2022 Program led to an additional 976,336 acres leased. That trend has continued with the most recent lease sale, where BOEM received bids on over one million acres.[10] If these statistics continued for all mandated lease sales, BOEM could end up leasing nearly 30 million additional acres through 2040.

Oceana disagrees with the Congress' decision to mandate lease sales in the OBBBA which will extend the legacy of destruction and the health impacts of oil and gas drilling, and it is clear that the mandated lease sales combined with existing leases significantly exceed the nation's energy needs from oil and gas. Instead of new oil and gas leasing, the U.S. should use this opportunity to turn to renewable energy to fuel our economy. Given the overabundance of

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[2] International Energy Agency, *Energy System of United States*, https://www.iea.org/countries/united-states (last visited Jan. 22, 2026).
[3] Energy Information Administration, *Oil and petroleum products explained, oil imports and exports* (Jan. 19, 2024), https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php.
[4] Energy Information Administration, *Monthly Crude Oil and Natural Gas Production* (Nov. 28, 2025), https://www.eia.gov/petroleum/production/#oil-tab.
[5] Energy Information Administration, *Today in Energy* (Mar. 11, 2024), https://www.eia.gov/todayinenergy/detail.php?id=61545.
[6] Bureau of Ocean Energy Management, *Combined Leasing Report* (January 1, 2026), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Lease%20stats%201-1-26.pdf.
[7] *Id*.
[8] *Id.*
[9] One Big Beautiful Bill Act, 139 Stat. 72, 139, § 50102 (2025).
[10] BOEM, *Sale Day Statistics* (Dec. 10, 2025), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Sale-BBG1-Stats_0.pdf?VersionId=lPFlgc370ilonjfoeBaxYRPizq0j8hdH.

current oil production and growth in renewable energy generation, the U.S. is energy secure and will continue to be long into the future as we transition to clean energy.

II. BOEM MADE THE CORRECT DECISION TO EXCLUDE FEDERAL WATERS OFF THE ATLANTIC COAST, WASHINGTON, OREGON, AND PARTS OF THE EASTERN GULF BUT MUST DO MORE

BOEM correctly excluded federal waters off the Atlantic coast, Washington, Oregon, and much of the Eastern Gulf from consideration for the 11th Program. As detailed in our comments on the Request for Information, these areas include protected areas, sensitive habitats and species, culturally important areas, and areas important for national security. Offshore drilling presents a significant risk to these interests. Opposition to drilling in these areas is widespread and bipartisan. But BOEM should go further and protect all other areas of the OCS for similar reasons. BOEM should not include any leases in the 11th Program that are not required by the OBBBA.

III. THE SIGNIFICANT RISKS OF OFFSHORE OIL AND GAS EXPLORATION AND DRILLING

There is no need for more offshore drilling particularly considering the significant risks at all stages of the offshore oil and gas development process that wreak havoc on coastal and marine environments and local ocean-based economies. Pollution from drilling operations, exploratory seismic airgun blasting, and increased ship traffic are a few of the many threats to marine life, including endangered and protected species. These activities may also interfere with commercial and recreational fishing. Oil spills harm the environment, coastal economies, and human health. In addition, issuing and developing new leases for offshore oil and gas will threaten national security and exacerbate the climate crisis.

A. Oil Spills and Pollution

Toxic oil spills close popular beach destinations and shut down lucrative fisheries, causing devastating losses for local businesses. To protect our economy, we must protect our businesses from future oil spill shutdowns and stop all new leasing for offshore drilling. The oil industry has repeatedly failed to demonstrate that it can reliably prevent, stop, or respond to oil spills. Oil spill disasters are not isolated incidents. Between 2010 and 2022, more than 7,300 oil spills occurred in federal waters, an average of over one spill every day.[11] There are over 8,000 miles of active pipelines in the Gulf, and the government does not require them to undergo subsea inspection,[12] meaning there could be oil spewing below the surface that would go undetected because it is not visible from the surface.

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[11] Bureau of Safety and Environmental Enforcement, *Aggregated Data of OCS Oil and Gas Industry Activities (e.g., production and drilling levels), Work Hours, Incidents, Inspections and Compliance: 2010-2022* (July 20, 2023), https://www.bsee.gov/sites/bsee.gov/files/2023-08/Performance%20Metrics%202010-2022%20-%20Data%20Tables.pdf.

[12] Government Accountability Office, *Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning* 5 (March 2021), https://www.gao.gov/assets/gao-21-293.pdf.

Oil can also kill marine life or cause sublethal impacts including interfering with development, feeding, immune system response, and reproduction.[13] In fish, crude oil can cause "developmental malformations, genetic damage, mortality, decreased size at hatching, and impaired swimming."[14] The National Oceanic and Atmospheric Administration (NOAA) acknowledged that research showed that crude oil exposures "adversely affect heart development in the two species of tuna and an amberjack species by slowing the heartbeat or causing an uncoordinated rhythm, which can ultimately lead to heart failure."[15] When sea turtles encounter oil, it can coat their bodies, limiting their movement and making them more vulnerable to overheating and dehydration. The oil can also irritate sensitive areas like their eyes, lungs, and digestive tract, causing injury or death. Inside the body, oil can interfere with critical functions like breathing, weakening turtles and making basic behaviors such as feeding and escaping predators more challenging. Polycyclic aromatic hydrocarbons (PAHs), toxic compounds in oil, can be absorbed into vital organs such as the liver and lungs. These pollutants can also transfer from mother turtles to their eggs, jeopardizing the growth and survival of hatchlings. [16]

Despite repeated promises that toxic oil spill disasters are rare, the oil and gas industry proves again and again that offshore drilling is dirty and dangerous. In 2010, the BP exploratory rig *Deepwater Horizon* exploded, killing 11 workers, injuring 17, and setting off the largest oil spill in U.S. history. Oil gushed from the seafloor for 87 days, ultimately spewing hundreds of millions of gallons of oil into the Gulf, and it was clear that the company's response plan was essentially nonexistent.[17] The spill killed tens of thousands of marine animals, devastated commercial and recreational fishing, and resulted in long-term human health consequences for cleanup workers. Over 15 years later, the Gulf is still recovering.

Before the BP *Deepwater Horizon* disaster, the *Exxon Valdez* oil spill held the record for the largest oil spill in U.S. waters. The tanker *Exxon Valdez* grounded on Bligh Reef in Prince William Sound, Alaska, spilling nearly 11 million gallons of crude oil into a "remote, scenic, and biologically productive body of water."[18] The spill killed an estimated 250,000 seabirds, 2,800

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[13] NOAA Office of Response & Restoration, *How Deepwater Horizon Spurred Advances in Oil Toxicity Science* (April 14, 2020), https://blog.response.restoration.noaa.gov/how-deepwater-horizon-spurred-advances-oil-toxicity-science.
[14] National Research Council, *Oil in the Sea III: Inputs, Fates, and Effects* 128 (2003) https://nap.nationalacademies.org/catalog/10388/oil-in-the-sea-iii-inputs-fates-and-effects.
[15] NOAA, *Crude Oil Causes Developmental Abnormalities in Large Marine Fish* (March 24, 2014), https://www.noaa.gov/crude-oil-causes-developmental-abnormalities-large-marine-fish.
[16] NOAA Office of Response and Restoration, *How Do Oil Spills Affect Sea Turtles?* (June 16, 2016), https://response.restoration.noaa.gov/about/media/how-do-oil-spills-affect-sea-turtles.html.
[17] National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water: The Gulf Oil Disaster and The Future of Offshore Drilling* (Jan. 2011), https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf.
[18] NOAA Office of Response and Restoration, *Exxon Valdez Oil Spill*, https://response.restoration.noaa.gov/oil-and-chemical-spills/significant-incidents/exxon-valdez-oil-spill (last visited June 4, 2025).

sea otters, 300 harbor seals, 250 bald eagles, 22 killer whales, and billions of salmon and herring eggs.[19] To this day, subsurface oil persists,[20] and some species have never recovered.[21,22]

In 2015, an onshore pipeline transporting offshore crude oil ruptured and spilled over 142,800 gallons of crude oil onto the beaches and into the ocean along the California coast onto Refugio State Beach.[23] The spill impacted the same beaches that were oiled by the 1969 Santa Barbara oil spill.[24] In 2021, another oil disaster killed birds and fish off California's coast. Fisheries were forced to close in the wake of an offshore pipeline rupture that spread oil across sandy beaches and vibrant wetlands.[25] Despite state opposition, this pipeline is now being considered for restarting operations.

A potential expansion of offshore drilling is particularly dangerous in the context of widespread budget cuts and layoffs. In 2025, the administration reduced staffing in the agencies responsible for oil spill response and cleanup, such as NOAA, the Bureau of Safety and Environmental Enforcement (BSEE), and BOEM itself. These cuts have diminished staff capacity to respond to incidents as well as drained years of institutional knowledge through staff departures and early retirements**.** BSEE staffing alone fell from 875 employees in September 2024[26] to 560 employees in September 2025.[27] This represents a 36% reduction in capacity. Expanding offshore drilling while weakening the agencies responsible for preventing and responding to oil spills is deeply irresponsible. We cannot allow private corporations to continue to extract offshore oil and gas and risk the health of our ocean. Simply put, where they drill, they spill.

B. National Security

BOEM recognizes military activities as multiple use conflicts. As detailed in this section, national security experts make clear that offshore drilling is incompatible with our national security needs.

Vast areas off Florida, Alaska, and California proposed for leasing in the DPP are needed for offshore military training and testing and national security and should be removed from

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[19]NOAA Damage Assessment, Remediation, and Restoration Program, *Exxon Valdez*, (Sep. 17, 2020), https://darrp.noaa.gov/oil-spills/exxon-valdez.
[20] Zachary Nixon & Jacqueline Michel, *A Review of Distribution and Quantity of Lingering Subsurface Oil from the* Exxon Valdez *Oil Spill*, 147 Deep Sea Research Part II: Topical Studies in Oceanography 20 (2018).
[21] Exxon Valdez Oil Spill Trustee Council, Killer Whales, https://evostc.state.ak.us/status-of-restoration/killer-whales/ (last visited Jun. 13, 2025).
[22] NOAA Damage Assessment, Remediation, and Restoration Program, *Exxon Valdez*, (Sep. 17, 2020), https://darrp.noaa.gov/oil-spills/exxon-valdez.
[23] Javier Panzar, *Santa Barbara County official rejects plan to move crude oil by truck,* LA Times (June 10, 2015), http://www.latimes.com/local/lanow/la-me-ln-oil-trucks-rejected-20150609-story.html.
[24] Craig Welch, *Santa Barbara Beaches Slicked With Oil After Pipeline Breach*, National Geographic (May 20, 2015), https://www.nationalgeographic.com/science/article/150520-santa-barbara-oil-spill-pipeline-ocean-coast-whale-1969.
[25] Southern California Spill Response, *Fisheries Closure*, https://socalspillresponse.com/fisheries-closure/ (last visited June 4, 2025).
[26] U.S. Office of Personnel Management, FedScope - Federal Workforce Data U.S. Office of Personnel Management (Sep 2024), https://www.fedscope.opm.gov (last visited Dec 17, 2025).
[27] Bureau of Safety and Environmental Enforcement (BSEE), *Department of the Interior Bureau of Safety and Environmental Enforcement Contingency Plan for a Potential Lapse in Appropriations*, (Sep 2025) at 2, https://www.doi.gov/sites/default/files/documents/2025-09/doi-bsee-contingency-plan2025930508.pdf.

consideration. Florida's Gulf coast, including its deeper waters, is used for U.S. military operations, serving as the site of the Eglin Gulf Test Range—a 120,000 square-mile expanse of controlled airspace essential for military readiness.[28] If these areas were affected by drilling, national security experts say it would compromise the program's important military training, testing, and operations. In October 2025, Florida's Defense Support Initiative sent a letter to the Administration urging for the protection of the Eastern Gulf due to the national security, military readiness, and economic importance of the Eastern Gulf Test and Training Range.[29]

In the waters off of California, training facilities such as the San Clemente Island Range Complex serve as primary training areas for the Pacific Fleet, enabling live-fire exercises, tactical training, and research and development for the Navy, Marine Corps, and other military branches.[30] The Naval Amphibious Base Coronado, the only amphibious base on the West Coast, trains U.S. Navy SEALs and supports over 30 tenant commands, utilizing 5,500 yards of Pacific Ocean and bayside shoreline for essential operations.[31]

In Alaska, the U.S. military maintains a strong presence that leverages the state's strategic location for training, defense, and national security missions. U.S. Navy submarines routinely conduct under-ice patrols in the region. Under its 2024 Arctic Strategy, the Department of Defense will maintain core maritime surveillance capabilities in the Arctic, including warning systems critical to monitoring approaches to the United States.[32] The DoD also conducts large-scale joint exercises, such as Northern Edge 2025, which involves thousands of personnel and hundreds of aircraft to enhance combat readiness in extreme northern environments. Additionally, exercise Arctic Edge, led by U.S. Northern Command and the North American Aerospace Defense Command and Northcom (NORAD), is an annual event focused on strengthening homeland defense.[33] Alaska also hosts critical installations, including Joint Base Elmendorf-Richardson, which supports air and ground forces,[34] and Clear Space Force Station, which provides vital 24/7 missile defense.[35]

These areas depend on conflict-free oceans and airspace to conduct their operations and experts say offshore drilling is incompatible with that mission. That is why more than 80 former military leaders[36] as well as the Department of Defense, NASA, the U.S. Air Force, and the Florida Defense Support Task Force have expressed concern about expanding offshore drilling.

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[28] Eglin Air Force Base, 96th Test Wing, https://www.eglin.af.mil/About-Us/Fact-Sheets/Display/Article/390959/96th-test-wing/ (last visited June 4, 2025).
[29] Letter from Defense Support Initiatives (October 22, 2025), https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Defense-Support-Initiatives-committee-letter-FL-1.pdf .
[30] San Clemente Island, About SCI, https://www.scisland.org/aboutsci/navytraining/navytraining.html (last visited June 4, 2025).
[31] United States Navy Naval Amphibious Base Coronado, https://cnrsw.cnic.navy.mil/Installations/NAVBASE-Coronado/About/Installations/Naval-Amphibious-Base-Coronado/ (last visited Jan. 22, 2026).
[32] Draft Proposed Program at 8-16.
[33] Air Force Staff Sgt. Dustin Braaten, *Northern Edge 2025 Kicks Off Across Alaska*, U.S. DEP'T OF WAR (Aug. 19, 2025), https://www.war.gov/News/News-Stories/Article/Article/4279080/northern-edge-2025-kicks-off-across-alaska/.
[34] Joint Base Elmendorf-Richardson. Available: https://www.jber.jb.mil/. Accessed Dec 16, 2025.
[35] Buckley Space Force Base, *Clear Air Force Station renamed as Clear Space Force Station* (June 16, 2021), https://www.buckley.spaceforce.mil/NEWS/Article/2661233/clear-air-force-station-renamed-as-clear-space-force-station/.
[36] Letter from Col. James Heald, U.S. Air Force (Ret.) et al., to Congress (July 16, 2020), https://usa.oceana.org/wp-content/uploads/sites/4/2020/07/16/july2020_military_egom_moratorium_sign-on_letter_.pdf.

According to the 2021 Department of Defense Climate Risk Analysis, "the risks of climate change to Department of Defense (DoD) strategies, plans, capabilities, missions, and equipment, as well as those of U.S. allies and partners, are growing."[37] Offshore drilling threatens our national security, so BOEM must remove these areas from consideration.

C. Ship Strikes and Underwater Sound

New offshore oil and gas leasing development could increase ship traffic, leading to increased ship strikes and ship pollution. Ship strikes are a serious threat to whales, dolphins, and sea turtles. Endangered species such as the Rice's whale cannot withstand the increased risk of ship strikes from expanded offshore drilling. Even one ship strike mortality would exceed the sustainable level of whales that can be removed from the Rice's whale population, putting the species at risk of extinction.[38]

In addition, offshore exploration and development would also increase the level of underwater sound, potentially harming valuable marine species, fisheries, and habitats. Exposure to low levels of sound for long periods of time or high levels of sound for short periods of time can have physiological effects on fish, including, increased levels of stress, hearing loss, nerve damage, organ rupture, and death.[39,40] For marine mammals, one of the major concerns is ship sounds masking biologically significant sounds. For example, ship sounds can interfere with a whale's communication.[41] Further, ship sounds may cause changes in behavior for marine mammals and fish, which "have both direct energetic costs and potential effects on foraging, navigation, and reproductive activities."[42]

There is especially significant concern about the noise produced by seismic surveys while searching for oil and gas. Seismic airgun arrays create one of the loudest manmade sounds in the ocean.[43] Seismic airgun blasts can disturb, injure, or even kill many different species—from the smallest zooplankton to the largest whales.[44] Several studies have also shown that fishery catch

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[37] Dep't of Defense, *Department of Defense Climate Risk Analysis* 2 (Oct. 2021).
[38] NOAA Fisheries, *Rice's Whale (*Balaenoptera ricei*): North Gulf of Mexico Stock* (May 2023), https://www.fisheries.noaa.gov/s3/2023-08/Rices-Whale-Northern-Gulf-of-Mexico-2022.pdf
[39] Mardi C. Hastings & Arthur N. Popper, *Effects of Sound on Fish*. California Dep't of Transportation (2005), https://tethys.pnnl.gov/sites/default/files/publications/Hastings%20and%20Popper%202005.pdf.
[40] Atlantic States Marine Fisheries Commission, *Anthropogenic Noise Impacts on Atlantic Fish and Fisheries: Implications for Managers and Long-Term Productivity* (Fall 2024), https://asmfc.org/wp-content/uploads/2024/12/HMS17_AnthropogenicNoiseImpacts.pdf.
[41] NOAA, *Final Report of the NOAA International Symposium: Potential Application of Vessel-Quieting Technology on Large Commercial Vessels* 3 (2007), https://nmsmontereybay.blob.core.windows.net/montereybay-prod/media/resourcepro/resmanissues/pdf/070301vessel_symposium_report.pdf.
[42] *Id.* at 15.
[43] John A. Hildebrand, *Anthropogenic and natural sources of ambient noise in the ocean*, 395 Marine Ecology Progress Series 5-20 (2009), https://www.int-res.com/articles/theme/m395p005.pdf.
[44] Robert D. McCauley et al., *Widely used marine seismic survey air gun operations negatively impact zooplankton,* Nature Ecology & Evolution 1 (June 2017), https://www.nature.com/articles/s41559-017-0195; Manuel Castellote et al., *Acoustic and behavioural changes by fin whales (*Balaenoptera physalus*) in response to shipping and airgun noise*, 147(1) Biological Conservation 115–122, https://www.researchgate.net/publication/256668791_Acoustic_and_behavioural_changes_by_fin_whales_Balaenoptera_physalus_in_response_to_shipping_and_airgun_noise; Salvatore Cerchi et al., *Seismic Surveys Negatively Affect Humpback Whale Singing Activity off Northern Angola*, PLoS ONE 9 (March 2014), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0086464#.

rates decreased in areas exposed to seismic airgun surveys.[45] The noise from seismic surveys can be heard underwater nearly 2,500 miles from the source.[46] Mitigation measures have been developed to try to minimize the impacts of seismic surveys, but these measures have been criticized for being ineffective and insufficient.[47]

D. Industrialization, Pollution, and Human Health

Communities in the Gulf and Alaska already bear the burden of coastal industrialization from offshore drilling. Nearly half of U.S. petroleum refining capacity is located on the Gulf Coast.[48] Coastal industrialization and pollution from offshore drilling threaten local communities; and communities of color are often disproportionately impacted by pollution from oil and gas facilities.[49] An Inspector General probe in 2023 revealed that the Environmental Protection Agency (EPA) failed to enforce federal limits on benzene—a carcinogen linked to leukemia—allowing multiple refineries and chemical plants near disadvantaged communities in Texas and Louisiana to emit dangerously high levels of the pollutant despite health risks.[50] In addition to hundreds of oil spills each year, standard operating procedures for oil and gas extraction generate radioactive waste, polluted water, and sludge.[51] More than 18 billion barrels of waste fluids from oil and gas extraction are produced annually in the United States.[52]

Additionally, the human health impacts of responding to and cleaning up oil spills are enormous. In the aftermath of the BP *Deepwater Horizon* spill, tens of thousands of people participated in response and cleanup operations, during which many were exposed to crude oil and over 1.8 million gallons of toxic and carcinogenic chemical dispersants used in the cleanup process.[53] A 2025 study reported that U.S. Coast Guard service members involved in these

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[45] Atlantic States Marine Fisheries Commission, *supra* note 40.
[46] Sharon L. Nieukirk et al., *Low-frequency whale and seismic airgun sounds recorded in the mid-Atlantic Ocean.* 115(4) Journal of the Acoustical Society of America 1832, 1832–43 (2004), https://www.researchgate.net/publication/8602555_Low-frequency_whale_and_seismic_airgun_sounds_recorded_in_the_mid-Atlantic_Ocean; Hildebrand, *supra* note 43.
[47] E.C.M. Parsons, et al., *A critique of the UK's JNCC Seismic Survey Guidelines for minimising acoustic disturbance to marine mammals: Best practise?* 58 Marine Pollution Bulletin 643, 643–51 (2009), https://www.sciencedirect.com/science/article/abs/pii/S0025326X09000952?via%3Dihub; Andrew J. Wright and A. Mel Cosentino, *JNCC guidelines for minimising the risk of injury and disturbance to marine mammals from seismic surveys: We can do better*, 100 Marine Pollution Bulletin 231, 231-39 (2015), https://www.sciencedirect.com/science/article/abs/pii/S0025326X15300096.
[48] Energy Information Administration, *Gulf of America Fact Sheet* (Sept. 4, 2024), https://www.eia.gov/special/gulf_of_america/.
[49] Lesley Fleishman & Marcus Franklin, *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*, NAACP and Clean Air Task Force (Nov. 2017), https://www.catf.us/wp-content/uploads/2017/11/CATF_Pub_FumesAcrossTheFenceLine.pdf.
[50] EPA Office of the Inspector General, *The EPA Should Enhance Oversight to Ensure that All Refineries Comply with the Benzene Fenceline Monitoring Regulations* (Sept. 6, 2023), https://www.epaoig.gov/sites/default/files/reports/2023-09/_epaoig_20230906-23-p-0030_errata.pdf.
[51] EPA, *Radioactive Waste Material from Oil and Gas Drilling,* https://www.epa.gov/radtown/radioactive-waste-material-oil-and-gas-drilling (last visited June 4, 2025); *Aggregated Data of OCS Oil and Gas Industry Activities*, *supra* note 11.
[52] EPA, *TENORM: Oil and Gas Production Wastes*, https://www.epa.gov/radiation/tenorm-oil-and-gas-production-wastes (last visited June 4, 2025).
[53] Liu Y-Z, Zhang L, Roy-Engel AM, *et al.* (2017), Carcinogenic Effects of Oil Dispersants: a KEGG Pathway-based RNA-seq Study of Human Airway Epithelial Cells. *Gene* 602: 16–23. https://www.sciencedirect.com/science/article/abs/pii/S0013935118305139?via%3Dihub.

efforts have experienced long-term endocrine and metabolic conditions.[54] The "Gulf Long-term Follow-up Study," a series of studies that followed a cohort of 32,608 people for 10 years following the spill, found that cleanup workers and volunteers experienced a variety of adverse health consequences resulting from the cleanup, including elevated rates of cases of respiratory and cardiovascular issues such as asthma[55] and heart attacks.[56]

New oil infrastructure could lead to more waste and pollution from offshore drilling. According to a report published by the Center for Health and the Global Environment at Harvard Medical School, oil refineries present major health hazards for human communities and marine and terrestrial ecosystems.[57] An average refinery releases on a daily basis up to 11,000 gallons of oil into the air, land, and water, and emits dangerous pollutants such as hydrocarbons, sulfur dioxide, carbon monoxide, and particulate solids.[58] Further, refinery operations produce thermal pollution, which disrupts aquatic ecosystems.[59] The process of removing impurities such as helium, carbon dioxide, hydrocarbons, and toxic hydrogen sulfide from gas can result in the discharge of a range of harmful pollutants, including sulfur dioxide, the precursor to acid rain.[60]

Further, offshore oil exploration and development can degrade the air, water, and land of coastal regions. Drilling rigs routinely discharge produced water, drilling muds, and drill cuttings into the ocean, leading to significant water pollution.[61] The dumping of polluted muds can negatively impact marine life near the ocean floor.[62]

The industrialization and pollution resulting from offshore drilling results in significant human health impacts that BOEM must consider. The effects on human health have lasting economic impacts that BOEM must also consider when preparing the 11th Program.

E. Climate Change

While climate change is driven by a variety of factors, burning fossil fuels is the leading cause and expanded offshore drilling would add fuel to the fire of its destructive impacts. The

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[54] Hristina Denic-Roberts et al. *Risk of longer-term endocrine and metabolic conditions in the Deepwater Horizon Oil Spill Coast Guard cohort study – five years of follow-up*, ENVIRONMENTAL HEALTH 24: 12 (March 22, 2025), https://ehjournal.biomedcentral.com/articles/10.1186/s12940-025-01164-9.

[55] Kaitlyn G. Lawrence et al., *Associations between airborne crude oil chemicals and symptom-based asthma*, ENVIRONMENT INTERNATIONAL 167: 107433 (Sept. 2022), https://www.sciencedirect.com/science/article/pii/S0160412022003609?via%3Dihub .

[56] Strelitz J, Keil AP, Richardson DB, *et al.* (2019) Self-reported myocardial infarction and fatal coronary heart disease among oil spill workers and community members 5 years after Deepwater Horizon. *Environmental Research* 168: 70–79. https://www.sciencedirect.com/science/article/abs/pii/S0013935118305139?via%3Dihub.

[57] Paul R. Epstein & Jesse Selber, eds., *Oil: A Lifecycle Analysis of its Health and Environmental Impacts*, Oil Change International 5 (Mar. 2002), http://oneplanetfellows.pbworks.com/w/file/fetch/11680650/Oil_Impacts_full%20report.pdf.

[58] *Id*. at 27.

[59] *Id.*

[60] Dwight Holing, *Coastal Alert: Ecosystems, Energy, and Offshore Oil Drilling* 45 (1990).

[61] BOEM, *2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program, Final Programmatic Environmental Impact Statement* 53-54 (Sept. 2023), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029NatOCSOilGasLeasing_FinalPEISVol1_0.pdf.

[62] Erik E. Cordes et al., *Environmental Impacts of the Deep-Water Oil and Gas Industry: A Review to Guide Management Strategies* (2016), https://www.researchgate.net/publication/306359593_Environmental_Impacts_of_the_Deep-Water_Oil_and_Gas_Industry_A_Review_to_Guide_Management_Strategies.

combustion of oil and gas releases carbon pollution that contributes to rising global temperatures and intensifies climate-related impacts such as ocean warming, sea level rise, stronger storms, droughts, wildfires, and ocean acidification—all of which threaten the health and welfare of communities across the United States.[63] The expansion of offshore drilling will contribute to worsening climate change.

Worldwide, 2024 was the hottest year ever recorded.[64] The 10 warmest years since 1850 have all been in the past decade.[65] Certain offshore regions in the U.S. have experienced more dramatic warming than others. The sea surface temperature in the Gulf is warming twice as fast as global temperatures,[66] and the Gulf of Maine is warming faster than 99% of the world's oceans.[67]

Ocean warming due to the burning of fossil fuels significantly influences global climate patterns.[68] This, in turn, changes the nature of extreme weather events such as hurricanes, wildfires, and droughts. The intensity, frequency, and duration of hurricanes have increased since the early 1980s.[69] NASA projects that hurricane intensity and rainfall rates will increase as the climate continues to warm, and that a greater proportion of storms will reach Category 4 or 5 strength.[70] This means that the likelihood of a billion-dollar disaster from a hurricane is very high.[71] In 2024, multiple devastating hurricanes hit the Southeast, including Hurricane Helene and Hurricane Milton.[72]

The impacts of climate change on wildfires and droughts are increasingly evident as well. In 2020, California experienced its largest wildfire season in modern history, with approximately 10,000 wildfires burning over 4 million acres. By 2100, the state is projected to see a 77% increase in average area burned and a 50% increase in fire frequency.[73] Reduced snowpack due to climate change further heightens wildfire risks.[74] Meanwhile, climate change is also leading to

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[63] National Academies of Sciences E and Medicine (2025) Effects of Human-Caused Greenhouse Gas Emissions on U.S. Climate, Health, and Welfare. Washington, DC: The National Academies Press.
[64] NOAA, *2024 was the world's warmest year on record* (Jan. 10, 2025), https://www.noaa.gov/news/2024-was-worlds-warmest-year-on-record.
[65] *Id.*
[66] Zhankun Wang et al., *Upper-Oceanic Warming in the Gulf of Mexico between 1950 and 2020*, 36(8) JOURNAL OF CLIMATE 2721 (March 17, 2023).
[67] NASA, *Watery heatwave cooks the Gulf of Maine* (Sept. 12, 2018), https://science.nasa.gov/earth/climate-change/watery-heatwave-cooks-the-gulf-of-maine/
[68] EPA, *Climate Change Indicators*: *Sea Surface Temperature*, https://web.archive.org/web/20250222084256/https://www.epa.gov/climate-indicators/climate-change-indicators-sea-surface-temperature (last visited Jan. 22, 2026).
[69] NASA, *A Force of Nature: Hurricanes in a Changing Climate* (June 1, 2022), https://science.nasa.gov/earth/climate-change/a-force-of-nature-hurricanes-in-a-changing-climate/.
[70] *Id.*
[71] *Id.*
[72] NASA Applied Sciences, *Hurricane Helene 2024*, http://appliedsciences.nasa.gov/what-we-do/disasters/disasters-activations/hurricane-helene-2024 (last visited June 5, 2025); NOAA National Hurricane Center, *Hurricane Milton* (Oct. 9, 2024), https://www.nhc.noaa.gov/archive/2024/al14/al142024.public.020.shtml.
[73] California Climate Adaptation Strategy, *Summary of Projected Climate Change Impacts on California*, https://climateresilience.ca.gov/overview/impacts.html (last visited Jan. 22, 2026).
[74] Diana R. Gergel et al., *Effects of climate change on snowpack and fire potential in the western USA*. 141 Climatic Change 287 (Feb. 2017), https://link.springer.com/article/10.1007/s10584-017-1899-y.

more frequent and severe droughts in the West, which threaten fisheries.[75] In the Pacific Northwest, extreme weather events such as droughts and wildfires cost $4.8 billion in damages in 2021 and 2022 alone.[76]

Increasing global temperatures caused by greenhouse gas emissions have also caused sea level to rise, increasing flooding risks. Global sea level is projected to rise anywhere from 24 inches to 4.3 feet by 2100.[77] According to the Congressional Budget Office, damage from flooding in the United States already costs an average of $46 billion per year, and by 2050 that damage is projected to increase by 25-33% due to climate change.[78]

Climate change is also accelerating ocean acidification as seawater absorbs more carbon dioxide from the atmosphere.[79] Estimates suggest that by 2100, the acidity of ocean surface waters may reach values not seen since the middle Miocene, 14-17 million years ago.[80] This chemical shift threatens the ability of shellfish and corals to build their skeletons and harms other fish species. Many of the impacted species are important to coastal economies and food security.[81] Ocean acidification is considered one of the greatest threats to marine organisms throughout the food web and will result in widespread environmental costs.[82]

As climate change continues, the associated economic risks are expected to escalate. According to the most recent *National Climate Assessment*, climate change has affected commercial marine fisheries across all U.S. regions by changing the distribution of key species and disrupting income and jobs tied to the industry. Climate-driven shifts are expected to cause billions of dollars in economic losses by 2100 for 16 species that account for over half of the country's commercial fisheries revenue. Intensifying storms and rising sea levels will pose growing risks to coastal infrastructure and transportation systems, which are essential for the harvesting and distribution of seafood.[83] The climate impacts will vary geographically. In Florida, USGS has projected that coral reef degradation could accrue an average cost of nearly $823 million.[84] In the Gulf of Maine, the American lobster—the highest-valued single-species

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[75] Oregon Global Warming Commission, *Biennial Report to the Oregon Legislature* (2023), https://www.oregonlegislature.gov/citizen_engagement/Reports/2023%20OGWC%20Biennial%20Report%20to%20the%20Legislature.pdf.
[76] Gergel et al., *supra* note 74.
[77] Benjamin H. Strauss *et al.* (2021), *Economic damages from Hurricane Sandy attributable to sea level rise caused by anthropogenic climate change*, 12 Nature Communications 1, https://www.nature.com/articles/s41467-021-22838-1.
[78] Congressional Budget Office, *Federal Spending for Flood Adaptations* (Sept. 2024), https://www.cbo.gov/publication/60803.
[79] NOAA, *Ocean acidification*, https://www.noaa.gov/education/resource-collections/ocean-coasts/ocean-acidification (last visited June 5, 2025).
[80] *Id.*
[81] *Id.*
[82] Nan Hu et al., *Responses of marine trophic levels to the combined effects of ocean acidification and warming*, 15 Nature Communications 1 (April 2024), https://www.nature.com/articles/s41467-024-47563-3.
[83] Emily B. Osborne et al., Ocean Ecosystems and Marine Resources (2023), https://nca2023.globalchange.gov/chapter/10/.
[84] USGS, Coral Bleaching Event Can Increase Flood Risk, Economic Losses (Jun 28, 2022), https://www.usgs.gov/programs/cmhrp/news/coral-bleaching-event-can-increase-flood-risk-economic-losses (last visited Jun 11, 2025).

fishery in the U.S.—will see a population decline of nearly 50% by 2050 due to ocean warming, directly threatening the region's fishing economy and cultural heritage.[85]

According to the International Energy Agency, nations must stop developing new oil and gas fields if global warming is to stay within relatively safe limits.[86] And we can still avoid the worst impacts of climate change; the Intergovernmental Panel on Climate Change (IPCC) reports that quick and sustained reductions in greenhouse gas emissions would perceptibly slow planet warming within approximately two decades.[87] An Oceana analysis found that permanent offshore drilling protections for all unleased federal waters could prevent over 19 billion tons of greenhouse gas emissions—equivalent to taking every car in the United States off the road for the next 15 years.[88] Beyond that, those permanent protections could prevent more than $720 billion in damage to people, property, and the environment.[89] There are also health benefits to reducing fossil fuel production: replacing fossil fuels with renewables can reduce incidences of respiratory illness, heart disease, and premature deaths linked to air pollution.[90]

New lease sales in the OCS are unnecessary, could devastate marine ecosystems and coastal communities, and would add to the growing climate crisis for our country and the world.

IV. BOEM MUST CONSIDER LOCAL OPPOSITION TO OFFSHORE OIL AND GAS EXPLORATION AND DEVELOPMENT

As BOEM reviews the comments received during this 60-day comment period on the Draft Proposed Program, it must also weigh the strong opposition expressed during the Request for Information (RFI) comment period, such as the letter sent from Members of Congress,[91] as well as the decades of widespread and bipartisan opposition to expanding offshore drilling in the United States. Under OCSLA, BOEM is required to seek the input of governors of affected states, and governors can seek the input of executives of local governments.[117] The law requires BOEM to reply in writing to grant or deny any specific request for modification from the governor of an affected state.[92] After the Five-Year Plan is completed and BOEM has proposed a lease sale, BOEM must also seek the input of governors of affected states and executives of local governments.[93] BOEM must then accept Governor recommendations if "they provide for a

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[85] Andrew J. Pershing et al., *Climate impacts on the Gulf of Maine ecosystem: A review of observed and expected changes in 2050 from rising temperatures*, 9 Elementa: Science of the Anthropocene 00076, PIN CITE (Aug 4, 2021).
[86] International Energy Agency, *Net Zero by 2050: A Roadmap for the Global Energy Sector* (May 2021), https://iea.blob.core.windows.net/assets/7ebafc81-74ed-412b-9c60-5cc32c8396e4/NetZeroby2050-ARoadmapfortheGlobalEnergySector-SummaryforPolicyMakers_CORR.pdf.
[87] IPCC, *Climate Change 2023: Synthesis Report – Summary for Policymakers* (2023), https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf.
[88] Oceana, *Offshore Drilling Fuels the Climate Crisis and Threatens the Economy* (Jan. 2021), https://usa.oceana.org/publications/reports/offshore-drilling-fuels-climate-crisis-and-threatens-economy.
[89] 43 U.S.C. § 1344(c)(2).
[90] 43 U.S.C. § 1345(c).
[91] Letter from Jared Huffman et al. to Secretary Doug Burgum (June 16, 2025), available at https://usa.oceana.org/wp-content/uploads/sites/4/2025/10/2025-06-16-MOC-Letter-to-DOI-re-OCS-Oil-and-Gas-Leasing-Program1-1.pdf.
[92] 43 U.S.C. § 1344(c)(2).
[93] 43 U.S.C. § 1345(a)

reasonable balance between the national interest and the well-being of the citizens of the affected State."[118]

There has been consistent bipartisan opposition to drilling in the OCS, which continues in the current Congress and in reaction to this draft 11th National OCS Oil and Gas Leasing Program. In this 119th Congress, there have been 15 bills sponsored by 47 Senators and 217 Representatives calling for temporary or permanent prohibitions on offshore oil and gas leasing in different portions of the OCS. These bills are the COAST Anti-Drilling Act,[94] the West Coast Ocean Protection Act,[95] the Stop Arctic Drilling Act,[96] the Florida Coastal Protection Act,[97] the American Shores Protection Act,[98] the PROTECT Florida Act,[99] the New England Coastal Protection Act,[100] the Defend Our Coast Act,[101] the California Clean Coast Act,[102] the Central Coast of California Conservation Act,[103] and the Southern California Coast and Ocean Protection Act.[104]

Public opposition to offshore drilling is both widespread and growing. A 2024 poll released by Oceana found that two-thirds of American voters (64%) support their elected officials protecting U.S. coastlines from new offshore drilling, with similar support among registered voters in coastal states (66%). Support was even higher among youth voters 18 to 29 years of age (70%), underscoring a growing generational priority to safeguard our coasts.[105] This sentiment is reflected in the comments received so far on the Draft Proposed Program. Already in this comment period, BOEM has received formal opposition from municipalities, bipartisan elected officials, numerous organizations, and members of the public across the country, all urging an end to offshore oil and gas drilling and seismic airgun blasting.

This opposition includes resolutions from California's and Florida's state and local governments and organizations. These letters detail the drastic impacts that offshore oil and gas drilling could have on local marine ecosystems, coastlines, businesses, and military operations. A letter submitted on October 22, 2025, from Florida's Defense Support Initiative urged for the protection of the Eastern Gulf, specifically detailing the significant threats drilling and exploration would have on national security, military readiness, and economic impact it could have on Florida's defense sector and the Eastern Gulf Test and Training Range.[106] As of January 22, 2026, eight local resolutions against expanded offshore drilling through this Draft Proposed Program have been passed in Florida cities or counties, and seventeen have been passed in California cities and counties.

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[94] S. 1486, 119th Cong. (2025); H.R. 2881, 119th Cong. (2025).
[95] S. 1432, 119th Cong. (2025); H.R. 2849, 119th Cong. (2025).
[96] S. 1445, 119th Cong. (2025); H.R. 2848, 119th Cong. (2025).
[97] H.R. 2673, 119th Cong. (2025).
[98] S. 3082, 119th Cong. (2025).
[99] H.R. 3819, 119th Cong. (2025).
[100] S. 1472, 119th Cong. (2025); H.R. 2865, 119th Cong. (2025).
[101] H.R. 2886, 119th Cong. (2025).
[102] H.R. 2820, 119th Cong. (2025).
[103] H.R. 2882, 119th Cong. (2025).
[104] H.R. 2862, 119th Cong. (2025).
[105] Ipsos, *Oceana Offshore Drilling Survey* (July 11, 2024), https://www.ipsos.com/en-us/oceana-offshore-drilling-survey.
[106] Letter from Defense Support Initiatives (October 22, 2025), https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Defense-Support-Initiatives-committee-letter-FL-1.pdf.

On December 4, 2025, the California and Florida congressional delegations sent the Administration individual letters expressing their strong opposition to any attempts to expand offshore oil and gas drilling off of the entire California and Florida coastlines.[107,108] Both letters emphasize the importance of the proposed leasing areas to military operations. In Florida, the South-Central Gulf of America proposed planning area lies within the Gulf Test Range, an important area for Department of War military training along the Florida Panhandle with over 50,000 jobs reliant on its operations.[109] The California delegation also cite their waters as "strategically vital" for military installations, routes, and airspace operations. They state that oil and gas development and the possibility of a spill could "undermine military readiness and pose risks to national security." [110]

Other letters include one from the Friends of the Everglades, emphasizing the far-reaching damage caused by the Deepwater Horizon oil spill and warning of the impact another spill could have on Florida's beaches and the coastal Everglades,[111] and letters from local Florida businesses FASTSIGNS of Fort Walton Beach[112] and Thursday Morning Media.[113]

Further, a series of "People's Hearings" have been convened across California's coastal communities in response to the DPP. At these events, community members have gathered to show their support for protecting California from new offshore oil and gas development. Events have been held in San Diego (December 4, ~200 attendees), Orange County (December 8, ~100 attendees), Sacramento (January 6, ~80 attendees), Monterey (January 9, 270~ attendees), Santa Barbara (January 16, 200~ attendees), Sausalito (January 16), and Eureka (January 18, 225~ attendees). Prior to this current comment period on the DPP, the RFI Comment period, open from April 30, 2025, to June 16, 2025, resulted in widespread opposition as well..[114] During the RFI period, governors along the East and West coasts—Republicans and Democrats alike—expressed concerns with and/or opposition to expanded oil and gas exploration, development, and production off their coasts, including the Governors of California, North Carolina, South Carolina, and Oregon. [115] The Attorneys General from Maine, Massachusetts, Maryland,

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[107] Letter from California Delegation (December 4, 2025), https://www.padilla.senate.gov/wp-content/uploads/Sen-Padilla-and-HNR-RM-Huffman_CA-Delegation-Letter-to-POTUS-and-DOI-re-Offshore-Drilling-Plans.pdf.
[108] Letter from Florida Delegation (December 4, 2025), https://www.rickscott.senate.gov/services/files/3D6AAAA4-DFDC-419B-9911-12E3CC6252C2.
[109] *Id.*
[110] Letter from California Delegation (December 4, 2025), https://www.padilla.senate.gov/wp-content/uploads/Sen-Padilla-and-HNR-RM-Huffman_CA-Delegation-Letter-to-POTUS-and-DOI-re-Offshore-Drilling-Plans.pdf.
[111] Letter from Friends of the Everglades, (December 15, 2025). https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Friends-of-the-Everglades-FL-BOEM-Public-Comment.pdf.
[112] Letter from FASTSIGNS of Fort Walton Beach, (December 2, 2025). https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Fast-Signs-FL-Business-Letter-to-BOEM-12-2-25.pdf.
[113] Letter from FASTSIGNS of Fort Walton Beach, (December 5, 2025). https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Thursday-Morning-Media-FL-Business-5YP-Opposition-Letter.pdf.
[114] BOEM. (n.d.). *National OCS Oil and Gas Leasing Program.* https://www.boem.gov/oil-gas-energy/national-program/national-ocs-oil-and-gas-leasing-program.
[115] Oceana, *Grassroots Opposition to Offshore Drilling and Exploration in the Atlantic Ocean and off Florida's Gulf Coast*, https://usa.oceana.org/climate-and-energy-grassroots-opposition-offshore-drilling-and-exploration-atlantic-ocean-and-3/ (last visited Jan. 22, 2026).

California, Delaware, New Jersey, New York, Oregon, Rhode Island, and Washington also urged for the exclusion of offshore drilling along their coasts.[116]

The opposition that came from California, Alaska, and the Gulf remains relevant to the current comment period, as those areas are still considered for leasing in the DPP. Along the Northern Pacific Coast, opposition to the RFI was strongly voiced by 15 Alaskan organizations, including the Alaska Longline Fishermen's Association. In addition, seven letters were submitted by Tribal and Alaska Native non-profits, villages, governments, corporations, and colleges. Across these letters, concerns were raised about the devastating impact an oil spill could have on the marine life and ecosystems that sustain these communities. One letter emphasized the extreme remoteness of their region—like many others—where the nearest U.S. Coast Guard station is in Kodiak, Alaska, over 1,000 miles away. These letters reflect not only environmental and cultural priorities but also the practical reality that offshore oil and gas development in the proposed Arctic areas is unprecedented, making it highly unlikely that the associated risks could be effectively managed or mitigated.[258]

In California, opposition to the RFI was widespread along the entire coastline. Twenty California-based organizations—from San Diego to Santa Barbara to the Bay Area—submitted a 26-page joint letter, citing the damaging impacts of past offshore oil and gas development, including the 1969 Santa Barbara oil spill, the 2015 Refugio oil spill, and the 2021 Huntington Beach pipeline leak.[117] Alongside this sign-on letter, ten individual organizations submitted separate letters and 13 municipalities voiced concern about risks to coastal communities, such as harm to tourism, property values, fisheries, and thousands of jobs. Other notable letters came from Congresswoman Julia Brownley, the California Lieutenant Governor, and the Central Coast Caucus.[258]Comparable opposition emerged in Florida and across the Gulf region. In Florida, letters were submitted by three local elected officials, seven cities, and three chambers of commerce, along with a sign-on letter representing 84 Gulf organizations and another on behalf of 400 tourism partner businesses. These letters raised concerns about national security implications of drilling in the Eastern Gulf and potential harm to marine sanctuaries and critical habitats, including those of the endangered Rice's whale and opposed all proposed leasing areas in the plan. [258]

The Fishery Management Councils also opposed proposed offshore oil and gas development in the RFI, citing risks to marine ecosystems and fisheries. The New England and Mid-Atlantic Fishery Management Councils both submitted comments in opposition during this RFI period. They raised concerns about the adverse environmental impacts associated with drilling, including habitat destruction, pollution from spills, and disruption from seismic

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[116] *The Attorneys General of Maryland, California, Delaware, Maine, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington.* (June 16, 2025). https://usa.oceana.org/wp-content/uploads/sites/4/2025/10/Request-for-Information-and-Comments-on-the-Preparation-of-the-11th-National-Outer-Continental-Shelf-Oil-and-Gas-Leasing-Program-2.pdf

[117] Environmental Defense Center (June 16, 2025). *20-California Organization Letter Opposing Expanding Offshore Drilling.* https://usa.oceana.org/wp-content/uploads/sites/4/2025/10/2025_06_16_EDC-et-al-letter-re-2025-OCS-Leasing-Program-1.pdf.

testing.[118,119] Similarly, the South Atlantic Fishery Management Council (SAFMC) opposed offshore drilling, citing the potential impacts on Essential Fish Habitat (EFH) and designated Habitat Areas of Particular Concern (HAPC).[120]

Along the Atlantic Coast, numerous fishing and tourism interests, including local chambers of commerce, tourism and restaurant associations, and an alliance[121] representing over 59,000 businesses and 500,000 fishing families from Florida to Maine, have strongly opposed oil exploration and/or development off the East Coast.[122] In 2018, the Pacific Fishery Management Council requested that the West Coast be removed from consideration in the 2019-2024 Draft Proposed Program plan for lease development on the OCS, stating that "the limited benefits that may accrue from additional OCS oil and gas leases do not justify the risk to our vital fishery resources and the habitats upon which they depend."[123] During the release of the 10th OCS draft proposed program, more than 390 municipalities across the country formally opposed the expansion of offshore oil and gas drilling activities, including over 90 along the Pacific coast.[124]

Additionally, recreational fishing groups like the Billfish Foundation and The International Game Fish Association voiced grave concerns with the potential impacts seismic airgun surveys and subsequent drilling could have on marine resources. Marine scientists consistently warn against the use of seismic airguns for oil exploration, citing the long-lasting footprint of seismic surveys and negative impacts which extend to marine life all the way up the food chain—from plankton to whales.[125]

The Department of Defense, the U.S. Air Force (USAF), the Florida Defense Support Task Force, and the National Aeronautics and Space Administration (NASA), have previously expressed concerns that offshore oil and gas development would threaten their ability to perform mission-critical activities. The Department of Defense's Readiness and Environmental Protection Integration program relies on a number of training grounds, installations, and bases along the entire U.S. OCS.[126] In a letter to former Representative Gaetz of Florida, the Office of the Under Secretary of Defense wrote that "the Department of Defense (DoD) cannot overstate the vital importance of maintaining [the Eastern Gulf of Mexico offshore oil and gas] moratorium" and that the moratorium "is essential for developing and sustaining our nation's future combat

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[118] New England Fishery Management Council, *NEFMC Habitat Policies for Offshore Energy, Aquaculture, Submarine Cables*, https://www.nefmc.org/library/nefmc-habitat-policies-for-offshore-energy-aquaculture-submarine-cables (last visited Jan. 22, 2026).
[119] Mid-Atlantic Fishery Management Council, *Offshore Energy*, https://www.mafmc.org/actions/offshore-energy (last visited Jan. 22, 2026).
[120] South Atlantic Fishery Management Council, *Policy for the protection and restoration of essential fish habitats from energy exploration and development* (Mar. 22, 2024), safmc.net/documents/heap_a2a_policy-statement-on-energy_202404-pdf/.
[121] BAPAC: Business Alliance for Protecting the Atlantic Coast, https://protectingtheatlanticcoast.org/ (last visited Jan. 22, 2026).
[122] *Grassroots Opposition*, *supra* note 115.
[123] Letter from Pacific Fishery Management Council to Secretary Zinke (Mar. 9, 2018), *available at* https://usa.oceana.org/wp-content/uploads/sites/4/662/2018_03_09_-_pacific_fishery_management_council.pdf.
[124] Oceana, *Opposition to New Offshore Drilling in the Pacific Ocean*, https://usa.oceana.org/pacific-drilling/ (last visited Jan. 22, 2026).
[125] Letter from 75 Marine Scientists to President Barack Obama (March 5, 2015), https://usa.oceana.org/wp-content/uploads/sites/4/75_marine_scientist_letter-_seismic.pdf.
[126] Dep't of Defense, Readiness and Environmental Protection Integration Program, *About the DOD REPI Program*, https://www.repi.mil/ (last visited Jan. 22, 2026).

capabilities."[127] The Florida Defense Support Task Force states that "drilling east of the Military Mission Line (MML) would mean loss of ranges and possible relocation of aircraft/bases to other unrestricted range areas."[128] Defense is Florida's fourth largest industry, and in northwest Florida, 65% of the regional economy is "considerably dependent on unconstrained access to Eastern Gulf of Mexico airspace and sea space."[129] The coastal communities and industries along the U.S. coast are uniquely reliant upon healthy oceans for their livelihoods. Lease sales in these areas threaten the actualization of both federal and state agencies' security objectives. The elected officials who represent these constituencies recognize the serious risks posed by offshore oil and gas activities. BOEM should conduct extensive and widely publicized public hearings in all coastal communities potentially affected by development of a new Five-Year Program. BOEM should also engage with federal and state-recognized Tribes in this process. BOEM should consider this long-standing, outspoken, and diverse local opposition to new offshore drilling and exploration when finalizing the National OCS Oil and Gas Leasing Program.

V. IF BOEM MOVES FORWARD, IT SHOULD NOT SCHEDULE ANY LEASE SALES NOT REQUIRED BY CONGRESS

If BOEM moves forward with the development of the 11th Program, it should not schedule any lease sales beyond the sales required by Congress in the OBBBA. In preparing a five-year program, the Secretary must "consider the economic, social, and environmental values of the renewable and nonrenewable resources contained in the [OCS]."[130] The timing and location of oil and gas exploration, development and production must be based on the Secretary's consideration of eight factors, including the ecological characteristics of the OCS region; environmental risks; other uses of the region, including fisheries; the laws, goals and policies of affected States; and the environmental sensitivity and marine productivity of the area."[131] The Secretary must balance the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.[132]

Our oceans are too valuable—as economic drivers, vibrant ecosystems, or military readiness test sites—to expose to the risks of expanded oil and gas activities. This section discusses why BOEM should not consider lease sales in California, Alaska, or the Gulf.

A. BOEM Should Exclude the California Planning Areas

BOEM should exclude the three California planning areas from the Proposed Program. Expanded offshore oil and gas exploration and development puts the resources of the California Current Large Marine Ecosystem (CCLME), and the associated multi-billion-dollar ocean economy, at risk. The CCLME includes hundreds of species of fish and seabirds, more than 30

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[127] Letter from A.M. Kurta, Office of the Under Secretary of Defense, to Rep. Gaetz (Apr. 26, 2017), *available at* https://usa.oceana.org/wp-content/uploads/sites/4/662/2017042_house_letter_to_secdef_re_gulf_drilling_moratorium_response.pdf.
[128] Florida Defense Support Task Force, *Oil Drilling and Military Mission Compatibility* (Jan. 31, 2017), *available at* https://usa.oceana.org/wp-content/uploads/sites/4/662/fdstf-white-paper-oil-drilling-and-military-mission-compatability.pdf.
[129] *Id*.
[130] 43 U.S.C. § 1344(a)(1).
[131] *Id.* § 1344(a)(2).
[132] *Id.* § 1344(a)(3).

marine mammal species, and five sea turtle species. Gray whale migration routes and humpback feeding areas span the coast. These waters include critical habitat for Steller sea lions, Southern Resident killer whales, the Pacific leatherback sea turtle, green sturgeon, and Chinook salmon. The California coast is a feeding ground for endangered blue whales, fin whales, and sperm whales.

1. Leasing History and State Laws

The Department of the Interior held eleven lease sales between 1963 and 1984 in the Pacific Region, issuing 470 total leases.[133] Today, there are only 30 active leases remaining in the Pacific OCS, all in the Southern California Planning Area.[134] All of the remaining platforms are near their end of life, with the youngest platform being older than 30 years old.[135] For good cause, these areas have not been included in any final five-year program for nearly 40 years.[136]

California has also unequivocally opposed new leasing and codified that position in state law. In 1994, the state banned new oil and gas leasing in state waters.[137] In 2018, the state prohibited the issuance of leases or other conveyances to authorize any new construction of oil and gas infrastructure to support new federal oil and gas leases.[138] Together, these laws make clear that California does not want drilling off its coast, and would make development of any new leases difficult, if not impossible.

2. A History of Devastating Oil Spills

California has suffered repeated oil spill disasters. On January 28, 1969, an offshore drilling platform blowout in the Santa Barabara channel released as much as 4.2 million gallons of crude oil into the ocean over 11 days. The spill occurred in vital seabird habitat, killing 3,700 sea birds that were recovered and likely many more that were never found. Oil from the incident traveled at least as far south as Mexico.[139]

In 2015, the same stretch of coastline suffered another major oil disaster when a pipeline rupture released over 142,000 gallons of crude onto Refugio State Beach and the surrounding environment. The spill devastated both marine and coastal ecosystems, impacting roughly 2,200 acres of subtidal and fish habitat and 1,500 acres of shoreline, including sandy beaches and rocky intertidal zones. Hundreds of birds, pinnipeds, and cetaceans were killed or injured, while kelp,

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[133] Letter from Christopher Potter, Program Manager to California Ocean Protection Council (Jan. 31, 2018), https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180131/hold/Item4_Resolution_on_Offshore_Oil_and_Gas_Leasing_FINAL.pdf.

[134] BOEM, *Managing Oil and Gas Leases – Pacific*, https://www.boem.gov/regions/pacific-ocs-region/oil-gas/managing-oil-and-gas-leases-pacific (last visited Jan. 22, 2026).

[135] Heather Richards, *Why Interior could get stuck with the tab for cleaning up oil platforms*. E&E News (Apr. 12, 2024), https://www.eenews.net/articles/why-interior-could-get-stuck-with-the-tab-for-cleaning-up-oil-platforms/.

[136] The areas were included as part of the 1987-1992 Five Year-Program, but the California leases were cancelled by President George H.W. Bush. Oil & Gas Journal, *Bush Orders Cancellation of Eight Controversial Offshore Lease Sales* (July 2, 1990), https://www.ogj.com/drilling-production/drilling-operations/article/17214615/bush-orders-cancellation-of-eight-controversial-offshore-lease-sales.

[137] California Coastal Sanctuary Act, AB 2444 (1994)

[138] SB 834; AB 1775 (2018).

[139] NOAA Office of Response and Restoration, *45 Years after the Santa Barbara Oil Spill, Looking at a Historic Disaster Through Technology*, (Nov. 8, 2022), https://response.restoration.noaa.gov/about/media/45-years-after-santa-barbara-oil-spill-looking-historic-disaster-through-technology.html.

seagrasses, invertebrates, and fish also suffered. Ocean currents carried tar balls as far south as Los Angeles County, and the timing of the spill forced beach and fishery closures just before Memorial Day weekend, resulting in more than 140,000 lost recreational days and economic losses for local communities.[140] The 1969 Santa Barbara and 2015 Refugio Beach spills together impacted over 90 miles of coastline and 935 square miles of ocean, an area almost twice the size of Los Angeles. These repeated spills show the ongoing risks to coastal communities and ecosystems. Expanding the footprint of offshore drilling would only increase those risks.

3. Marine Economy and Fisheries

California, the world's fourth-largest economy,[141] is supported by industries reliant on a healthy ocean. This sector supports over 511,000 jobs and generates $51.3 billion to the gross domestic product (GDP). Coastal tourism produces nearly half of this GDP, [142] supports over $11.7 million in wages, and employs over 343,000 Californians.[143] The commercial fishing industry is a vital component of the state's economy—supporting over 187,000 full-and part-time jobs, generating $31.2 billion in sales and $6.6 billion in yearly income for fishers. California's recreational fishing industry supports nearly 5,800 jobs and $333 million in income for fishers.[144]

4. Habitat and Biodiversity

The CCLME hosts a globally important concentration of large migratory marine wildlife. The cold, nutrient-rich waters are a highway for migrating whales and birds, as well as a destination for a wide suite of sharks, whales, dolphins, seabirds, sea turtles, and important game fish that come to feed in the rich productive Pacific Ocean waters. Protected areas include designated critical habitats for humpback whales, Southern Resident killer whales, Pacific leatherback sea turtles, green sea turtles, southern green sturgeon, and black abalone, with black abalone critical habitat extending around parts of the Channel Islands. Sensitive seafloor habitats, such as coral and sponge gardens, thrive along the continental shelf, slope, and deep-sea areas,[145] while pelagic zones are vital for primary production and species like krill, forage fish, salmon, sea lions, and squid.[146]

Coastal habitats are particularly vulnerable to the risks of an oil spill, threatening seals, sea lions, sea otters, salmon and abalone, and ecosystems such as seagrass beds, kelp forests, and

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[140] California Department of Fish and Wildlife et al., *Refugio Beach Oil Spill Final Damage Assessment and Restoration Plan/Environmental Assessment* (2021).
[141] State of California, California is now the 4th largest economy in the world Governor of California (Apr 24, 2025), https://www.gov.ca.gov/2025/04/23/california-is-now-the-4th-largest-economy-in-the-world/ (last visited Jan. 22, 2026).
[142] NOAA, *2024 U.S. Marine Economy Report*, https://coast.noaa.gov/data/digitalcoast/pdf/econ-report.pdf.
[143] National Oceanic and Atmospheric Administration, Office for Coastal Management. Coastal America: A Demographic and Economic Picture. 2025 Monterey, CA: Center for the Blue Economy.
[144] NOAA, *Fisheries Economics of the United States 2022* (April 2024), https://spo.nmfs.noaa.gov/sites/default/files/TMSPO248.pdf.
[145] National Marine Fisheries Service - Office of Habitat Conservation, *The State of Deep-Sea Coral and Sponge Ecosystems of the United States* 113-114 (2017), https://repository.library.noaa.gov/view/noaa/17609/noaa_17609_DS1.pdf
[146] NOAA Fisheries, *California Current Integrated Ecosystem Assessment,* https://www.integratedecosystemassessment.noaa.gov/regions/california-current/california-current-ecosystem-component-coastal-pelagic-species (last visited Jan. 22, 2026).

rocky reefs.[147] Sensitive wetlands, including estuaries and marshes, are also at high risk of oil spills, which can smother and poison marsh plants and animals, leading to long-term damage that may take decades to recover.[148] Additionally, climate change will likely result in saltmarsh loss from coastal squeeze due to sea level rise and increased storminess.[149]

The West Coast region is also home to ten ESA-listed marine mammals, four ESA-listed sea turtles, five ESA-listed seabirds, and 28 marine fish taxa listed as threatened or endangered.[150] Protected species include marine mammals like the vaquita, fin whales, blue whales, gray whales, humpback whales, killer whales, North Pacific right whales, sei whales, sperm whales, Steller sea lions, and the Guadalupe fur seals.[157] Green sea turtles, leatherback sea turtles, loggerhead sea turtles, and olive ridley sea turtles are all found in the Pacific Ocean.[158] NOAA has established critical habitat in these waters for Steller sea lions, Southern Resident killer whales, humpback whales, the Pacific leatherback sea turtle, the green sea turtle, green sturgeon, and Chinook salmon.[159] The California coast is a feeding ground for endangered blue whales, fin whales, and sperm whales. Opening these areas to offshore oil and gas activities would degrade marine environments and harm already vulnerable species and habitats.

In 2024 and 2025, Oceana conducted a series of research expeditions documenting ocean biodiversity in waters surrounding California's Channel Islands. The first two expeditions alone identified more than 13,000 unique species using cutting edge environmental DNA (eDNA) analysis. Many species identified are poorly understood or undescribed by science. These findings affirm waters of Southern California host globally significant biodiversity and illuminate the need to better understand complex ocean ecosystems in order to create stronger and more effective wildlife protections.

5. Cultural and Community Value

The coastal and ocean waters off the California hold immense cultural significance for many groups, including federally recognized Tribes, recreational and commercial fishermen, and recreational users such as scuba divers, surfers, and swimmers. These waters provide food, transportation, recreational opportunities, and sacred cultural and spiritual connections. BOEM has identified 2,383 coastal cultural resources at risk from future offshore development, including 683 archaeological sites, 1,719 built environment resources, and 78 culturally

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[147] NOAA Office of Response and Restoration, Using Science to Restore Polluted Coastal Environments on the West Coast (Dec 5, 2024), https://blog.response.restoration.noaa.gov/using-science-restore-polluted-coastal-environments-west-coast.
[148] Jacqueline Michel et al., *Oil Spills in Marshes: Planning and Response Considerations* (Mar. 2022), https://response.restoration.noaa.gov/sites/default/files/Oil_Spills_in_Marshes.pdf.
[149] Neil Saintilan et al., *Constraints on the adjustment of tidal marshes to accelerating sea level rise*, 377 *Science* 523 (July 2022), https://www.science.org/doi/10.1126/science.abo7872.
[150] California Dep't of Fish and Wildlife, *California Marine Protected Areas (MPAs)*, https://wildlife.ca.gov/conservation/marine/MPAS (last visited Jan. 22, 2026).

significant properties off the West Coast.[151] Protecting these waters is essential to preserving their cultural, historical, and ecological value.[152]

The balance of factors BOEM must weigh does not support expanded oil and gas exploration and development off the West Coast. Oceana urges BOEM to exclude the California planning areas from any proposed program.

B. BOEM Should Exclude the Alaska Planning Areas

BOEM should not offer any lease sales in the Alaska planning areas. Offshore oil and gas exploration activities in the Arctic and Alaska have been controversial and unsuccessful, including one of the most destructive oil spills in U.S. history, and there is a demonstrated lack of industry interest. Further, due to the remoteness, lack of infrastructure, severe weather, sea ice, and more, an oil spill would be nearly impossible to clean up, devastating delicate ecosystems and harming important commercial, recreational, and subsistence fisheries.

1. Leasing History

Since at least the 1970s, companies have thought that oil and gas might be produced from under the U.S. Arctic Ocean, and the federal government has advanced that interest. Oil companies spent billions of dollars in the 1980s and 90s purchasing leases and drilling exploration wells.[153] These efforts were both controversial and unsuccessful, and the companies largely walked away from their investments. Nearly 90% of the Arctic Ocean leases sold in the 1980s and 90s were relinquished by the companies that purchased them. Almost all of the remaining leases were allowed to expire at the end of their initial ten-year terms.[154] By 2002, no leases were owned in the Chukchi Sea and almost none in the Beaufort.

That process then repeated itself. The former Minerals Management Service (MMS) held three lease sales in the Beaufort Sea between 2003 and 2007. Those sales—Lease Sales 186, 195, and 202—resulted in the award of 240 leases covering more than 1.3 million acres. In the Chukchi Sea, MMS held Lease Sale 193 in 2008, which resulted in the purchase of 487 leases covering more than 2.7 million acres.

Companies, led by Shell, pursued exploration. Those efforts led to controversy and risk—highlighted by Shell's failed 2012 season and the grounding of the drilling rig *Kulluk*—and, ultimately, have proven unsuccessful. Now, the companies that owned those leases have largely walked away from their investments. All of the leases in the Chukchi Sea have been

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[151] ICF International et al., *Inventory and Analysis of Coastal and Submerged Archaeological Site Occurrence on the Pacific Outer Continental Shelf*, (Nov 2013) at 2, https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Studies/Pacific-Region/Studies/pc-11-01.pdf.

[152] Oceana, *Opposition to New Offshore Drilling in the Pacific Ocean*, https://usa.oceana.org/pacific-drilling/ (last visited June 4, 2025).

[153] *See* Michael LeVine, Peter Van Tuyn & Layla Hughes, *Oil and Gas in America's Arctic Ocean: Past Problems Counsel Precaution*, 37 SEATTLE UNIV. L. REV. 1271, 1314–21 (2015); *see also* BOEM, *Lease Sales Historical Data*, http://www.boem.gov/Historical-Alaska-Region-Lease-Sales/ (last updated April 1, 2025); BOEM, *Oil and Gas - Alaska*, http://www.boem.gov/About-BOEM/BOEM-Regions/Alaska-Region/Historical-Data/Index.aspx (last visited June 5, 2025).

[154] The few exceptions are the leases at the Northstar and Liberty prospects. *See* LeVine et al., *supra* note 153, at 1421.

relinquished.[155] Most of these relinquishments took place in the wake of Shell's unsuccessful exploration in 2015 and BSEE's subsequent decision not to grant requests for Suspensions of Operations.[156] In the Beaufort Sea, nearly all the leases sold in sales 186, 195, and 202 have been relinquished or allowed to expire. At the end of the day, Shell, BP, ConocoPhillips, Statoil, Repsol, Total, Iona Energy, Armstrong, and Encana have all walked away from Arctic Ocean leases.

Moreover, in 2015, BOEM canceled Beaufort Sea Lease Sale 242 "due to current market conditions (e.g., low oil prices) and minimal competitive interest from industry."[157] And, in considering prior programs that excluded the Arctic, BOEM appropriately considered industry interest. For example, the Proposed Program prepared by the agency for the 2017-2022 Program included a "Summary of Energy Exploration and Production Industry Comments from the DPP." The summary references trade associations, companies that have not purchased leases or conducted exploration activities in the U.S. Arctic Ocean for decades, and many of the companies that have walked away from their leases.[158] The fact that companies are turning away from their investments and have shown little interest in actually purchasing additional leases should counsel strongly against scheduling new sales and in favor of removing the Chukchi and Beaufort Sea planning areas from a new program, if one is prepared.

A similar story has played out in the Cook Inlet. Despite being included in the last four leasing programs, BOEM has only held three lease sales in the area since 2004, one of which resulted in no bids.[159] BOEM cancelled four other sales due to lack of industry interest.[160] In September 2024, Hilcorp Alaska, the only company to bid on lease blocks in the Cook Inlet this century, relinquished seven of its fifteen leases in the area.[161] Despite lack of industry interest and strong opposition from Alaskans leading to the cancellation of Lease Sale 258, the Inflation Reduction Act directed BOEM to revive the sale. When BOEM held the sale in 2022, the agency only received one bid, from Hilcorp.[162]

In a statement issued following the release of the DPP, Alaska Senators Murkowski and Sullivan only supported development in one Alaska planning area, the Cook Inlet. Notably, Senator Murkowski stated that "In the months ahead, Interior will need to consult with and fully consider the perspectives of Alaskans to understand why development in some of our waters—

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[155] *See* BOEM, *Alaska OCS Region, Detailed Listing of Active Leases*, http://www.boem.gov/Alaska-Detailed-Listing-of-Active-Leases/ (last updated Feb. 2025).
[156] *See* Letter from Kevin J. Pendergast, BSEE, to Susan Childs, Shell (Oct. 16, 2015), https://www.doi.gov/sites/doi.gov/files/uploads/ShellSOOLtr.pdf.
[157] Cancellation of Oil and Gas Lease Sale 242 in the Beaufort Sea Planning Area on the Outer Continental Shelf (OCS), 80 Fed. Reg. 74,797, 74,797 (November 30, 2015).
[158] BOEM, *2017–2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Proposed Program* 9-3 (March 2016), https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/2017-2022-Proposed-Program-Decision.pdf.
[159] BOEM, *Sale 258 Status Update*, archived at https://web.archive.org/web/20220901042555/https://www.boem.gov/oil-gas-energy/leasing/sale-258-status-update (last visited June 5, 2025).
[160] *Id.*
[161] BOEM, *Cook Inlet Oil and Gas Lease Sale 244*, https://www.boem.gov/about-boem/cook-inlet-oil-and-gas-lease-sale-244 (last visited June 5, 2025).
[162] BOEM, *Lease Sale 258*, https://www.boem.gov/oil-gas-energy/leasing/lease-sale-258 (last visited May 16, 2025).

especially the offshore Arctic and the Bering Strait—should not be in the final version of this five-year plan."[163]

2. Exxon *Valdez* Oil Spill Disaster and Lack of Preparedness for Emergency Response

The 1989 Exxon *Valdez* oil spill marked one of the most devastating environmental disasters in U.S. history. When the tanker ran aground, nearly 11 million gallons of crude oil, roughly equivalent to 17 Olympic-sized swimming pools, were released into a remote and biologically rich ecosystem, contaminating more than 1,300 miles of coastline. Cleanup efforts extended over four summers and cost Exxon an estimated $2.1 billion. Yet, scientists later concluded that only about 14% of the oil was successfully cleaned up. Some beaches remain oiled decades later. [164]

The ecological toll of the spill was staggering and impossible to fully quantify. While 25,0000 seabirds and 1,000 sea otters were recovered, these numbers represent only a small fraction of the true death toll, as most animal carcasses sank and were never found. The Exxon *Valdez* Oil Spill Trustee Council estimates that the spill ultimately killed around 250,000 seabirds, 2,800 sea otters, 300 harbor seals, 25 bald eagles, up to 22 killer whales, and billions of salmon and herring eggs. Many affected species continue to experience lingering injury years after the spill.[165]

The disaster also crippled coastal economies, forcing widespread closures of commercial fisheries for salmon, herring, crab, shrimp, and other species across Prince William Sound and surrounding regions, with some fisheries remaining closed into the following year. Recreation and tourism declined sharply as oiled beaches were closed to the public and access to hunting, fishing, and kayaking areas was restricted. These impacts resulted in long-lasting social, economic, and ecological harm to the region.[166]

Today, companies remain unprepared to operate safely in the remote and challenging Arctic environment. The Arctic Ocean contains unique and important ecosystems, which are put at risk by oil and gas activities. There is no proven way to respond to a major spill in icy conditions, and such a spill could devastate unique and important ocean resources. Even routine exploration and development will cause noise, air, and water pollution. The potential magnitude and cumulative effects of these impacts are not well understood. These risks are exacerbated by the distance from response capacity and the lack of infrastructure in the Arctic region. According to the National Research Council, "[t]he lack of infrastructure in the Arctic would be a significant liability in the event of a large oil spill," building the requisite spill response capacity "will require significant investment in physical infrastructure and human capabilities," and

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[163] *Murkowski, Sullivan React to Proposed Offshore Oil and Gas Program*, U.S. Senator Lisa Murkowski of Alaska, (Nov. 21, 2025), https://www.murkowski.senate.gov/press/release/murkowski-sullivan-react-to-proposed-offshore-oil-and-gas-program.

[164]NOAA Damage Assessment, Remediation, and Restoration Program, *Exxon Valdez*, (Sep. 17, 2020), https://darrp.noaa.gov/oil-spills/exxon-valdez.

[165]NOAA Damage Assessment, Remediation, and Restoration Program, *Exxon Valdez*, (Sep. 17, 2020), https://darrp.noaa.gov/oil-spills/exxon-valdez.

[166] Exxon Valdez Oil Spill Trustee Council, *Oil Spill Facts*, Exxon Valdez Oil Spill Trustee Council, https://evostc.state.ak.us/oil-spill-facts/ (last visited Dec. 18, 2025).

"[t]here is presently no funding mechanism to provide for development, deployment, and maintenance of temporary and permanent infrastructure."[167]

According to a BSEE report evaluating oil spill response in the Beaufort and Chukchi Seas, mechanical recovery becomes less effective with as little as 10% sea ice coverage. During winter months, these methods are considered "almost impossible" and are generally not advised for use during more than 70% of the year.[168] If a spill were to occur in this ecosystem, it would be devastating. Compounding these risks, BSEE has acknowledged in its comments in response to this DPP that its workforce in Alaska is "below sustainable levels necessary to oversee current lease operations" with only four personnel responsible for oversight of the entire Alaska OCS Region.[169] BSEE further noted that the DPP "does not address the appropriations or staff required for any amount of additional leasing, exploration, or development activity proposed for the Alaska OCS, as required by the 43 U.S.C. 1344(b)(4)."[170] In the absence of necessary infrastructure, proven spill response methods, and sufficient oversight, an expansion of offshore drilling into Alaska's sensitive environment poses an unacceptable level of risk.

3. Marine Economy and Fisheries

Alaska's ocean economy supports over 2,500 businesses, approximately 38,000 employees, and $8.9 billion in GDP.[171] Alaska is known for being home to some of the most productive commercial fisheries in the United States. In 2022, Alaska's commercial fishing and seafood industry was valued at $5.1 billion in sales. These fisheries supported nearly $2.3 billion in yearly income for commercial fishers. [172] The recreational fisheries also thrive, supporting $368 million in annual income. [173] Cook Inlet is an especially important salmon fishery—in 2025, approximately 5 million salmon were harvested from the Upper and Lower Cook Inlet areas.[174]

4. Habitat and Biodiversity

Alaska's marine environment is home to vibrant ecosystems and unique wildlife. The planning areas encompass high-value habitats, migration routes, breeding and foraging grounds, important seafloor habitats, and zones of high primary productivity.

Many marine mammals depend on these habitats. The entire Chukchi Sea coastline serves as an essential corridor for species such as Pacific walrus and ice seals. Polar bears hunt and den along the coasts, particularly females who rely on coastal and sea ice areas for denning The Arctic is also home to endangered species of whales and seals. The Beaufort and Chukchi

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[167] National Research Council, Responding to Oil Spills in the U.S. Arctic Marine Environment 9 (National Academies Press 2014).
[168] Nuka Research & Planning Group, LLC, *Estimating an Oil Spill Response Gap for the U.S. Arctic Ocean (Revised)* (June 10, 2016), https://nukaresearch.com/download/projects/estimating-an-oil-spill-response-gap-for-the-us-arctic-ocean-revised.pdf.
[169] *Comment from BSEE*, REGULATIONS.GOV (Dec. 13, 2025), https://www.regulations.gov/comment/BOEM-2025-0483-0491.
[170] *Id.*
[171] *2024 Marine Economy Report*, *supra* note 142.
[172] *Fisheries Economics of the United States 2022*, *supra* note 144, at 9.
[173] *Id.*
[174] *Commercial Salmon Fisheries*, ALASKA DEP'T OF FISH & GAME, https://www.adfg.alaska.gov/index.cfm?adfg=commercialbyareacookinlet.salmon (last visited December 30, 2025).

Seas are home to the Bowhead whale, which is listed as Endangered throughout its range under the ESA.[175] The Beringia Distinct Population Segment (DPS) of Bearded seals is ESA Threatened and found in the Beaufort and Chukchi Seas as well.[176] The Cook Inlet beluga whale, found year-round in Alaska's Cook Inlet, is federally listed as endangered. Today, the population is estimated at just 331 individuals, a sharp decline from approximately 1,300 in the 1970s.[177] To support their recovery, the National Marine Fisheries Service (NMFS) has designated several critical habitat areas within the inlet.

Other threatened marine mammal species in Alaska waters include the blue whale, the false killer whale, the fin whale, the gray whale, the humpback whale, the Guadalupe fur seal, the killer whale, the North Pacific right whale, the ringed seal, the Steller sea lion, the spotted seal, the sperm whale, and the sei whale. Gray whales undertake the longest known migration of any mammal on Earth, traveling from northern Mexico to the Chukchi and Bering seas to feed in the nutrient-rich coastal waters. Some threated or endangered fish species include the steelhead trout and the green sturgeon.[178] NOAA has established critical habitat in these waters for the North Pacific right whale, the bearded seal, the Steller sea lion, the ringed seal, the humpback whale, and the beluga whale.[179]

Alaska is also home to a network of globally significant Important Bird Areas (IBAs). The Chukchi Sea Nearshore IBA, for example, hosts up to 15% of the world's population of glaucous gulls. Kasegalus Lagoon IBA boasts the highest bird diversity and abundance of any lagoon system in Arctic Alaska. Meanwhile, the cliffs of the Lisburn peninsula support nesting colonies of nearly a quarter of a million breeding birds. Cook Inlet provides critical habitat for species including white-winged scooters, common murres, black-legged kittiwakes, and sooty shearwaters important marine bird assemblages, sustained by forage fish such as Pacific sand lance, capelin, herring, and juvenile walleye pollock. The ecosystem's vulnerability was underscored by the 2014–2016 Pacific marine heatwave, which caused extensive mortality and multi-year reproductive disruptions in seabird colonies and contributed to broader food web instability.[180]

In recognition of their ecological importance, the NMFS has designated key areas off Alaska as EFH for species such as pacific cod, sablefish, snow crab, and yellowfin sole. Additionally, Cook Inlet supports all five species of Pacific salmon.

Alaska's arctic environment is also highly vulnerable, particularly due to climate change. Temperatures in the region are rising at a rate about three times faster than the global average,

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[175] NOAA Fisheries, *Bowhead Whale*, https://www.fisheries.noaa.gov/species/bowhead-whale (last visited June 5, 2025).
[176] NOAA Fisheries, *Bearded Seal*, https://www.fisheries.noaa.gov/species/bearded-seal (last visited June 5, 2025).
[177] Marine Mammal Commission, *Cook Inlet Beluga Whale*, https://www.mmc.gov/priority-topics/species-of-concern/cook-inlet-beluga-whale/ (last visited June 5, 2025).
[178] NOAA Fisheries, *Species Directory – ESA Threatened and Endangered*, https://www.fisheries.noaa.gov/species-directory/threatened-endangered (last visited Jan. 22, 2026).
[179] *Id*.
[180] Caitlin E. Marsteller et al., *Predator Disturbance Contributed to Common Murre* Uria Aalge *Breeding Failures in Cook Inlet, Alaska, Following the 2014-2016 Pacific Marine Heatwave*, 52(1) MARINE ORNITHOLOGY 129 (April 15, 2024).

and sea ice has declined by as much as 58% since 1979.[181] This dramatic loss of ice is diminishing essential habitat for important species such as polar bears and ice seals.

The High Arctic is also particularly vulnerable area. In the DPP, BOEM acknowledges that the High Arctic planning area is among the most data-deficient marine environments in the world, with substantial gaps in baseline ecological knowledge due to its remoteness and harsh conditions. Despite limited or even prohibited research access, it is well established that species including polar bears and ringed seals rely on the region's sea ice for breeding and foraging, and that the area supports seabird populations and unique patterns of primary productivity.[182]

BOEM has acknowledged the sensitivity of Alaska's environment—many of the Alaska planning areas are ranked as highly sensitive in BOEM's environmental sensitivity analysis due to their biological productivity, presence of critical habitat, and complex oceanography. Nevertheless, BOEM's environmental sensitivity analysis characterizes the High Arctic as the least sensitive region to potential impacts from oil and gas development. BOEM acknowledges that this ranking is based on a lack of scientific data rather than an absence of ecological value. Given this uncertainty and the "negligible resources potential,"[183] BOEM must follow a precautionary approach to the region and exclude the High Arctic from the next stage of the Program. Drilling this fragile and data-deficient area is simply too risky.

5. Cultural and Community Value

Alaska is home to subsistence hunting areas for communities along and near the shores of the Beaufort and Chukchi Seas. Subsistence use exclusions should be determined in consultation with the communities and hunters.

There must be meaningful opportunities for participation by local communities, governments, tribes, co-management organizations, Alaska Native Claims Settlement Act (ANCSA) corporations, and similar Alaska Native organizations to identify the areas in the OCS they deem important, from both subsistence and traditional knowledge perspectives. The federal government is required to consult fully with Alaska Native tribes on a government-to-government basis. Any governance framework needs to incorporate consultation well in advance of management and include a strategy for sharing information and providing feedback about indigenous residents' concerns.

For all these reasons, Oceana urges BOEM to exclude the Alaska Planning Areas from the proposed program, if one is prepared.

C. BOEM Should Exclude the Gulf Planning Areas Other Than for Mandated Lease Sales

BOEM should not offer any lease sales in the Gulf outside of sales mandated by Congress. Oil and gas activities conflict with the military uses of the Eastern Gulf, and communities and ecosystems in the rest of the Gulf have already been irreparably harmed by the oil industry and the BP *Deepwater Horizon* disaster.

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[181] Arctic Monitoring and Assessment Programme (AMAP), *Arctic Climate Change Update 2024: Key Trends and Impacts, Summary for Policy-Makers* (2024), https://www.amap.no/documents/download/7310/inline.
[182] Draft Proposed Program at 10-20.
[183] Draft Proposed Program at 121.

1. Leasing History

No leasing has occurred east of the military mission line in the Eastern Gulf since 1988. Congress imposed moratoria on drilling the area through annual appropriations bills from 1989 through 2008 and through the Gulf of Mexico Energy Security Act from 2006 through 2022.[184] In 2020, President Trump used his authority under Section 12(a) of OCSLA to extend that moratorium from 2022 to 2032.[185]

Members of Congress on both sides of the aisle have introduced multiple pieces of legislation to extend the Eastern Gulf of Mexico moratorium.[186] The Department of Defense has expressed how vital the moratorium is to defense operations and military readiness operations in the Gulf. A letter submitted on October 22, 2025, from Florida's Defense Support Initiative urged for the protection of the Eastern Gulf, specifically detailing the significant threats drilling and exploration would have on national security, military readiness, and the Eastern Gulf Test and Training Range.[187] Further, on December 4, 2025, the Florida congressional delegation sent the Administration a letter expressing strong opposition to any attempts to expand offshore oil and gas drilling in the waters off Florida.[188] BOEM should not entertain the idea of offering any leases in the Eastern Gulf because of the conflict with defense operations in the area and the sensitivity of the region.

The vast majority of leases held by BOEM and its predecessor agencies have been in the Western and Central Gulf, and in 2024, over 99% of all oil produced in federal offshore waters came from the Gulf.[189] And Congress mandated an additional 30 leases over the next fifteen years.

2. Deepwater Horizon Disaster

Following the 2010 BP *Deepwater Horizon* disaster, oil gushed into the Gulf for 87 days, and it became clear that the company's response plan was essentially nonexistent. Approximately 60,000 gallons spewed from the seafloor each day, resulting in 134 million gallons of oil polluting the Gulf—this remains the largest marine oil spill in U.S. history. Oil washed up on 1,300 miles of shoreline, from Texas to Florida, oiling beaches and wetlands and killing tens of thousands of birds, sea turtles, dolphins, and fish.[190]

The economic impacts began almost immediately. Tourism to the Gulf Coast declined, and businesses dependent on coastal tourism lost revenue and were forced to lay off workers.

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[184] Gulf of Mexico Energy Security Act, Pub. Law No. 109-432, § 103, 12 Stat. at 3002.
[185] Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition, 2020 DAILY COMP. PRES. DOC. 659 (Sept. 8, 2020).
[186] *See*, *e.g.*, Florida Coastal Protection Act, H.R. 2673, 119th Cong. (2025) (which would prohibit any issuance of lease or authorization for drilling activities in the Eastern Gulf of Mexico).
[187] Letter from Defense Support Initiatives (October 22, 2025), https://usa.oceana.org/wp-content/uploads/sites/4/2025/12/Defense-Support-Initiatives-committee-letter-FL-1.pdf .
[188] Letter from Florida Delegation (December 4, 2025), https://www.rickscott.senate.gov/services/files/3D6AAAA4-DFDC-419B-9911-12E3CC6252C2.
[189] U.S. Dep't of the Interior, Natural Resources Revenue Data, *Production by year*, https://revenuedata.doi.gov/downloads/production/ (last visited June 4, 2025).
[190] National Ocean Service, NOAA, *Coastal Pollution Tutorial: How do oil spills impact wildlife?*, https://oceanservice.noaa.gov/education/tutorial-coastal/oil-spills/os04.html (last visited June 4, 2025).

The prospect of oiled beaches depressed real estate values.[191] Demand for Gulf seafood plummeted, and white and brown shrimp, oyster, and menhaden fisheries closed.[192] By 2020, the economic impact of the spill—which led to a decline in both commercial and recreational fishing—led to the loss of more than 25,000 jobs and $2.3 billion in industry output.[193] As of 2021, some Gulf fish species, such as white marlin, showed little to no recovery.[194]

The human health impacts were enormous. Tens of thousands of people were involved in response and cleanup efforts, and many were exposed to crude oil and more than 1.8 million gallons of toxic and carcinogenic chemical dispersants that were used to clean up the spill.[195] A 2025 study found that U.S. Coast Guard service members involved in the cleanup have experienced long-term endocrine and metabolic conditions.[196] The "Gulf Long-term Follow-up Study," a series of studies that followed a cohort of 32,608 for 10 years following the spill, found that cleanup workers and volunteers experienced a variety of adverse health consequences resulting from the cleanup, including increased cases of respiratory and cardiovascular impacts such as asthma[197] and heart attacks. [198] *Deepwater Horizon* had huge impacts on Gulf habitat and foundational species. Recent research has revealed that the deep-sea footprint of the oil spill covered an area of 1,105 square miles, almost nine times greater than previously reported. This is nearly 50 times the size of Manhattan.[199] The oil spill led to damaged and deceased corals under plumes emanating from the Macondo well, impacting deep-water ecosystems.[200] The oil plume caused bleaching and tissue loss in deep-water coral reefs over an area three times larger than

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[191] Clear Capital, *Impact of BP Oil Spill Reaches Beyond Gulf Coast* (Aug. 20, 2010), https://www.clearcapital.com/impact-of-bp-oil-spill-reaches-beyond-gulf-coast/.
[192] *Id.*
[193] Christina Court et al., *Effects of the Deepwater Horizon Oil Spill on Human Communities: Catch and Economic Impacts*, *in Deep Oil Spills: Facts, Fate, and Effects* 569-580 (Steven A. Murawski et al. ed., 2020).
[194] NOAA Office of Response and Restoration, *Assessing the Impacts from* Deepwater Horizon (April 4, 2017), https://response.restoration.noaa.gov/about/media/assessing-impacts-deepwater-horizon.html.
[195] Yao-Zhong Liu et al., *Carcinogenic Effects of Oil Dispersants: a KEGG Pathway-based RNA-seq Study of Human Airway Epithelial Cells*. 602 *Gene* 16 (Nov. 2016), https://pubmed.ncbi.nlm.nih.gov/27866042/.
[196] Hristina Denic-Roberts et al., *Risk of longer-term endocrine and metabolic conditions in the Deepwater Horizon Oil Spill Coast Guard cohort study – five years of follow-up*, 24 *Environmental Health* 12 (March 2025), https://ehjournal.biomedcentral.com/articles/10.1186/s12940-025-01164-9.
[197] Kaitlyn G. Lawrence et al., *Associations between airborne crude oil chemicals and symptom-based asthma*, 167 Environment International 1 (Sept. 2022), https://www.sciencedirect.com/science/article/pii/S0160412022003609?via%3Dihub.
[198] Jean Strelitz et al., *Self-reported myocardial infarction and fatal coronary heart disease among oil spill workers and community members 5 years after* Deepwater Horizon, 168 Envtl. Res. 70, https://www.sciencedirect.com/science/article/abs/pii/S0013935118305139?via%3Dihub.
[199] Jeffrey G. Baguley et al., *Harpacticoid copepods expand the scope and provide family-level indicators of the Deepwater Horizon oil spill deep-sea impacts*, 202 Marine Pollution Bulletin 1, https://www.sciencedirect.com/science/article/pii/S0025326X24003205?via%3Dihub.
[200] Helen K. White et al., (2012) *Impact of the Deepwater Horizon oil spill on a deep-water coral community in the Gulf of Mexico,* 109 Proceedings of the National Academy of Sciences 20303, 20305. https://www.pnas.org/doi/10.1073/pnas.1118029109.

Manhattan.[201] Many of the impacted deep-sea corals, which are slow-growing and highly vulnerable, will not be able to recover for decades, and others will likely never recover.[202]

Many marine animals were impacted by the spill. During *Deepwater Horizon,* sea turtles were affected both directly (negative impacts from oil exposure) and indirectly (interruption of nesting from beach clean ups).[203] Oiling, capture, and transport of sea turtles as a response of the oil spill likely caused stress, exertion, physical exhaustion and dehydration, which, in turn, caused negative physiological effects.[204] Even if not heavily oiled, it is estimated that 30 percent of sea turtles in the area impacted by the spill would have still been killed by ingestion of oil.[205]

Deepwater Horizon also negatively impacted species of large pelagic fish, some of which are commercially valuable. Oil exposure caused heart failure in juvenile bluefin and yellowfin tunas, reduced swimming ability in juvenile mahi-mahi fish, and caused gill tissue damage in killifish.[206] Approximately five percent of the Atlantic Bluefin tuna predicted spawning habitat was covered in oil.[207] This likely had significant effects on the species, which was already struggling due to ocean warming and bycatch mortality in the Gulf spawning grounds.[208] The BP *Deepwater Horizon* oil spill likely caused loss of early life stages for tunas, amberjack, swordfish, billfish, and other large predator populations that spawned in habitats with surfaces oiled by the spill.[209]

Oil spills impact invertebrate species, including by decreasing population size or affecting larval development. The BP *Deepwater Horizon* oil spill decreased the size of marsh periwinkle populations in marshes that were heavily oiled for more than five years.[210] Research

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[201] Paul A. Montagna et al., *Deep-Sea Benthic Footprint of the Deepwater Horizon Blowout*, 8 PLOS ONE e70540, e70540 (2013). https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0070540

[202] Fanny Girard & Charles R. Fisher, *Long-term impact of the Deepwater Horizon oil spill on deep-sea corals detected after seven years of monitoring*, 225 *Biological Conservation* 117, https://www.sciencedirect.com/science/article/pii/S0006320717320116?via%3Dihub.

[203] Ann Marie Lauritsen et al., *Impact of the Deepwater Horizon oil spill on loggerhead turtle Caretta nest densities in northwest Florida*, 33 Endangered Species Res. 83, 83 (2017). https://www.int-res.com/abstracts/esr/v33/esr00794.

[204] N. I. Stacy et al., *Clinicopathological findings in sea turtles assessed during the Deepwater Horizon oil spill response,* 33 Endangered Species Res. 25, 25 (2017), *available at* https://www.marinemammalcenter.org/storage/app/media/Misc/PDF/Research%20Publications/2017/stacey-et-al-2017-clinpath.pdf.

[205] C.L. Mitchelmore *et al.*, Toxicological estimation of mortality of oceanic sea turtles oiled during the *Deepwater Horizon* oil spill, 33 Endangered Species Res.39, 39 (2017). https://www.int-res.com/fileadmin/articles/suppl/n033p039_supp.pdf.

[206] Edward Mager et al., *Acute Embryonic or Juvenile Exposure to Deepwater Horizon Crude Oil Impairs the Swimming Performance of Mahi-Mahi (Coryphaena hippurus)* 48 Envtl. Sci. & Tech. 7053 (2014), https://pubs.acs.org/doi/abs/10.1021/es501628k; Fabien Brette et al., *Crude oil impairs cardiac excitation-contraction coupling in fish*, 343 Science 772-776 (2014), https://www.science.org/doi/10.1126/science.1242747.

[207] Elliot L. Hazen, et al., *Quantifying overlap between the Deepwater Horizon oil spill and predicted bluefin tuna spawning habitat in the Gulf of Mexico*, 6 Scientific Reports 1, 1 (2016), https://www.nature.com/articles/srep33824.

[208] *Id.*

[209] John P. Incardona et al., *Deepwater Horizon crude oil impacts the developing hearts of large predatory pelagic fish*, Proceedings of the National Academy of Sciences E1515 (2014), https://www.pnas.org/doi/10.1073/pnas.1320950111.

[210] Scott Zengel, *Five years of Deepwater Horizon oil spill effects on marsh periwinkles Littoraria irrorata*, Marine Ecology Progress Series 1 (2016), https://www.researchgate.net/publication/305337914_Five_years_of_Deepwater_Horizon_oil_spill_effects_on_marsh_periwinkles_Littoraria_irrorata.

also shows that the oil spill decreased the size of fiddler crab populations in marshes that were oiled, probably impacting other ecosystem characteristics like marsh productivity and soil, as well as related predators.[211] Dispersants from the oil spill were present during the oyster spawning season, and interfered with oyster larval development and population growth.[212]

Long-term research has shown that marine mammals in particular have been impacted worse than previously reported. In the decade following *Deepwater Horizon*, some toothed whale population densities significantly declined, such as small dolphins (up to 43%), and sperm whales (up to 31%).[213] The population densities of beaked whales have been some of the hardest hit. In the decade after the spill, Cuvier's beaked whale and Gervais' beaked whale declined by 75% and 83%, respectively.[214] The population of Rice's whale declined by up to 22% following the BP *Deepwater Horizon* spill.[215] The Gulf region cannot afford another *Deepwater Horizon* disaster.

3. Marine Economy and Fisheries

The Gulf region supports a robust fishing industry that is vital to the region's economy, and which must be protected from offshore oil and gas activities. Across the entire Gulf, about 585,000 jobs and $133 billion in GDP rely on a healthy Gulf.[216] The Gulf supports commercially valuable fisheries. In 2022, the Gulf's commercial fishing and seafood industry supported nearly 150,000 jobs, nearly $5 billion in income for fishers, and approximately $20 billion in sales.[217] Recreational fishing is especially important to the Gulf economy. In 2022, recreational fishing supported nearly 45,000 jobs and approximately $2 billion in income.[218] Species like striped bass, red snapper, and summer flounder are central to these recreational fisheries, supporting the statewide economy and coastal communities.[219]

The Eastern Gulf region, particularly the coasts of Alabama and Florida, is a major tourist destination and a vital contributor to these states' economies. The area supports a wide range of recreational activities, including boating, wildlife viewing, water sports, beach walking, and sunbathing. In Florida, tourism and recreation represents the largest section of the state's marine economy. Florida's beaches alone generate more than $127.7 billion per year in tourism spending and support over 2.1 million tourism-related jobs.

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[211] Scott Zengel et al., *Deepwater Horizon Oil Spill Impacts on Salt Marsh Fiddler Crabs (Uca spp.)*, 39 Estuaries and Coasts 1154, 1154 (2016), https://link.springer.com/article/10.1007/s12237-016-0072-6.
[212] J. Vignier, et al., *Impacts of Deepwater Horizon oil and associated dispersant on early development of the eastern oyster Crassostrea virginica*, 100 MARINE POLLUTION BULLETIN 426, 426 (2017), https://www.sciencedirect.com/science/article/abs/pii/S0025326X15005159.
[213] Frasier KE, Kadifa MA, Solsona Berga A, *et al.* (2024) A decade of declines in toothed whale densities following the Deepwater Horizon oil spill. *Communications Earth & Environment* Nature Publishing Group.5: 1–11. https://www.nature.com/articles/s43247-024-01920-8.
[214] *Id.*
[215] *Rice's Whale*, *supra* note 38.
[216] *2024 Marine Economy Report*, *supra* note 141**Error! Bookmark not defined.**.
[217] *Fisheries Economics of the United States 2022*, *supra* note 143, at 9.
[218] *Id.* at 15.
[219] *Id.*

4. Habitat and Biodiversity

The Gulf is a biodiverse home to endangered whales, sea turtles, birds, and many commercially and recreationally important fish species. The Gulf provides habitat for many species that are listed as endangered, threatened, or a Species of Concern under the ESA and/or listed as depleted under the MMPA. Green, Kemp's Ridley, Leatherback, Loggerhead, and Hawksbill sea turtles all call the Gulf home.[220] Other endangered and threatened species include the Gulf sturgeon, Oceanic whitetip shark, Giant manta ray, Sperm Whale, and Rice's whale. The only known habitat of the Rice's whale is in the Gulf, and its population likely consists of fewer than 100 individuals—this makes it one of the rarest whales in the world.[221] This whale is directly threatened by oil and gas activities in the Gulf of Mexico, including acoustic disturbances from seismic air guns and ship traffic, as well as vessel strikes, pollution, oil spills, and climate change.[222] Seven species of threatened corals also live in the Gulf: Elkhorn coral, Staghorn coral, Boulder star coral, Mountainous star coral, lobed star coral, rough cactus coral, and pillar coral. [223]

The Gulf region is also home to important habitat. Mangroves, seagrass meadows, oyster reefs, and salt marshes provide breeding and feeding grounds for commercial and recreational fisheries species. The Big Bend area, extending from Apalachicola Bay to Cedar Key, Florida, represents the greatest salt marsh coverage in the state of Florida. This area supports various animals including striped mullet, blue crab, periwinkle snails, Eastern oysters, diamondback terrapins, and threatened species such as the roseate spoonbill and the Florida salt marsh vole.[224] Estuaries such as Big Bend support at least 70% of Florida's recreational and commercial fisheries—without them, fisheries would decline or disappear.[225] Offshore drilling poses significant risks to these sensitive ecosystems, as oil spills can smother and poison marsh plants and animals, leading to long-term damage that may take decades to recover from.[226]BOEM characterizes the Eastern Gulf planning area as a "marine biodiversity hotspot" due to the highly productive waters supported by interactions of the dominant Loop current with the West Florida Shelf, Florida Middle Grounds, and associated banks.[227] The unique oceanographic mechanisms of the region drive exceptionally high biodiversity. The West Florida Shelf and Florida Middle Grounds sustain abundant seabird populations that include species such as sooty terns, Audubon's shearwaters, and black-capped petrels. The area also supports unique coral and algal communities, including deep-sea corals that create three-dimensional habitats for diverse fish and invertebrates. The Eastern Gulf is highly productive, biodiverse, and ecologically sensitive, and should be excluded from the next version of the Program.

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[220] NOAA Fisheries, *Threatened and Endangered Species List—Gulf of America*, https://www.fisheries.noaa.gov/southeast/consultations/threatened-and-endangered-species-list-gulf-america (last visited June 5, 2025).
[221] *Rice's Whale*, *supra* note 38.
[222] NOAA Fisheries (2024) Rice's Whale. In: *NOAA*. Available: https://www.fisheries.noaa.gov/species/rices-whale. Accessed Nov 7, 2024.
[223] *Threatened and Endangered Species List—Gulf of America*, *supra* note 220.
[224] Sea Grant Florida, *World Wetlands Day: Salt Marshes in Florida's Big Bend Region* (Feb. 2, 2024), https://www.flseagrant.org/world-wetlands-day-salt-marshes-in-floridas-big-bend-region/.
[225] Florida Dep't of Environmental Protection, *Salt Marshes*, https://floridadep.gov/rcp/saltmarshes (last visited June 5, 2025).
[226] Michel et al., *supra* note 148.
[227] Draft Proposed Program at 10-24.

If offshore drilling takes place in the proposed OCS areas, these marine ecosystems, many of which provide habitat for species that are endangered or threatened under the Endangered Species Act and/or depleted under the Marine Mammal Protection Act and for commercially and recreationally important fish and shellfish could be harmed if there were an oil spill.

5. Cultural and Community Value

The Gulf's coastal waters hold deep cultural and historical significance for Indigenous and local communities. The region is an important heritage area for indigenous groups, including the Miccosukee, Seminole, Houma, Pensacola, Chatot, Apalachees, Calusa, and Taino tribes.[228] Damage to sensitive archaeological sites in these areas means loss of culture, heritage, and historic record. Oil spills and environmental degradation from offshore drilling would threaten these valuable cultural resources.

Further, the Gulf Coast is known for its hundreds of miles of beautiful sandy beaches, parks, and fishing communities. Florida's Gulf Coast alone attracts nearly 19 million tourists each year, and Alabama's beaches attract around 8 million.[229] These resources provide opportunities for outdoor recreation, such as swimming, diving, fishing, hiking, and wildlife observation. These ecosystems are vulnerable to oil and gas activities and the resulting climate and environmental impacts, such as sea level rise, storm surge, flooding, pollution, poor water quality, and oil spills. Protecting these resources from oil and gas activities is essential to preserving the Gulf's unique environment.

VI. BOEM CANNOT INCLUDE ANY PROTECTED AREAS IN THE PROPOSED 11TH PROGRAM

BOEM should not make any protected area available for leasing in 11th Program. Presidential withdrawals are not reversible and BOEM does not have authority to hold lease sales in any previously withdrawn areas. Further, National Marine Sanctuaries and Marine National Monuments provide a wide range of benefits to the American people, and these benefits are not worth risking for oil and gas development.

A. Presidential Withdrawals Are Not Reversible

BOEM must remove all areas from consideration that have been previously withdrawn pursuant to Section 12(a) of OCSLA. Section 12(a) of OCSLA authorizes the president to withdraw any unleased areas from leasing disposition.[230] Presidents of both parties, dating back

[228] *See* Native Land Digital, https://native-land.ca/ (last visited June 5, 2025).
[229] Florida Dep't of Environmental Protection, *Beaches*, https://floridadep.gov/rcp/beaches (last visited June 5, 2025); City of Gulf Shores, *Visitor Profile*, https://www.gulfshoresal.gov/669/Visitor-Profile (last visited June 5, 2025).
[230] 43 U.S.C. § 1341(a).

to President Eisenhower, have used this authority to prohibit oil and gas leasing in various areas of the ocean.[231]

Withdrawals under Section 12(a) are not reversible. When President Trump attempted to reverse President Obama's withdrawals offshore Alaska, the District Court of Alaska held that President Trump's actions exceeded his authority under Section 12(a) and found that only Congress could revoke prior withdrawals.[232]

As depicted in the map below, much of the OCS has been withdrawn by previous presidents from availability for leasing, including most of the Alaska Planning Areas, California, the Eastern Gulf, and National Marine Sanctuaries. Making these areas available for leasing would violate Section 12(a) of OCSLA and BOEM must remove them from consideration.

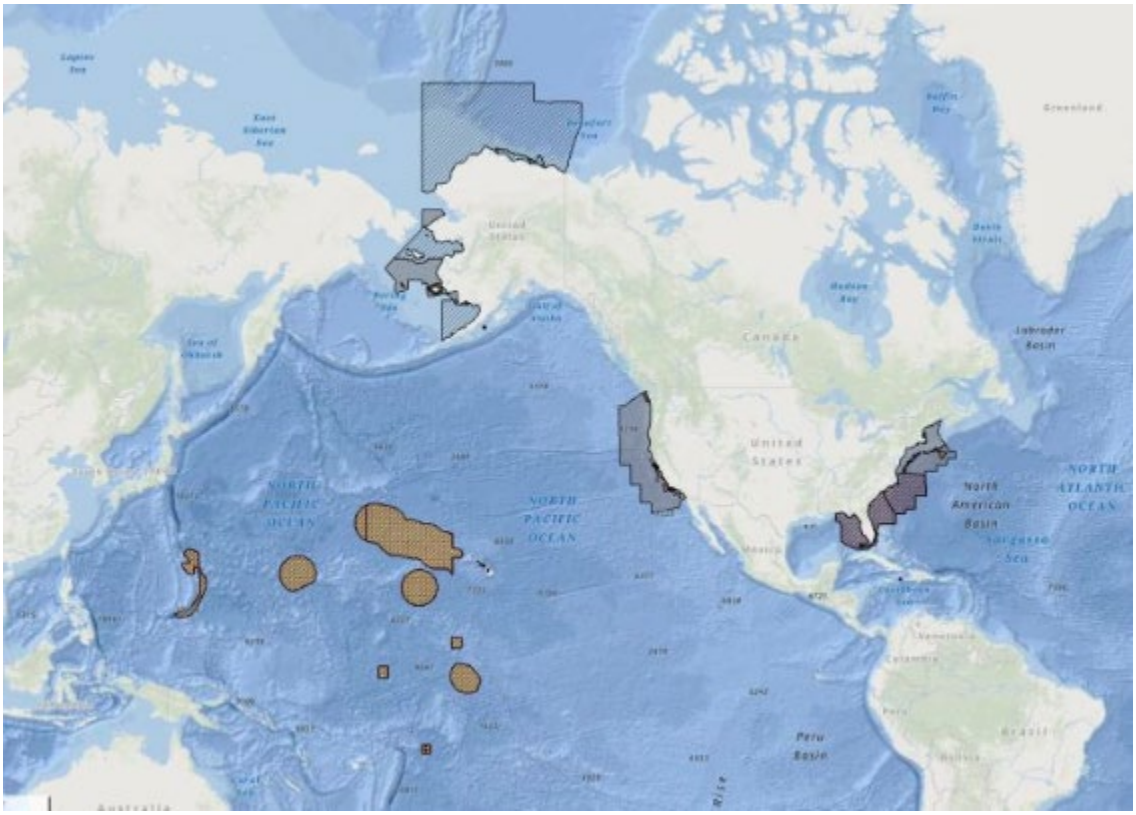

Figure 1. Map of Areas Withdrawn from Oil and Gas Leasing

[231] *See*, *e.g.*, Proclamation 3339, 25 Fed. Reg. 2352 (March 19, 1960) (withdrawing the Key Largo Coral Reef Preserve from leasing consideration); Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition, 2020 WEEKLY COMP. PRESS DOCS. 659 (Sept. 8, 2020), accessed at https://www.govinfo.gov/content/pkg/DCPD-202000659/pdf/DCPD-202000659.pdf (withdrawing until June 30, 2032 areas offshore the Atlantic coasts of Florida, Georgia, and South Carolina).

[232] *League of Conservation Voters v. Trump*, 363 F. Supp. 3d 1013, 1029-30 (D. Alaska 2019), *vacated and remanded sub nom. League of Conservation Voters v. Biden*, 843 F. App'x 937 (9th Cir. 2021). The judgment was vacated by the Ninth Circuit as moot after President Biden reversed President Trump's order.

B. Oil and Gas Activities Cannot Occur in National Marine Sanctuaries

Our nation's resource protection laws have left no place for offshore oil and gas activities in National Marine Sanctuaries. The National Marine Sanctuaries Act exists to protect special places in the ocean from the effects of harmful human activity. Congress established the Act in recognition that "certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance."[233]

Protection of these special areas and their resources is the explicitly stated "primary objective" of the Act.[234] Consistent with that protective focus, the Act limits how marine sanctuaries can be used. Sanctuary designations must set forth specific activities that "will be subject to regulation by the Secretary to protect" sanctuary resources.[235] And while the Act allows issuance of "special use permits" for "conduct of specific activities" in sanctuaries, such permits can be issued "only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources."[236]

Drilling in marine sanctuaries does not comply with the protective purpose of the National Marine Sanctuary Act, or its restrictions on potentially harmful activities, because of the significant risk oil and gas extraction poses to sanctuary resources. NOAA has long recognized the risk oil and gas activities pose to sanctuary resources, which is why NOAA historically has excluded National Marine Sanctuaries from consideration for offshore leasing.[237] In 1998 and again in 2008, Presidents Clinton and George W. Bush, respectively, withdrew *all* extant marine sanctuaries on the OCS from oil and gas leasing.[238] Further, regulations establishing the individual marine sanctuaries prohibit oil and gas activities.[239]

Allowing oil and gas activities in National Marine Sanctuaries is not only illegal but also incompatible with the value that sanctuaries provide. The National Marine Sanctuary System generates approximately $8 billion annually through commercial fishing, research and education, and recreation and tourism-related activities.[240] Hundreds of thousands of people visit sanctuaries every year to take part in activities such as wildlife viewing, paddle sports, scuba diving, boating, and fishing.[241]

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[233] 16 U.S.C. § 1431(a)(2).
[234] 16 U.S.C. § 1431(b)(6).
[235] 16 U.S.C. § 1434(a)(4).
[236] 16 U.S.C. § 1441(a), (c)(1).
[237] *See* NOAA National Marine Sanctuaries, *Cordell Bank and Gulf of the Farallones National Marine Sanctuaries Expansion: Final Environmental Impact Statement* 5-30–5-31 (2014) ("Oil and gas development in the marine environment has historically posed significant risks to marine resources, as evidenced by the magnitude of impacts of some offshore oil spills. Therefore, NOAA has usually excluded traditional energy exploration and production in our nation's national marine sanctuaries.")
[238] Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition, 34 Weekly Comp. Pres. Doc. 1111 (June 12, 1998); Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf From Leasing Disposition, 44 Weekly Comp. Pres. Doc. 986 (July 14, 2008); *see* BOEM, *Areas Under Restriction*, *II: National Marine Sanctuaries*, https://www.boem.gov/oil-gas-energy/leasing/areas-under-restriction (last visited June 4, 2025).
[239] *See*, *e.g.*, 15 C.F.R. § 922.72(a)(1) (prohibiting "exploring for, developing, or producing hydrocarbons within the [Channel Islands National Marine] Sanctuary").
[240] NOAA, *Sanctuaries* (May 21, 2025), https://www.noaa.gov/sanctuaries.
[241] *Id.*

On the west coast, annual spending on recreational fishing in the California sanctuaries totals $155.6 million, supporting 1,400 jobs. California's sanctuaries uphold a thriving tourism economy and support important commercial and recreational fisheries. Off Cordell Bank National Marine Sanctuary, the remote waters allow for commercial fishers to catch hundreds of thousands of dollars in harvest revenue within the sanctuary, catching species such as Dungeness crab, chinook salmon, sablefish, Dover sole, and petrale sole. Monterey Bay supports thriving tourism through whale watching, diving, kayaking, boating, surfing, and other activities. Chumash Heritage is the newest National Marine Sanctuary and encompasses an area off the coast of central California that is highly important for commercial and recreational fishing, and supports highly valuable species such as Dungeness crab, market squid, sablefish, and shortspine thornyhead. Chumash Heritage NMS is also an area of cultural importance for the Chumash Peoples, who have occupied the central coast area for over 20,000 years, and for whom the heritage area is "a place of deep spiritual significance and cultural identity."[242] In the Gulf, Flower Garden Banks National Marine Sanctuary is known as "the healthiest coral reef in the tropical western Atlantic." Its unique ecology makes it a destination for thousands of divers and fishers each year. [243]

The National Marine Sanctury System has a long history of robust science and research expeditions that inform natural resource management and have led to new discoveries of natural processes, shipwrecks, artifacts, marine life, and habitats. For example, the Monterey Bay National Marine Sanctuary is a major site for scientific research that informs natural resource management. The Sanctuaries also offer educational experiences that connect people to natural, historical and cultural resources. Cordell Bank and Flower Garden Banks National Marine Sanctuaries provide opportunities for research and education-focused diving as well as opportunities for the public to "visit" Cordell Bank through land-based exhibits, virtual reality, and the use of telepresence technologies during deep-sea research expeditions.

In addition to the direct contributions, the National Marine Sanctuaries provide to coastal economies through fishing and tourism, they also provide a multitude of indirect benefits and support a wide variety of intrinsic values. For example, through the stakeholder engagement process, they may be able to reduce user conflicts.[244] In addition, marine protected areas can also achieve important human welfare goals through improvements in food security and empowerment of local communities.[245] Marine resources found in our nation's marine sanctuaries support food security for millions of people via commercial and subsistence fishing. National Marine Sanctuaries also encourage responsible tourism and recreation and help visitors

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[242] National Marine Sanctuary Foundation, *Chumash Heritage*, Chumash Heritage, https://marinesanctuary.org/sanctuary/chumash-heritage/ (last visited Jan. 16, 2026).
[243] NOAA, *National Marine Sanctuaries and Local Economies*, https://sanctuaries.noaa.gov/science/socioeconomic/factsheets/welcome.html (last visited June 5, 2025).
[244] Jorge A. Angulo-Valdés and Bruce G. Hatcher, *A New Typology of Benefits Derived From Marine Protected Areas*, 34 Marine Policy 635 (2010), https://www.sciencedirect.com/science/article/abs/pii/S0308597X09001882.
[245] Michael Mascia et al., *Impacts of Marine Protected Areas on Fishing Communities,* 24 CONSERVATION BIOLOGY 1424 (2010), https://www.researchgate.net/publication/44634972_Impacts_of_Marine_Protected_Areas_on_Fishing_Communities

develop a sense of stewardship and place-based conservation.[246] These areas are far more valuable than the potential value generated from oil and gas development.

VII. BOEM SHOULD NOT CONSIDER ANY LEASING IN EXTENDED CONTINENTAL SHELF AREAS

BOEM's incorporation of claimed Extended Continental Shelf in the Gulf, Northern California, and the newly created "High Arctic" planning area violates international law. Even if BOEM did have the authority to include these areas in the planning areas, leasing in these areas would be inappropriate.

Under the United Nations Convention on the Law of the Sea, party states may submit a claim to the Commission on the Limits of the Continental Shelf for jurisdiction over an extended continental shelf under the criteria set out in Article 76.[247] Only after the Commission makes recommendations on the establishment of an extended continental shelf do the extended limits become binding.[248]

The Department of State's delineation of the United States' Extended Continental Shelf proposal is not enough to comply with international law. As suggested by the Department of State in the report on the Extended Continental Shelf, the United States should file a submission with the Commission on the Limits of the Continental Shelf, either after accession to the Convention or as a non-party.[249] To the extent the United States is arguing that the report alone is enough to claim an Extended Continental Shelf under customary international law, the argument is plainly inconsistent with the text of the Convention. Countries cannot simply claim that some clauses of a single Article of a treaty are customary international law while ignoring key parts of that same Article.

Even if leasing in the Extended Continental Shelf did not violate international law, drilling in this area is not a good idea. These areas are in very deep water, where drilling is more dangerous. One study found that, for each 100 feet of added depth to an average offshore drilling platform, the probability of a company-reported incident (blowout, injury, or spill) increased by 8.5%.[250] Oil spill response is also more difficult in these areas. In the case of the Arctic, ocean conditions and lack of existing infrastructure would make cleanup efforts nearly impossible.[251] The difficulty of cleaning up potential oil spills is one of the many reasons the Arctic was

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[246] Rachel Plunkett, NOAA, *How National Marine Sanctuaries Fuel Local Economies* (Jan. 2025), https://sanctuaries.noaa.gov/news/2025/sanctuaries-fuel-local-economies.html.
[247] U.N. Convention on the Law of the Sea, *opened for signature* Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994).
[248] *Id.*
[249] U.S. Department of State, *The Outer Limits of the Extended Continental Shelf of the United States of America* 6 (2023), available at https://www.state.gov/wp-content/uploads/2025/02/ECS_Executive_Summary.pdf.
[250] Lucija Muehlenbachs et al., *The impact of water depth on safety and environmental performance in offshore oil and gas production*, 55 Energy Policy 699–705, 699 (Apr 1, 2013).
[251] Scott Waldman & ClimateWire, *The U.S. Is Not Ready to Clean Up an Arctic Oil Spill*, SCIENTIFIC AM. (July 19, 2017), https://www.scientificamerican.com/article/the-u-s-is-not-ready-to-clean-up-an-arctic-oil-spill/#:~:text=The%20United%20States%20is%20not,being%20transformed%20by%20climate%20change..

withdrawn from leasing consideration.[252] In addition, the areas in the claimed Extended Continental Shelf have relatively low resource potential, so there is no benefit that would outweigh the extreme risks.[253] In fact, the High Arctic was not even evaluated in Bureau's most recent assessment of undiscovered resources because its petroleum potential is minimal.[254]

For these reasons, BOEM must abandon its efforts to conduct any activities in the claimed Extended Continental Shelf.

VIII. BOEM MUST COMPLY WITH NEPA AT THE FIVE-YEAR PROGRAM STAGE

It is essential that any new program go through a full public NEPA environmental review process, which must include consideration of alternatives. Decisions about oil and gas exploration, leasing, and development can lead to widespread negative impacts for coastal communities, economies, and wildlife like protected species. Yet, BOEM has failed to prepare an environmental document under NEPA for the first time. Since the first five-year program in 1980,[255] BOEM and its predecessor agencies have always prepared a PEIS. BOEM wrongly asserts that it does not need to prepare a NEPA document, citing two D.C. Circuit decisions finding that BOEM's "obligation to fully comply with NEPA does not mature until the lease sale stage."[256] But BOEM must comply with the plain text of NEPA, as amended in 2023.

To comply with NEPA and inform reasoned decision-making under OCSLA, BOEM must prepare an EIS if it moves forward with preparing the 11th program.

A. NEPA Requires BOEM to Prepare an Environmental Document

NEPA mandates that for "every recommendation or report on proposals for… major Federal actions significantly affecting the quality of the human environment," agencies must issue a detailed statement analyzing the proposal's environmental effects.[257] In 2023, Congress amended NEPA to clarify its requirements and specify the situations where NEPA is not required.[258]

The revised statute directs federal agencies to prepare an "environmental document" for proposed agency actions unless they fall under one of four categories:

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[252] U.S. Department of the Interior, *FACT SHEET: President Obama Protects 125 Million Acres of Arctic Ocean* (Dec. 20, 2016), https://www.doi.gov/sites/doi.gov/files/uploads/2016_arctic_withdrawal_fact_sheet_for_release.pdf.

[253] BOEM, *2021 Assessment of Undiscovered Oil and Gas Resources of the Nation's Outer Continental Shelf* (2021), https://www.boem.gov/oil-gas-energy/resource-evaluation/2021-assessment-undiscovered-oil-and-gas-resources-nations-outer.

[254] *Id.*

[255] Department of the Interior, *5-Year OCS Program* 217 Mar. 6, 1980), (https://www.boem.gov/sites/default/files/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2080-82.pdf (discussing the completion of a final EIS for the National OCS Program).

[256] BOEM, Request for Information, 90 Fed. Reg. at 17976 (citing *Center for Biological Diversity v. Department of the Interior*, 563 F.3d 466 (D.C. Cir. 2009); *Center for Sustainable Economy v. Jewell*, 779 F.3d 588 (D.C. Cir. 2015)).

[257] 42 U.S.C. § 4332(C).

[258] Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat., https://www.congress.gov/118/plaws/publ5/PLAW-118publ5.pdf.

(1) "the proposed agency action is not a final agency action;"

(2) the action is excluded pursuant to a NEPA categorical exclusion;

(3) "the preparation of such document would clearly fundamentally conflict with the requirements of another provision of law;" or

(4) "the proposed agency action is a nondiscretionary action with respect to which such agency does not have authority to take environmental factors into consideration in determining whether to take the proposed action."[259]

None of these exemptions apply to BOEM's five-year program. Approval of a five-year program is a final agency action. BOEM does not assert the program is excluded pursuant to a categorical exclusion. Nor does it cite any provision of law whose requirements fundamentally conflict with the preparation of an environmental document for the five-year program. In fact, OCSLA explicitly requires BOEM "to take environmental factors into consideration" in developing the program.[260]

An action may also be excluded from NEPA requirements if it falls within one of the seven exclusions to the definition of "major federal action,"[261] but none of those exclusions are relevant to the five-year program. As discussed below, the five-year program significantly affects the environment and constitutes and irreversible and irretrievable commitment of resources because it inevitably leads to more leasing, particularly in the Gulf. BOEM has no choice but to prepare a NEPA document at this stage to comply with the law.

Nevertheless, BOEM chose not to prepare any NEPA document for the Draft Proposed Program. Instead of an environmental document required by NEPA, BOEM prepared "an environmental analysis outside of the NEPA framework."[262] This is insufficient and does not comply with NEPA.

B. BOEM Must Prepare an EIS

Under both the standard set out by the D.C. Circuit in 2009 and 2015 and the clear standards set out the 2023 amendments to NEPA, BOEM must prepare an EIS because the five-year program is an irreversible and irretrievable commitment of resources and because it is a major federal action with a reasonably foreseeable significant effect on the environment.

BOEM cites to prior D.C. Circuit opinions on the five-year program for the assertion that the "obligation to fully comply with NEPA does not mature until the lease sale stage."[263] But as discussed in more detail below, the five-year program is in fact an irreversible and irretrievable commitment of resources. Regardless, to the extent that the D.C. Circuit decisions conflict with the clear requirements and exceptions set out by the NEPA amendments of 2023, their holdings are superseded. BOEM must comply with NEPA's mandate.

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[259] 42 U.S.C. §§ 4336(a).
[260] *See* 43 U.S. Code § 1344(a) (directing the Bureau to consider environmental factors in preparing the National OCS Program).
[261] 42 U.S.C. § 4336e(10)(B).
[262] Draft Proposed Program at 1-7.
[263] BOEM, Request for Information, 90 Fed. Reg. at 17976 (citing *Center for Biological Diversity v. Department of the Interior*, 563 F.3d 466 (D.C. Cir. 2009); *Center for Sustainable Economy v. Jewell*, 779 F.3d 588 (D.C. Cir. 2015)).

NEPA mandates that for proposed agency actions with "a reasonably foreseeable significant effect on the quality of the human environment," the agency must prepare an EIS.[264] Because BOEM's adoption of a program will indisputably lead to more leasing and more seismic testing, the development of a National OCS Program is a recommendation for "major Federal action" with "a reasonably foreseeable significant effect on the quality of the human environment."[265] Indeed, NEPA guidance from BOEM's predecessor agency classified the "approval of a 5-year offshore oil and gas leasing program" as a "major action[] normally requiring an EIS."[266]

Further, a five-year program is an irretrievable and irreversible commitment of resources. BOEM and its predecessor agencies held at least 11 of the sales proposed in every five-year program, leasing between 4.1 million to 22.9 million acres under each program.[267] Since the 1992-1997 program, they have held at least two-thirds of proposed lease sales.[268] In the 2017-2022 program, BOEM held all the proposed sales.[269]

This trend is even starker in the Gulf region, which hosts most lease sales. Over the past six five-year programs, BOEM and its predecessor agencies held 62 out of 65 proposed lease sales in the Western, Central, and Eastern Gulf.[270] Over the previous three programs, BOEM and its predecessor agencies cancelled just one proposed sale in the Gulf shortly after the disastrous Deepwater Horizon oil spill in 2010, citing the need to develop greater environmental protection measures and lower the risk of future catastrophe.[271]

These facts show that BOEM must prepare an EIS in light of the 2023 NEPA amendments because the five-year program has reasonably foreseeable significant effects and under the D.C. Circuit's standard because the five-year program is an "irreversible and irretrievable commitment of resources."[272] When BOEM finalizes a National OCS Program, it reaches "the critical stage of a decision which will result in 'irreversible and irretrievable commitment of resources' to an action that will affect the environment"[273] because a vast majority of the lease sales it schedules *are* held.

In *Wyoming Outdoor Council v. U.S. Forest Service*, the D.C. Circuit emphasized it would be illogical to compel an agency to "commit its resources to the preparation of an EIS which might ultimately prove unnecessary."[274] But for a five-year program, such an EIS *is* necessary. The history of five-year programs reveals that once BOEM finalizes a program, it will

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[264] 42 U.S.C. § 4336(b)(1).
[265] 42 U.S.C. § 4336(b)(1).
[266] Department of the Interior, *Departmental Manual: Managing the NEPA Process--Minerals Management Service* 2 (May 27, 2004), https://www.doi.gov/sites/doi.gov/files/elips/documents/516-dm-15.pdf.
[267] Amy M. Edwards & Marc Humphries, Congr. Research Service No. R44504*, Five-Year Offshore Oil and Gas Leasing Program: History and Background* 10 (Jan. 9, 2024), https://www.congress.gov/crs-product/R44504.
[268] *Id*.
[269] *Id*.
[270] BOEM, *Lease Sales*, https://www.boem.gov/oil-gas-energy/lease-sales (last visited June 4, 2025).
[271] Bureau of Ocean Energy Management, Regulation, and Enforcement, *Cancellation of Oil and Gas Lease Sale 215 in the Western Planning Area (WPA) on the Outer Continental Shelf (OCS) in the Gulf of Mexico (GOM)*, 75 Fed. Reg. 44276 (July 19, 2010).
[272] *Center for Biological Diversity v. Department of the Interior*, 563 F.3d 466, 480 (D.C. Cir. 2009); *Center for Sustainable Economy v. Jewell*, 779 F.3d 588, 599 (D.C. Cir. 2015))
[273] *Ctr. for Biological Diversity*, 563 F.3d at 480 (quoting *Wyoming Outdoor Council.*, 165 F.3d at 49 (D.C. Cir. 1999) (outlining when BOEM's legal obligation to complete an EIS matures).
[274] *Wyoming Outdoor Council,* 165 F.3d at 50.

then approve most, if not all, proposed leases. In the preparation of the 11th Program, BOEM is recommending a major federal action that will result in significant environmental impacts that will result in an irretrievable and irreversible commitment of resources and BOEM must prepare an EIS.[275]

C. By Analyzing Alternatives to the Proposed Action in a Programmatic EIS, BOEM Will Better Develop the National OCS Program

A NEPA document will ensure that BOEM considers reasonable alternatives and the most efficient way for BOEM to comply with NEPA through all of the stages of leasing set out in OCSLA is to prepare a Programmatic EIS.

The 2023 amendments to NEPA contemplated how programmatic EISs can promote efficiency. An agency "may rely on the analysis included in the programmatic [EIS] in a subsequent environmental document for related actions… without additional review of the analysis in the programmatic [EIS]."[276] As the CEQ guidance emphasizes, this avoids "repetitive broad analysis in subsequent tiered NEPA reviews."[277]

A programmatic EIS is essential for BOEM to fully analyze the environmental effects of offshore oil and gas lease sales, allowing the agency to make better informed decisions about the National OCS Program. In the Request for Information, BOEM said it will prepare a non-NEPA "environmental analysis document" with "some" content "substantively similar" to a programmatic EIS.[278] But the publication of the environmental analysis shows that BOEM is omitting the most crucial element of an EIS - the analysis of alternatives to the proposed action.

In an EIS, an agency must consider "a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative."[279] The alternatives analysis is the "linchpin" of an EIS.[280]

CEQ guidance underscores that programmatic EISs "have value by setting out the broad view of environment impacts and benefits for a proposed decision."[281] They facilitate "clearer and more transparent decision making."[282] As BOEM noted in the 2012-2017 programmatic EIS, "considering the full planning area provides for the broadest and most extensive analysis in order to support the balancing of different considerations- including social, economic, and

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[275] *Compare with Mobil Oil Corp. v. FTC,* 562 F.2d 170, 173 (2d Cir.1977) ("NEPA does not intend that [an agency] may be indefinitely delayed in undertaking its statutory duties by controversy over an EIS concerning events which may never occur").
[276] 42 U.S.C. § 4336b.
[277] CEQ, *Effective Use of Programmatic NEPA Reviews* at 10.
[278] BOEM, Request for Information, 90 Fed. Reg. at 17976
[279] 42 U.S.C. § 4332(C)(iii).
[280] *Monroe County Conservation Council, Inv. v. Volpe*, 472 F.2d 693, 697 (2d Cir. 1972).
[281] Council on Environmental Quality (CEQ), *Memorandum for Heads of Departments and Agencies: Effective Use of Programmatic NEPA Reviews* 6 (Dec. 18, 2014), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Effective_Use_of_Programmatic_NEPA_Reviews_Final_Dec2014_searchable.pdf.
[282] *Id*. at 7.

environmental issues."[283] A programmatic EIS evaluates "the potential environmental impacts of alternatives for OCS oil and gas leasing under the Program, and presents those impacts in a comparative manner that provides a clear basis for making a reasoned choice" among them.[284]

In latest programmatic EIS, BOEM considered four action alternatives in detail, including the proposed action and a no-action alternative.[285] The draft PEIS received over 762,859 comments from stakeholders, including state and local governments, non-governmental organizations, and private individuals.[286] These comments also informed BOEM's choice between the alternatives in the finalized program.[287]

By failing to prepare a PEIS at this stage, BOEM would hinder reasoned decision-making. By not evaluating a reasonable range of alternatives in offshore oil and gas leasing, the agency would prevent a holistic assessment of environmental impacts in the OCS. It would also deny affected communities an opportunity to voice their preferences among those choices. This could lead BOEM to develop a five-year program that does not adequately balance social, economic, and environmental considerations.

CONCLUSION

Oceana strongly recommends BOEM to abandon its wasteful efforts to develop a new five-year program. If BOEM moves forward, it should offer no sales outside of those mandated by Congress in the 11th program. It is unacceptable to consider leasing in protected areas, including previously withdrawn areas and areas within National Marine Sanctuaries. There is widespread and strong bipartisan opposition to seismic blasting and expanded drilling along the U.S. coast, including from municipalities, elected officials, fishing families, as well as NASA and the Department of Defense. The United States should take meaningful steps toward a clean energy future and away from further investments in offshore oil and gas, which place the nation's coastal economies, human health, and marine ecosystems at serious risk. The harm from oil and gas exploration and development, oil spills, and climate change outweigh any potential benefits. Oceana appreciates your time and careful consideration of our recommendations. We will continue to be engaged in this process moving forward.

Sincerely,

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[283] BOEM, *Outer Continental Shelf Oil and Gas Leasing Program: 2012-2017, Final Programmatic Environmental Impact Statement* 1-6 (July 2012), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/2012-2017-Final-PEIS.pdf.
[284] *Id*.
[285] BOEM, *2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program, Final Programmatic Environmental Impact Statement* 13 (Sept. 2023), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029NatOCSOilGasLeasing_FinalPEISVol1_0.pdf.
[286] *Id*. at 283.
[287] *Id*. at 10-11.

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