

January 23, 2025

ELECTRONIC SUBMISSION

Attn: BOEM-2025-0483

Kelly Hammerle
Bureau of Ocean Energy Management
U.S. Department of the Interior
45600 Woodland Road
Sterling, VA 20166-9216

Re: Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program: 1st Analysis and Proposal MAA104000

Dear Ms. Hammerle:

On Monday, November 24th, the U.S. Bureau of Ocean Energy Management (BOEM) published the Notice of Availability, “Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Program: 1st Analysis and Proposal MAA104000.”¹ We respectfully submit this comment in strong support of BOEM’s proposal, and appreciate the opportunity to comment.

The existing lease plan inherited from the previous administration, which prohibits virtually all lease sales on the Outer Continental Shelf (OCS), is contrary to the plain language and Congressional intent underlying the OCS Lands Act. The draft program, as proposed, would restore the OCS leasing program to alignment with the authorizing statute, and would bring energy abundance and affordability to American families and businesses.

The Proposed Lease Plan Would Bring BOEM’s Outer Continental Shelf Oil and Gas Leasing Program into Alignment with the OCS Lands Act

The existing lease program is inconsistent with the OCS Lands Act, as implemented by every administration that administered the previous nine OCS leasing programs. The existing 5-year plan, in fact, constitutes the only time in more than four decades that the U.S. Department of the Interior has effectively been without a five-year plan for offshore oil and lease development. The extent of bipartisan administration of the OCS oil and gas leasing program before current iteration is not merely an outgrowth of the fact that the OCS leasing program is prudent as a

¹ U.S. Bureau of Ocean Energy Management, “Notice of Availability of the 11th National Outer Continental Shelf Oil and Gas Leasing Draft Program: 1st Analysis and Proposal MAA 104000,” *Federal Register*, Vol. 90, No. 224 (November 24, 2025), p. 52,996.

matter of public policy, but also stems from the fact that the plain language of the OCS Lands Act clearly requires that BOEM administer an active leasing program.

The Proposed Lease Plan Effectuates the Statutory Mandate Far Better than the Existing Program

“As always, we start with the statutory text.”² Congress makes its intention clear in the OCS Lands Act with the declaration of policy preceding the statutory requirements. Congress regards the OCS as “a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs.”³

Although the OCS Lands Act mentions environmental safeguards, this is expressed in the context of a mitigating factor to the primary goal of the program, which is to manage an oil and gas leasing program on the OCS. This is clear from the very title of 43 U.S.C. 1344, which Congress designated as the “Outer Continental Shelf Leasing Program.” If Congress intended to create a conservation program, they could easily have designated this statute as such, and presumably would have. It would be strange if Congress delegated a statutory leasing program to an agency to manage, but then allowed such a leasing program to offer virtually no leases. Furthermore, simply reading the plain language of the statute confirms that this statutory title was not some Congressional euphemism or mistake.

To begin with, the statute clearly requires that the Secretary of the Interior “shall prepare and periodically revise, and *maintain* an oil and gas leasing program.”⁴ This use of “shall” is both straightforward and mandatory, and effectively requires BOEM to maintain a leasing program for as long as this statutory language applies. Indeed, “It is a well-established rule of statutory construction that use of the word ‘shall’ denotes a mandatory requirement.”⁵ If Congress intended the maintenance of an ongoing leasing program to be optional, it would be common practice for them to use a word such as “may,” or other language to indicate that the maintenance of a leasing program was discretionary rather than mandatory.

Moreover, that same paragraph goes on to require, in similarly mandatory language, that “The leasing program *shall* consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which [the Secretary of the Interior] determines will best meet energy needs for the five-year period following its approval or reapproval.”⁶ There is nothing in this provision that even envisions that the Department of the

² *U.S. v. Cargill*, 602 U.S. 452 (2024); *see also Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251 (2010) (stating that when interpreting statutes “we begin by analyzing the statutory language”).

³ 43 U.S.C. 1332(3).

⁴ 43 U.S.C. 1344(a) (emphasis added).

⁵ *Hill v. U.S. Immigr. & Naturalization Servs.*, 714 F.2d 1470, 1475 (9th Cir. 1983).

⁶ 43 U.S.C. 1344(a) (emphasis added).

Interior will first determine whether to administer a leasing program for the five-year period, and might not; the language by its terms assumes that such a leasing program will occur with some level of lease sales; it would be strange for Congress to mandate that the agency provide a schedule of proposed lease sales, which the agency could then interpret to include no such sales. Similarly, Congress gave the Department of Transportation the power to set vehicle fuel standards, but not to forbid cars and make people walk or ride buses. The clear priority of the program from this language is energy extraction through a lease program; in these instructions for how to run the program, conservation is not even mentioned.

This interpretation of the OCS Lands Act as requiring some nontrivial level of leasing further gains support from the caselaw. In 2009, the U.S. Department of the Interior was sued by environmental activists who argued that BOEM should weigh the effects of greenhouse gas emissions resulting from OCS leases. The court dismissed that suit on the grounds that BOEM lacked the discretion to consider these effects. In pertinent part, the court reasoned, “Petitioners’ consumption-related claims appear to stem from the flawed premise that, before Interior approves an offshore oil and gas Leasing Program, it must first consider whether it should extract oil and gas from the OCS at all. But Congress has already decided that the OCS should be used to meet the nation’s need for energy.”⁷

As required by the statute, BOEM certainly should consider environmental effects when administering the leasing program, “so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.”⁸ However, crucial in this language is the requirement to obtain “a proper balance.” The existing program, which only authorizes a single lease every other year in the Gulf of America, by its terms does not even attempt to strike the statutorily required balance between environmental protection and oil and gas exploration, instead transforming what Congress enacted as a balanced leasing program into a conservation program. The language of the statute confirms this interpretation throughout, by consistently referring to the program created by this statute as a “leasing program.” As the U.S. Court of Appeals for the District of Columbia explained, “Compliance with the mandates of section 18, therefore, is extremely important to the expeditious but orderly exploitation of OCS resources.”⁹

Similarly, the statute requires that in administering the OCS leasing program, BOEM should consider “an equitable sharing of developmental benefits and environmental risks among the various regions.”¹⁰ Concentrating all of the measly number of available leases in the Western and Central Gulf America, as the current program does, clearly does not yield the shared regional economic benefits and environmental risks so statutorily required. The current proposal, by expanding the OCS lease sales to Gulf of America Program Area B, the California Coast, and

⁷ *Ctr. for Biological Diversity v. Dep’t of Interior*, 563 F.3d 466, 485 (D.C. Cir. 2009).

⁸ 43 U.S.C. 1344(a)(3).

⁹ *State of Cal. V. Watt*, 668 F.2d 1290 (D.C. Cir. 1981).

¹⁰ 43 U.S.C. 1344(a)(2)(B).

Alaska is therefore not only spreading the economic benefits of oil and gas development and enhancing the national oil supply, but bringing into effect BOEM’s statutory mandate as well.

Given the responsibility of agencies to find the “single, best meaning”¹¹ of the statutes that they administer, BOEM exceeded its discretion when the previous administration effectively sought to interpret the mandatory, plain language of the OCS Lands Act as discretionary. Accordingly, BOEM’s proposed leasing program is encouraging not merely because of the policy imperative to deploy our nation’s offshore energy resources, but also because of the legal imperative for the agency to conduct the offshore leasing program that Congress mandated.

The Proposed Plan Will Spread Oil-Fueled Prosperity Throughout the United States, and Improve Our Country’s Energy Security

As briefly mentioned above, the OCS Lands Act instructs that BOEM base the oil and gas leasing program, amongst other factors, on consideration of “an equitable sharing of developmental benefits and environmental risks among the various regions.”¹² Thus, as a statutory matter, the Proposed Plan effectuates BOEM’s legislative mandate far more effectively than the current plan, which only schedules three lease sales in the Gulf of America. In contrast, the 34 lease sales in the Proposed Plan, including in the Gulf of America Area B, the California Coast, and in Alaska, represents a welcome recalibration as a matter of both law and policy.

Economics teaches that diversification is one of the most foundational ways to manage risk.¹³ Diversification benefits apply well outside the investment context, to economies generally.¹⁴ This diversification factors into the policy merits of BOEM’s proposed lease schedule in at least two significant ways. First, as required by Section 1344(a)(2)(B) of the OCS Lands Act, such geographic diversification spreads the economic benefits of the oil and gas industries throughout the country. According to the Bureau of Labor Statistics, the average worker in the oil and gas industry makes \$50.62 in hourly earnings, as of November 2025.¹⁵ At a time when the President has declared a national affordability crisis,¹⁶ the oil industry stands out as a sector in which entry level roustabouts earn an average of just under \$50,000 annually without the need for a college degree, and in which workers both with college degrees and without have a clear path to prosperity. As the OCS Lands Act makes clear, Congress intended

¹¹ *Loper-Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

¹² 43 U.S.C. 1344(a)(2)(B).

¹³ E.g., Graham, B. (1949). *The Intelligent Investor: The Classic Text on Value Investing*. HarperCollins (2005 reprint) (p. 138, referring to diversification as “[t]he first requirement” of stock investing).

¹⁴ E.g., Freire, C. (2017). *Economic Diversification: Explaining the pattern of diversification in the global economy and its implications for fostering diversification in poorer countries*. United Nations Department of Economic and Social Affairs, Working Paper No. 150 ST/ESA/2017/DWP/150 (describing and modeling the benefits of economy-wide diversification for developing economies). <https://www.un.org/en/desa/economic-diversification-explaining-pattern-diversification-global-economy-and>

¹⁵ U.S. Bureau of Labor Statistics. *Industries at a Glance: Oil and Gas Extraction: NAICS 211*. Retrieved 16 Jan 2026 from <https://www.bls.gov/iag/tgs/iag211.htm>

¹⁶ “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis,” *Federal Register*, Vol. 90, No. 17, Jan. 20 2025, p. 8,245.

for these benefits to be available throughout our nation to the fullest extent possible, rather than unduly concentrated in the Western and Central Gulf of America, and it is helpful to see BOEM publish a lease plan that would fulfill this intent.

In addition, the geographic diversification inherent in the proposed lease schedule presents energy security benefits, which are especially significant given the statutory mandate that BOEM administer the program so as to “best meet national energy needs for the five-year period following its approval or reapproval.”¹⁷ The OCS oil and gas leasing program accounts for a significant share of our nation’s energy needs, particularly in the context of oil, given that in 2024, 14 percent of America’s domestic oil production comes from the OCS oil and gas leasing program that BOEM administers.¹⁸ Additional output from new leases will reduce prices for gasoline, diesel, and jet fuel, costs that affect everything from grocery bills to airline tickets.

Offshore wells also produced 700 billion cubic feet of natural gas last year, accounting for 2 percent of the national supply.¹⁹ Given the amount of natural gas wealth located offshore, especially in Alaska, which potentially has greater unrecovered natural gas resources than any other body of water managed by BOEM,²⁰ this low percentage represents a major missed opportunity for U.S. prosperity and energy security. Because natural gas generates roughly 40 percent of America’s energy, increasing offshore production would help meet the surging power demand from data center buildouts, manufacture, and electrification trends.

The Geographic Diversification of OCS Oil and Gas Leases Corresponds Well with Legal Developments that Allow Oil and Gas Exploration to Continue in More Regions of the U.S.

In this context, the Western and Central Gulf of America has been a dynamo of U.S. oil production, and will continue to be for years to come. However, as a matter of securing America’s energy future, it would be prudent for BOEM to encourage exploration of other areas, to supplement any production from the Gulf of America, and to help provide consistency in case production in the Gulf of America fluctuates or falters. Even the 2024 Gulf of America oil production numbers of 1.787 million barrels per day represents a statistically significant decline of close to 10 percent from the 2019 peak of 1.898 million barrels per day.²¹ Encouraging additional exploration and production in the Western and Central Gulf of America can help counteract and hopefully that trend, but even more important is allowing oil and gas exploration in promising areas the Eastern Gulf and outside the Gulf of America.

¹⁷ 43 U.S.C. 1344(a).

¹⁸ U.S. Bureau of Ocean Energy Mgmt. *OCS Lands Act History*. <https://www.boem.gov/oil-gas-energy/leasing/ocs-lands-act-history>

¹⁹ U.S. Bureau of Ocean Energy Mgmt. *Oil and Gas Energy*. <https://www.boem.gov/oil-and-gas-energy>.

²⁰ U.S. Bureau of Ocean Energy Mgmt. (2021). *Assessment of Undiscovered Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2021* (OCS Report BOEM 2021-071). <https://www.boem.gov/oil-gas-energy/resource-evaluation/2021-assessment-undiscovered-oil-and-gas-resources-nations-outer>

²¹ U.S. Energy Information Administration. *Petroleum and Other Liquids*. <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=p&s=mcrfp3fm2&f=a>

California, for example, hasn't had an offshore oil and gas lease sale since 1984²² and Chevron is relocating its headquarters out of California.²³ The Golden State would benefit enormously from the high-paying jobs and from an additional fuel supply to help alleviate the highest gasoline prices in the nation. Producing oil at home is generally cheaper than importing it, yet the State extracts only 300,000 barrels per day, down from roughly one million per day in the 1980s,²⁴ notwithstanding higher demand and the vast supplies of oil wealth located just offshore. Yet Congress allowed a moratorium on offshore oil drilling, which had previously included California, to expire in 2009. Accordingly, BOEM's proposal to include the California coast in the leasing schedules again is both salutary and overdue.

For a significant amount of time, the legal regime in which BOEM determined where to offer leases for sale was complicated by the existence of moratoria and other legal restrictions which temporarily prevented BOEM from offering leases in certain regions, notwithstanding the overarching statutory goal to administer a geographically balanced leasing program. For example, the Gulf of Mexico Energy Security Act of 2006 previously prohibited oil and gas leasing in the Gulf of America, off the coast of Florida, in the area proposed as Gulf of America Program Area B.²⁵ This law had required BOEM to refrain from offering oil and gas leases in the Eastern Gulf within 125 miles of Florida, and in the Central Gulf within 100 miles of Florida. Yet the terms of this moratorium were limited to June 30, 2022, so it is both responsible and in accordance with the law that BOEM is responding to the end of the legal moratorium by offering a relatively modest leasing schedule off Florida's Gulf Coast. It is therefore encouraging to see BOEM respond to these legal developments by planning new leases, off the coast both of California and Florida.

²² Comay, L.B. *Five-Year Offshore Oil and Gas Leasing Program: Status and Issues in Brief*. Congressional Research Service (4 December 2025). <https://www.congress.gov/crs-product/R44692>.

²³ Chevron. (2 August 2024). *Chevron Announces Headquarters Relocation and Senior Leadership Changes* [Press Release]. <https://www.chevron.com/newsroom/2024/q3/chevron-announces-headquarters-relocation-and-senior-leadership-changes>

²⁴ U.S. Energy Information Administration, "California Field Production of Crude Oil," <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=p&s=mcrfpca2&f=a>

²⁵ P.L. 109-432 (2006).

Conclusion

For the reasons discussed above, the 11th National OCS Program advances Congress's intent to develop the offshore resources that will best meet national energy needs, in a way that enhances the prosperity and energy security of our country. The ambition of this Proposal is necessary in part to compensate for the years in which the previous Administration inappropriately halted almost all lease activity. By expanding access to offshore oil and gas, while maintaining responsible environmental stewardship, this plan will contribute to energy affordability for Americans, and to the energy security of the United States.

Respectfully submitted,

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²⁶ These comments are submitted in my personal capacity and do not necessarily represent the views of The Heritage Foundation.

²⁷ *Ibid.*