HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To:	House Committee on Natural Resources Republican Members
From:	Energy and Mineral Resources Subcommittee, Ashley Nichols (ashley.nichols@mail.house.gov) x63044 & William King (will.king@mail.house.gov)
Date:	September 28, 2023
Subject:	Legislative Hearing on H.R. 1121 (Rep. Duncan) and H.R. 5616 (Rep. Graves of LA)

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing on H.R. 1121 (Rep. Duncan), *"Protecting American Energy Production Act"* and H.R. 5616 (Rep. Graves of LA), the *"BRIDGE Production Act of 2023"* on **Thursday, September 28, 2023, at 2:15 p.m.** in 1324 Longworth House Office Building.

Member offices are requested to notify Lonnie Smith (Lonnie.Smith@mail.house.gov) by 4:30 p.m. on Wednesday, September 27, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Gulf of Mexico Region on the Outer Continental Shelf (OCS) is a world-class oil and gas basin and its original reserves include 26.77 billion barrels of oil and 197.0 trillion cubic feet of gas from 1,325 oil and gas fields.[1] As of March 2022, 15% of U.S. oil production and 1% of natural gas production comes from Federal OCS leases in the Gulf of Mexico, with more resources yet to be discovered.[2]
- On February 12, 2021, the Biden administration cancelled Lease Sale 257.[3] The Inflation Reduction Act of 2022 (Pub. L. No. 117-169), directed the Bureau of Ocean Energy Management (BOEM) to award leases to the highest bidders in Lease Sale 257, which was held on November 17, 2021. BOEM accepted 307 of the highest valid bids, totaling $189,888,271.[4]
- On May 11, 2022, the Biden administration canceled three oil and gas lease sales scheduled in the Gulf of Mexico and off the coast of Alaska, removing millions of acres from possible drilling at a time when gas prices reached record highs.
- BOEM is expected to publish the 5-year plan by the end of September 2023 and may contain less than the 11 sales previously analyzed in the Draft Proposed Program, and

[1] Bureau of Ocean Energy Management, Press Release, "BOEM Releases oil and gas reserves" – Updated 09/2021 https://www.boem.gov/boem-releases-estimated-oil-and-gas-reserves-gulf-mexico
[2] U.S. Energy Information Administration, "Today in Energy," Updated -June 21, 2022, https://www.eia.gov/todayinenergy/detail.php?id=52819
[3] Bureau of Ocean Energy Management, Press Release, "BOEM Rescinds Record Decision for Gulf of Mexico Lease Sale," Updated -February 12, 2021 https://www.boem.gov/boem-rescinds-record-decision-gulf-mexico-lease-sale
[4] Bureau of Ocean Energy Management, Notes to Stakeholders, "Results of Gulf of Mexico Oil and Gas Lease Sale 257 Reinstated," December, 2021, https://www.boem.gov/newsroom/notes-stakeholders/results-gulf-mexico-oil-and-gas-lease-sale-257-reinstated

significantly less than the original 47 sales identified by the previous administration in the 2028 Draft Proposed Program.
- H.R. 5616, the BRIDGE Production Act, mandates at least four offshore oil and gas sales to be held in 2024 and 2025, setting specific terms and reducing regulatory burdens to address delays by the Biden administration in publishing a 5-year OCS leasing plan.
- H.R. 1121 creates a Sense of Congress that states should maintain primacy for the regulation of hydraulic fracturing for oil and natural gas production on state and private lands. It also prohibits the President from declaring a moratorium on the use of hydraulic fracturing unless authorized by Congress.

II. WITNESSES

- **Mr. Tim Tarpley**, President, Energy Workforce and Technology Council, Houston, TX
- **Mr. Greg Upton**, Executive Director and Associate Professor of Research at LSU Center for Energy Studies, Baton Rouge, LA
- **Mr. Chett Chiasson,** Executive Director Port Fourchon, Fourchon, LA
- **Ms. Breon Robinson**, Organizer, Healthy Gulf, Lake Charles, LA [*Minority Witness*]

III. BACKGROUND

Delay of 5-Year Plan and Uncertainty for the Offshore Leasing Program

Currently, BOEM is not on track to hold any offshore lease sales in 2024 and there are serious concerns regarding BOEM's planning process for lease sales in 2025. Typically, the National Environmental Policy Act (NEPA) process takes approximately 14 to 18 months to complete for offshore oil and gas lease sales.[5] In a briefing to House Committee on Natural Resources staff, BOEM Deputy Director Cruickshank said the agency estimates future NEPA reviews for offshore lease sales to take as long as two years to complete.[6] As the Biden administration has not initiated the NEPA process for sales in 2024, there is likely no opportunity for leases to be issued next year and there are concerns about the possibility of scheduling sales in 2025.

To make matters worse, in a July 1, 2022, press release, The Department of Interior (DOI) made clear that in regards to the 5-year plan, "There is no requirement under [the Outer Continental Shelf Lands Act] that mandates any sales in any locations, nor does the law prescribe any specific timing for the development of a five-year plan."[7] In addition, the Biden administration has drastically reduced potential lease sales from 47 to just 11, as outlined in their Proposed Program, which adds another layer of uncertainty to an already complex landscape. This shift not only limits opportunities for energy development but also raises questions about the U.S. long-term energy strategy. Coupled with the administration's 16-month delay in publishing the 5-year offshore oil and gas leasing plan, these actions exacerbate concerns about the U.S. economy, energy security, and workforce stability. Publication of the 5-year plan is anticipated by the end of September 2023,

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[5] BOEM Briefing to Committee Staff of House Natural Resources Committee and Oversight and Accountability Committee, Majority and Minority Staff. April 27, 2023.
[6] Bureau of Ocean Energy Management. Lease Sales. https://www.boem.gov/oil-gas-energy/lease-sales
[7] U.S. Department of Interior, Interior Invites Public Comment on Proposed Five Year Program, Press Release, July 1, 2022 https://www.doi.gov/pressreleases/interior-department-invites-public-comment-proposed-five-year-program-offshore-oil-0

but may contain fewer sales in the Gulf of Mexica than the typical 10 sale schedule over the 5-year term.

History of Hydrocarbon Extraction in the Gulf of Mexico

This year marks the 70th anniversary of the Outer Continental Shelf Lands Act (OCSLA), enacted August 7, 1953, which defined the OCS as all submerged lands lying seaward of state coastal waters.[8] Next year could mark the 70th anniversary of DOI holding offshore lease sales and issuing leases in the Gulf of Mexico, if only a sale were possible. With a few exceptions, lease sales have occurred at least annually in the Gulf and usually two or three times a year.[9] As a result of these sales, Gulf of Mexico federal offshore oil production accounts for 15% of total U.S. crude production and federal Gulf natural gas production accounts for 5% of total U.S. dry production today.[10] Since its inception, the OCS program has continually evolved to meet the nation's energy needs, adapting to shifts in international markets and changes in domestic environmental policy. As we approach the 70th year of offshore lease sales in the Gulf, the time has come once again to reevaluate and recalibrate to ensure an "all-of-the-above" energy strategy for the future.

In the 1970s, Americans were faced with oil embargoes from countries making up the Organization of the Petroleum Exporting Countries (OPEC), which led to long lines at gas stations and a massive spike in oil prices.[11] The price of light crude oil more than quadrupled and supply flowed to a trickle.[12] This circumstance is all too familiar, as just days ago oil output cuts, which Saudi Arabia and Russia have extended to the end of 2023, will mean a substantial market deficit through the fourth quarter of the year.[13]

In response to embargos, looming price increases, and supply shortages in the 1970's, the federal government developed a plan to tap into America's own offshore oil reserves on the OCS. The plan tripled the area previously offered for lease and the Gulf of Mexico, Alaska, and even the waters of the Atlantic were included.[14] As a result, the number of acres leased in the Gulf of Mexico in 1974 and 1975 broke all previous records, including tracts leased, tracts bid on, and total acres offered.[15]

The Biden administration has imposed numerous hurdles on operators through regulatory overreach and has managed the offshore oil and gas program in a manner which directly

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[8] Bureau of Ocean Energy Management, OCS Lands Act History, Continuously updated, Accessed August 2023 https://www.boem.gov/oil-gas-energy/leasing/ocs-lands-act-history#:~:text=The%20Outer%20Continental%20Shelf%20Lands,which%20are%20under%20U.S.%20jurisdiction.

[9] National Academies Press, The Evolution of Federal OCS Program, 1992 https://nap.nationalacademies.org/read/2062/chapter/11#110

[10] Energy Information Agency, Gulf of Mexico Fact Sheet, Updated June 21, 2023 https://www.eia.gov/special/gulf_of_mexico/#:~:text=Gulf%20of%20Mexico%20federal%20offshore,of%20total%20U.S.%20dry%20production.

[11] U.S. Department of State, Article, "1969-1976 Oil Embargo History", Accessed September, 2023 https://history.state.gov/milestones/1969-1976/oil-embargo

[12] U.S. Department of State, Article, "1969-1976 Oil Embargo History", Accessed September, 2023 https://history.state.gov/milestones/1969-1976/oil-embargo

[13] Reuters, OPEC+ cuts to tighten oil market sharply in fourth quarter, updated September 13, 2023 https://www.reuters.com/business/energy/opec-cuts-tighten-oil-market-sharply-fourth-quarter-says-iea-2023-09-13/

[14] U.S. Department of the Interior, All Lease Offerings, Updated November 18, 2020 https://www.boem.gov/sites/default/files/documents/about-boem/Table%201%20SwilerTable%2024FEB2021.pdf

[15] Bureau of Ocean Energy Management, Spreadsheet, "All Lease Offerings", Updated 11/18/2020 https://www.boem.gov/sites/default/files/documents/about-boem/Table%201%20SwilerTable%2024FEB2021.pdf

contradicts previous administrations' interpretation of OCSLA's requirement to "prepare and periodically revise, and maintain an oil and gas leasing program."[16] Now, operators in the Gulf of Mexico, service providers and essential contractors are facing uncertainty without planned sales in 2024 and possibly 2025.

Removal of Acreage from Recent Sales

The Gulf of Mexico OCS region contains 159,381,023 leasable acres, 29,100 total lease blocks, and 2,239 active leases on 12,065,988 acres.[17] Following the cancellation of Lease Sales 257, 258, 259, and 261, actions taken by the Biden administration to reduce investment through various means have only increased.

The Inflation Reduction Act directed the Secretary of DOI to hold these sales, but BOEM chose to reduce available acreage in Lease Sale 258 by tens of thousands of acres.[18] Lease Sale 259 could have offered approximately 80.51 million acres available for lease and BOEM even stated, "any negative impacts that could occur as a result of OCS oil- and gas-related activity would be largely mitigated by the adoption of the [stipulations] imposed at permit stage."[19] However, this alternative was not selected because, as BOEM stated, the agency "is moving towards a policy of avoidance rather than mitigation of impacts to sensitive benthic and visual resources."[20] The alternative selection resulted in 7.21 million acres withdrawn from lease sale 259.

The Biden administration planned to auction 67 million acres in the Gulf of Mexico for oil and gas development on September 27, 2023, in Lease Sale 261. BOEM had recently announced a reduction of 6.4 million acres from this sale, following a legal settlement with environmentalists regarding the Rice's whale and consent to include stipulations established by the Department of Commerce's National Marine Fisheries Service.[21] However, on September 21, 2023 the Western District Court of Louisianna has issued a preliminary injunction that orders the Government to proceed with Lease Sale 261 and to hold the sale without the acreage-withdrawal and without the stipulation for vessel restrictions. This will create an opportunity for bids on 72 million acres on the 27th. This sale is currently the last planned offshore lease sale by the U.S. Government and is set to be just above the 60-million-acre threshold mandated by the Inflation Reduction Act.[22]

GOMESA

The absence of a five-year leasing plan for the Gulf of Mexico and the delay in initiating environmental reviews for sales in the next two years will have wide-ranging impacts on Gulf

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[16] 43 U.S. Code § 1344

[17] Bureau of Ocean Energy Management, "GOM Interactive Lease Statistics Dashboard," Accessed September 2023, https://www.boem.gov/gom-interactive-lease-statistics-dashboard

[18] Bureau of Ocean Energy Management, "Lease Sale 258," Accessed August, 2023 https://www.boem.gov/oil-gas-energy/leasing/lease-sale-258

[19]Bureau of Ocean Energy Management, "Lease Sale 259 Record Of Decision," Accessed August, 2023, https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/LS%20259%20ROD.pdf

[20] [20]Bureau of Ocean Energy Management, "Lease Sale 259 Record Of Decision," Accessed August, 2023 https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/LS%20259%20ROD.pdf

[21] Institute for Energy Research, "Biden Reduces Acreage in GOM Oil and Gas Lease Sale," August 21, 2023 https://www.instituteforenergyresearch.org/fossil-fuels/gas-and-oil/biden-reduces-acreage-in-gom-oil-and-gas-lease-sale/#:~:text=The%20Biden%20Administration%20has%20reduced,the%20Gulf%20of%20Mexico%20sale.

[22]The Inflation Reduction Act, Section 50265

Coast states and their coastal communities. The Gulf of Mexico Energy Security Act (GOMESA)[23] provides critical revenues to Gulf producing states, supporting vital initiatives such as hurricane preparedness, coastal restoration, infrastructure improvements, flood planning, and other essential projects. Of note, a total of $353,211,836 has been disbursed from GOMESA to the Gulf states for Fiscal Year (FY) 2023. The FY 2023 disbursements by state were: Alabama, $49,748,522; Louisiana, $156,161,553; Mississippi, $51,838,214; and Texas, $95,463,547.[24] Without new lease sales and the associated revenues, states will face significant challenges in funding these initiatives and ensuring the resilience and well-being of their coastal areas. During FY 2022, the Office of Natural Resources Revenue (ONRR) disbursed more than $125 million to the Land and Water Conservation Fund and nearly $548 million to the U.S. Treasury from bonuses, rentals, and royalties paid from federal oil and gas leases in the Gulf of Mexico.[25]

This lack of comprehensive planning and leasing by the Biden administration hinders economic growth, job creation, and the overall stability of the region. The BRIDGE Production Act would ensure sales in 2024 and 2025, providing energy security and expected revenues to state and local communities in the Gulf of Mexico.

Table 2. GOMESA Disbursements to States/CPSs and the LWCF State Grant Program, FY2009-FY2022
($ millions)

Year of Disbursement[a]	Alabama[b]	Louisiana[b]	Mississippi[b]	Texas[b]	Subtotal State Revenue	LWCF State Program[c]	Total Revenue Shared
FY2009	7.7	7.9	6.9	2.7	**25.2**	8.4	**33.7**
FY2010	0.8	0.9	0.7	0.3	**2.7**	0.9	**3.6**
FY2011	0.3	0.3	0.2	0.1	**0.9**	0.3	**1.2**
FY2012	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2013	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2014	1.3	1.4	1.2	0.5	**4.3**	1.4	**5.8**
FY2015	0.7	0.8	0.7	0.3	**2.4**	0.8	**3.3**
FY2016	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2017	0.3	0.3	0.3	0.1	**1.0**	0.3	**1.3**
FY2018	26.8	82.8	27.8	50.6	**188.0**	62.6	**250.6**
FY2019	30.6	94.7	31.7	57.9	**214.9**	71.6	**286.6**
FY2020	50.0	155.7	51.9	95.3	**353.0**	117.6	**470.6**
FY2021	35.1	109.9	36.5	67.4	**248.9**	82.9	**331.8**
FY2022	34.8	111.8	36.8	68.8	**252.3**	84.1 (est.)	**336.4 (est.)**
Total	**188.4**	**567.0**	**194.9**	**344.1**	**1,294.5**	**431.2 (est.)**	**1,725.8 (est.)**

Source: *Congressional Research Service, 2023*

[23] The Outer Continental Shelf Lands Act of 1978, as amended - 43 U.S.C. §1331
[24] U.S. Department of the Interior Natural Resources Revenue Data, accessed July, 2023 at https://revenuedata.doi.gov/how-revenue-works/gomesa/
[25] Office of Natural Resources Revenue (ONRR), "Natural Resources Revenue Data," at https://revenuedata.doi.gov/query-data?dataType=Revenue&period=Calendar%20Year&calendarYear=2017%2C2018%2C2019%2C2020%2C2021%2C2022&groupBy=stateOffshoreName

Hydraulic Fracturing Regulation

Hydraulic fracturing (fracking) has had a transformative impact on the U.S. economy and the oil and gas sector, positioning the United States as one of the world's leading producers of natural gas and oil. The technique has been employed since 1947 but combined with the more recent advent of horizontal drilling, it has unlocked vast reserves of previously inaccessible hydrocarbons, leading to increased domestic production and reduced reliance on foreign energy sources. This surge in supply has contributed to lower energy prices for consumers, stimulating economic growth, and improving the quality of life for Americans. While fracking was initially attacked for causing groundwater contamination, those concerns were largely put to rest by a study conducted by the Obama Administration's Environmental Protection Agency in 2015 that found that fracking has had no "widespread, systemic impacts on drinking water resources in the United States."[26]

Citing public concern about whether fracking could contaminate underground water sources and whether chemicals used for fracking should be disclosed, in 2015 the Bureau of Land Management (BLM), under the Obama administration, finalized a rule to address fracking on federal lands.[27] However, the rule's effective date was postponed due to the issuance of a stay by a Wyoming federal judge,[28] and then was struck down by U.S. District Court Judge Scott Skavdahl in 2016.[29] Judge Skavdahl's decision stated "Congress has not delegated to the Department of Interior the authority to regulate hydraulic fracturing. The BLM's effort to do so through the Fracking Rule is in excess of its statutory authority and contrary to law."[30] The regulation was formally revoked by the Trump administration in 2017.[31] Aside from its legal issues, the rule was highly duplicative as it would have allowed the BLM to make unilateral decisions concerning state regulations and would have created unnecessary costs and delays on producers.

H.R. 1121 expresses a Sense a Congress that fracking should be regulated by states on state and private land while also preventing this administration or future administrations from banning hydraulic fracturing without Congressional direction.

IV. MAJOR PROVISIONS

[H.R. 1121](#) (Rep. Duncan):

- Expresses a Sense of Congress that states should maintain primacy for regulating hydraulic fracturing on state and private lands.

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[26] U.S. Environmental Protection Agency, Assessment of the Potential Impacts on Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, at ES-6 (2015), https://www.epa.gov/sites/default/files/2015-07/documents/hf_es_erd_jun2015.pdf.
[27] 80 Fed. Reg. 16127 (2015), https://www.federalregister.gov/documents/2015/03/26/2015-06658/oil-and-gas-hydraulic-fracturing-on-federal-and-indian-lands.
[28] Order Postponing Effective Date of Agency Action, Wyoming v. Jewell, No. 15-043 (D.Wyo. June 24, 2015).
[29] Case 2:15-cv-00043-SWS, 6/21/16, https://www.ipaa.org/wp-content/uploads/2016/12/BLM-HF-Rule-Final-Agency-Action-Review-Ruling.pdf.
[30] *Id*.
[31] 82 Fed. Reg. 34464 (2017), https://www.federalregister.gov/documents/2017/07/25/2017-15696/oil-and-gas-hydraulic-fracturing-on-federal-and-indian-lands-rescission-of-a-2015-rule.

- Prohibits the President from declaring a moratorium on the use of hydraulic fracturing unless authorized by Congress.

H.R. 5616 (Rep. Graves of Louisiana)

- Clarifies that sales required by this Act shall offer the same lease form, terms, economic conditions and stipulations as from Lease Sale 257.
- Ensures the bid adequacy procedures utilized are consistent with those made effective March 8, 2016.
- Specifies that the Secretary shall conduct at least four offshore lease sales within a two-year period from the enactment of this Act, notwithstanding any 5-year OCS lease plan published by BOEM.
- Sets deadlines for when the offshore lease sales required by this bill must be conducted (March 31 and August 31 of 2024 and 2025).
- Specifies a minimum requirement of 80,000,000 acres and Gulf of Mexico region wide range for each offshore lease sale.
- If a court finds the offshore lease sale unlawful, the bill requires that the matter be remanded to the Secretary for correction and that the leases may not be vacated; once the violation has been addressed by the agency, the leases shall become validated.
- Clarifies that any application, authorization, or request for approval for a lease issued under a challenged offshore lease sale will continue to be processed by BOEM and considered for approval.

V. COST

The Congressional Budget Office has not scored the legislation.

VI. ADMINISTRATION POSITION

Unknown.