

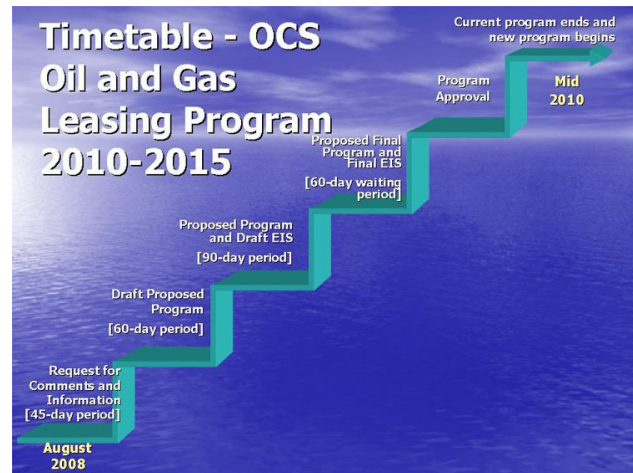
## Congress will end the OCS moratorium—now what?

<http://www.instituteforenergyresearch.org/2008/09/24/congress-will-end-the-ocs-moratoriumnow-what/>

Congress has decided to end the moratorium on energy exploration and production on the Outer Continental Shelf (OCS). This is welcome news, but there are a large number of bureaucratic steps that need to occur before we will see additional energy production on the OCS.

### Step 1: The Minerals Management Service (MMS) Prepares a 5-Year Leasing Program

MMS, a part of the Department of the Interior, regulates the OCS under the Outer Continental Shelf Lands Act (OCSLA). Section 18 of OCSLA requires MMS to adopt a 5-year leasing program which describes the scheduled lease sales for a 5-year period, along with policies pertaining to the size and location of sales and the receipt of fair-market value. To develop the five-year program, MMS takes the following steps:



1. Publishes a Request for Comment and Information in the Federal Register
2. 45-day Comment Period (the comment period closed last week on MMS's new 5-year plan starting in 2010)
3. Publishes a Draft Proposed Program in the Federal Register
4. 60-day Comment Period
5. Publishes a Proposed Leasing Program and Draft Environmental Impact Statement Published in the Federal Register in the Federal Register
6. 90-day Comment Period
7. Publishes a Proposed Final Leasing Program and Final Environmental Impact Statement in the Federal Register
8. 60-day Period in which Congress can object
9. 5-year Program Announced

This process usually takes 18-36 months to complete.<sup>1</sup> In the case of offshore exploration on the West and East coasts, it is likely the process will take longer than 36 months. First, environmental special interest groups will sue MMS on the Environmental Impact Statements. Environmental Impact Statements are especially lawsuit prone because the National Environmental Policy Act (NEPA) calls for "a detailed statement" on the

<sup>1</sup> Mineral Management Service, *Leasing Oil and Natural Gas Resources: Outer Continental Shelf*, p. 10. <http://www.mms.gov/ld/PDFs/GreenBook-LeasingDocument.pdf>.

environmental impacts of an action and alternatives to that action. These “detailed statements” now run thousands of papers because over time, judges have added to the list of things that need to be studied by the Environmental Impact Statement.

Second, while Congress may allow the moratorium to expire at the end of September, there will likely be a fight during the 60-day period in which Congress can object to a final leasing plan.

## **Step 2: MMS Conducts Actual Lease Sales**

The 5-year leasing plan selects broad areas in which MMS will offer leases. After MMS completes the 5-year plan, the next step is to go through the process of selecting the actual lease areas and offering the leases for sale. To conduct actual lease sales, MMS takes the following steps:

1. Publishes Request for Information in the Federal Register
2. 45-day comment period
3. Defines proposed sale area
4. Publishes Environmental Impact Statement for the specific sale
5. 60-day comment period
- [Steps 6-11 occur concurrently]
6. Publishes Final Environmental Impact Statement
7. 30-day period
8. Publishes Proposed Notice of Sale
9. 60-day period
10. Sends a Consistency Determination (as required by the Coastal Zone Management Act) to Governors of affected states
11. 90-day period
12. Publishes notice of actual sale
13. 30-day period
14. Sale
15. Leases issued

If everything goes well, this entire process from the request for information to the actual sale may take two or more years.<sup>2</sup> But as with the development of the 5-year plan, there are many ways to slow down the process, especially through litigation. For example, earlier this year environmental special interest groups sued to stop a lease sale on the Chukchi Sea. Environmental activists would surely sue on all new lease sales on the West and East Coast, slowing down any new energy production.

## **Step 3: Energy Companies Work to Produce Oil and Natural Gas**

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<sup>2</sup> Mineral Management Service, *Leasing Oil and Natural Gas Resources: Outer Continental Shelf*, p. 16. <http://www.mms.gov/ld/PDFs/GreenBook-LeasingDocument.pdf>.

After MMS has produced a 5-year plan and carried out the lease sales, it will still take time for energy companies to explore and start producing oil (unless the lease sales are offered offshore of California where we already know where some resources are).

Here are some of the typical activities that need to occur for an energy company to produce energy:

- Gather seismic data and evaluate
- Conduct shallow hazards survey
- Partner with new companies; spread risk
- File for approval of exploration plan—NEPA review
- Drill well (60–180 days)
- Assess prospect
- Gather seismic data and evaluate
- Drill additional wells
- Decide to proceed with development; obtain partner commitment
- File development plan/pipeline approval—NEPA review
- Structural engineering review by MMS  
(with a major project—2 year period to construct/fabricate production facility/ transport from overseas)
- Structural engineering review by MMS
- Pre-production inspection by MMS (and Coast Guard)
- Transport to site and hook-up (2–6 months)
- Production approval by MMS
- First production

It is great news that Congress has decided to lift the OCS moratorium. Now we can start moving forward with all of the steps necessary to start producing energy. There are a lot of steps, but we haven't been able to take any of them until now.