CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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April 11, 2006

Ms. Renee Orr
5-Year Program Manager
Minerals Management Service (MS-4010)
Room 3120
381 Elden Street
Herndon, VA 20170

Re: Request for Comments on the Draft Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012

Dear Ms. Orr:

The U.S. Chamber of Commerce is pleased to submit its response to a request for comments by the Minerals Management Service (MMS) on its Draft Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012 (Draft Proposed Program). The U.S. Chamber is the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region.

The U.S. Chamber previously submitted comments during the first phase of the 5-year program development process.[1] As then, the U.S. Chamber strongly supports the expanded development of domestic oil and natural gas resources located on the OCS.

In response to this first request, MMS has received 11,374 comments, and more than 75% of them expressed overwhelming support for an expanded leasing program on the OCS.[2] Specifically, the majority of comments supported the inclusion of planning areas that have been removed from leasing by Congress or the president.

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[1] U.S. Chamber of Commerce Comments filed October 7, 2005 in response to U.S. Department of the Interior, Minerals Management Service, *Request for Comments on the Preparation of a 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012*, 70 FR 49669, 49671, August 24, 2005.
[2] MMS Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 (February 2006) at 2, 81.

Since 1982 Congress has used the annual appropriations process to prevent oil and natural gas exploration on most areas of the OCS. Most recently, Congress reaffirmed these moratoria in a rider attached to H.R. 2361, the Department of the Interior, Environment, and Related Agencies Appropriations Act, enacted August 2, 2005.[3] The president, using authority granted in the Outer Continental Shelf Lands Act (OCSLA), can remove, or "withdraw," OCS planning areas from oil and natural gas leasing.[4] Presidential withdrawals, which have been in place for most areas of the OCS since 1998 are set to expire in 2012. Neither moratoria nor withdrawal are permanent prohibitions. The president may reinstate a planning area at any time and Congressional moratoria expire annually unless renewed through legislation, such as through the appropriations process.

Inclusion of these affected areas in the 5-year program is vital. If the moratoria are allowed to expire or the president lifts the withdrawal before 2012 these areas must be contained in the MMS 5-year program to allow exploration and production of OCS oil and natural gas resources. If Congress and the president were to act to allow the American people access to these resources, oil and natural gas exploration could not occur unless lease sales had been developed using the 5-year program process.

The U.S. Chamber, therefore, applauds the MMS' consideration of two planning areas that are currently under Congressional moratoria or presidential withdrawal: the North Aleutian Basin and a small portion of the Mid-Atlantic Planning Area. The North Aleutian Basin is estimated to contain 630 million barrels of oil and 5.85 trillion cubic feet (tcf) of natural gas, and the Mid-Atlantic Planning Area as a whole holds an estimated 810 million barrels of oil and 5.1 tcf of natural gas.[5]

Despite the inclusion of these planning areas the Draft Proposed Program is, ultimately, a disappointment. The planning areas included in the Draft Proposed Program represent only a fraction of the oil and natural gas reserves located on the OCS, which contains a staggering 85.9 billion barrels of recoverable oil and 419.9 tcf of recoverable natural gas.[6] Out of 26 total planning areas, only seven[7] have been included in the Draft Proposed Program, with only three of those available for leasing

[3] Public Law 109-54 Aug. 2, 2005
[4] Outer Continental Shelf Lands Act Section 1341(a).
[5] Draft Proposed Program at 61.
[6] U.S. Department of the Interior, Minerals Management Service, *Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf 2006*, February 2006.
[7] Chuckhi Sea, Beaufort Sea, North Aleutian Basin, Cook Inlet, Western Gulf of Mexico, Eastern Gulf of Mexico, and the Mid-Atlantic Planning Areas.

in their entirety. Moreover, of the top 10 planning areas, according to net social value—a calculation of the economic benefit of development minus anticipated environmental costs—only five are included among the seven in the Draft Proposed Program.

Perhaps most troubling, the Draft Proposed Program omits a portion of the Central Gulf of Mexico (CGOM) Planning Area from leasing even though it is not subject to Congressional moratoria or presidential withdrawal. The MMS proposal omits more than half of Lease Sale Area 181, a 5.9 million acre area in the Gulf of Mexico, which is known to have substantial oil and natural gas reserves.[8]

The lack of consideration given the remaining OCS planning areas is disappointing and, in fact, runs contrary to the statute governing oil and natural gas leasing on the OCS. As stated in OCSLA, when developing leasing programs, MMS is required to consider the national need for oil and natural gas, which could be met using resources located in the OCS.[9] The fact that nearly 90% of the OCS is not even considered for leasing at this preliminary stage in the 5-year program development process casts doubt on the extent to which the Draft Proposed Program satisfies statutory requirements.

The Draft Proposed Program could be significantly improved—and made legally sufficient—by including all 26 OCS planning areas in its expansive leasing program. While consideration of leasing in seven areas is a positive step, it does not adequately address the energy challenges facing the United States. The U.S. Chamber strongly believes that a more proactive approach to harnessing the oil and natural gas resources located on the OCS is not only necessary, but legally mandated.

THE MMS DRAFT PROPOSED PROGRAM DOES NOT ADHERE TO THE REQUIREMENTS OF OCSLA

OCSLA characterizes the OCS as "a vital national resource…which should be made available to expeditious and orderly development, subject to environmental safeguards."[10] It requires the MMS to consider economic, social, and environmental values in developing OCS oil and natural gas lease sales[11] and sets forth eight criteria that must be considered when establishing the timing and location of proposed lease

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[8] Congressional Research Service, *Outer Continental Shelf Debate Over Oil and Gas Leasing and Revenue Sharing,* as originally proposed, Lease Sale Area 181 was estimated to contain nearly 8 tcf of natural gas and 396 million barrels of oil, October 27, 2005.

[9] See discussion *infra*.

[10] OCSLA, 43 U.S.C. 1332(3).

[11] *Ibid at 1344(a)(1).*

sales.[12] These eight criteria are intended to strike a balance between U.S. energy needs, environmental factors, and other possible uses of the OCS.

Yet, despite clear statutory language about which factors to consider when developing lease sales, MMS appears to have based most of its planning decisions on the existence of Congressional moratoria or presidential withdrawals. While these restrictions currently preclude the development of oil and natural gas resources, they do not excuse the MMS from considering all areas of the OCS in accordance with the statute.

For example, one of the eight OCSLA criteria requires the MMS to consider the energy needs of national and regional markets and their proximity to OCS planning areas. The planning area off the coast of Southern California is ranked fourth of 26 in net social value and 15th out of 26 in environmental sensitivity, indicating that substantial oil and natural gas resources exist and that the area is not overly susceptible to environmental harm. This is significant considering that Southern California is one of the nation's largest population centers. Had MMS done a proper analysis under OCSLA, it would have correctly concluded that the Southern California planning area was a solid candidate for OCS lease sales. The Draft Proposed Program does not, however, contain any lease sales within this planning area.

Another OCSLA criterion requires that, when determining whether to offer lease sales in a planning area, MMS must consider the interest of potential oil and natural gas producers in the development of oil and natural gas resources. In response to the first request for comments on the 5-year program, 25 companies expressed an interest in oil and natural gas development opportunities in the EGOM Planning Area—more than twice the number of companies expressing interest in any other planning area. The EGOM Planning Area ranks third in net social value. Nevertheless, the expressed interests of these oil and gas producers were not taken into consideration as the Draft Proposed Program excludes this planning area from development.

[12] Ibid at 1344(a)(2). The eight criteria are: (1) existing information concerning the geographical, geological, and ecological characteristics; (2) an equitable sharing of developmental benefits and environmental risks; (3) location of planning areas with respect to, and the relative needs of, regional and national energy markets; (4) location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the OCS; (5) interest of potential oil and gas producers in the development of oil and gas resources; (6) laws, goals, and policies of affected states that have been specifically identified by the governors of those states; (7) relative environmental sensitivity and marine productivity of different areas of the OCS; and (8) relevant environmental and predictive information for different areas of the OCS.

The decision not to include all of Lease Sale Area 181 is baffling when viewed in the context of the analysis required by OCSLA. Substantial oil and natural gas resources are known to be located in this area, and a significant number of oil and natural gas producers have indicated interest in developing these resources. Moreover, this area has not otherwise been removed from leasing by Congress or the president. The decision not to offer more of Lease Sale Area 181 for development is incongruous with OCSLA analysis and the requirement that resources be developed in an "expeditious and orderly" manner.

While no single criterion is dispositive, the statute nonetheless requires that all criteria must be considered in the development of lease sale proposals. Without question, at this early stage in the Draft Proposed Program process, the planning areas should not have been eliminated. In accordance with OCSLA, a complete analysis should have been conducted. At the very least, the U.S. Department of the Interior should not have refused to consider all of Lease Sale Area 181 before a thorough analysis under OCSLA has been conducted.[13]

The U.S. Chamber urges MMS to assess all planning areas according to OCSLA criteria regardless of resource production prohibitions.

THE NEED FOR DOMESTICALLY PRODUCED ENERGY IS GREATER THAN ORIGINALLY THOUGHT

In the introduction to the Draft Proposed Program, MMS notes that five days after it published its request for comments Hurricane Katrina struck the Gulf of Mexico. In the fall of 2005, Hurricanes Katrina, Rita, and Wilma wreaked devastation onshore and impacted more than 90% of offshore oil and natural gas facilities located in the Gulf. The impact on energy prices and supply channels was substantial, costly, and continues to be felt today, more than six months later.

Another indicator of the nation's growing need for energy came from the U.S. Energy Information Administration (EIA). In February 2006, the EIA published its annual energy outlook 2006.[14] EIA predicted an increase in energy demand and in imported resources that went well beyond the increases it had projected just a year earlier. Even before the hurricanes and the new estimates from EIA, rising energy prices were causing major concern for U.S. businesses and citizens. From April 2002

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[13] U.S. Department of the Interior, Minerals Management Service, *Request for Comments on the Preparation of a 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012*, 70 FR 49669, 49671, August 24, 2005. "Finally, the Secretary has no intention of offering for leasing areas in the Eastern Gulf of Mexico Planning Area within 100 miles of the coast of the state of Florida."

[14] U.S. Energy Information Administration, *Annual Energy Outlook 2006 with Projections to 2030*, February 2006.

to April 2005, crude oil prices increased 171% and natural gas prices increased 111%.[15]

The importance of the OCS to domestic energy production cannot be overstated. Recently, MMS increased its estimates of technically recoverable oil and natural gas that can be produced with technologies that exist today. The estimate for technically recoverable oil reserves has increased by approximately 10 billion barrels and natural gas has increased by 57.7 tcf, representing an increase of 15% over the last assessment conducted in 2001.[16]

It is important to note that the developments described above all occurred within eight months—7.5 times less than the five years for which MMS must plan. In other words, MMS must design any 5-year program with sufficient flexibility to respond to unforeseen events. For these reasons, the U.S. Chamber urges MMS to construct lease sale options for all planning areas of the OCS, regardless of pre-existing Congressional moratoria or presidential withdrawal.

THESE RESOURCES CAN BE SAFELY AND RESPONSIBLY PRODUCED NOW

In response to the first request for comments, the U.S. Chamber noted extensively the impeccable safety record of OCS operators. According to MMS, from 1980 to 2004, OCS operators produced 10.4 billion barrels of oil and spilled less than 0.0001%.

This safety record is further evidenced by the unprecedented trial of offshore oil and natural gas facilities during the 2005 hurricane season. Approximately 2,900 offshore platforms were in the path of Hurricanes Katrina and Rita, many being pummeled by six hours of sustained winds of 170 mph with gusts of more than 200 mph. Despite the catastrophic nature of these storms, there was no loss of life and no significant spills. Then Secretary of the Interior Gale Norton told the Senate Energy and Natural Resources Committee, *We faced down two of the most devastating hurricanes ever to hit the Gulf of Mexico without one significant spill from any offshore well on the Outer Continental Shelf.*[17]

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[15] Based on data from the New York Mercantile Exchange.

[16] U.S. Department of the Interior, Minerals Management Service, *Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf 2006*, February 2006.

[17] Testimony to Senate Committee on Energy and Natural Resources, October 27, 2005.

CONCLUSION

The U.S. Chamber strongly urges MMS to expand the scope of the Draft Proposed Program and propose lease sales within all OCS planning areas. OCSLA makes clear the criteria under which the 5-Year program for oil and gas leasing must be developed. When a comparison is made between these criteria and the Draft Proposed Program, one is hard pressed to conclude that this analysis has been adequately conducted.

Without an increase in energy supplies, prices will continue to rise as the energy needs of the United States and of countries around the globe continue to grow. The Draft Proposed Program is a critical opportunity to act to ensure that Americans have the affordable and reliable energy supply that is so critically needed to fuel economic growth and maintain our standard of living.

The U.S. Chamber thanks MMS for the opportunity to comment on the future of this vital leasing program and urges serious consideration of the above observations.

Sincerely,

William L. Kovacs