

CALENDAR ITEM

78

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**CONSIDER A RESOLUTION OPPOSING THE PRESIDENTIAL EXECUTIVE ORDER
“IMPLEMENTING AN AMERICA-FIRST OFFSHORE ENERGY STRATEGY,” WHICH
ESTABLISHES A POLICY TO ENCOURAGE ENERGY EXPLORATION AND
PRODUCTION ON THE OUTER CONTINENTAL SHELF**

EXECUTIVE ORDER:

On April 28, 2017, the President of the United States issued an Executive Order establishing a policy to encourage energy exploration and production on the Outer Continental Shelf (OCS). The Order applies to the 2017-2022 Oil and Gas Leasing Program that excludes lease sales in the Pacific or Atlantic areas. The Order directs the Secretary of the Interior to consider revising the schedule of proposed oil and gas leases to include sales in the Western and Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet, and the Mid- and South Atlantic planning areas. Almost immediately after the Executive Order was issued, 10 environmental organizations filed a lawsuit with the U.S. District Court for the District of Alaska, arguing that the President lacks authority to reverse the previous President’s ban on offshore drilling in certain OCS areas.

The Executive Order, called Implementing an America-First Offshore Energy Strategy, declares that the energy needs of American families and businesses must be put first and that the energy and minerals produced from lands and waters under federal management are important to a vibrant economy and to national security. The Order states it is the policy of the United States to encourage energy exploration and production, including on the OCS, while ensuring that production is safe and environmentally responsible. The Order directs the Secretary of the Interior to implement the policy by:

1. Considering, in consultation with the Secretary of Defense, revising the proposed oil and gas lease sale schedule so it includes annual sales in these OCS planning areas: Western Gulf of Mexico, Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet, Mid-Atlantic Ocean, and South Atlantic Ocean.
2. Ensuring that revisions to the oil and gas lease sale schedule do not hinder or affect ongoing lease sales scheduled as part of the 2017-2022 OCS Oil and Gas Leasing Proposed Final Program—published on November 18, 2016.

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3. Developing and implementing, in coordination with the Secretary of Commerce, a streamlined permitting approach for privately funded seismic data research and collection intended to expeditiously determine the energy resource potential in the planning areas.

Section 4 of the Order bans the Secretary of Commerce from designating or expanding National Marine Sanctuaries unless the designation or expansion includes a timely, full accounting of energy or mineral resources potential in the area and the impact the proposed designation or expansion will have on developing these resources. The Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Interior, and the Secretary of Homeland Security, are required to review all designations and expansions of National Marine Sanctuaries and Marine National Monuments under the Antiquities Act of 1906 that were designated or expanded within the preceding 10 years. The review which would be submitted to the Director of the Office of Management and Budget, the Chair of the Council on Environmental Quality, and the Assistant to the President for Economic Policy, would include an:

- Analysis of the “opportunity costs” associated with potential energy and mineral exploration and production from the OCS—and production impacts on the adjacent region.
- Analysis of the acreage affected and of the budgetary impacts of the costs of managing each Sanctuary or Monument.
- Analysis of the requisite tribal consultations conducted before a designation or expansion.

The Order, “to further streamline existing regulatory authorities,” would revoke an Executive Order issued in December 9, 2016,¹ that created the Northern Bering Sea Climate Resilience Area in Alaska and withdraw two OCS areas in the Arctic from oil and gas exploration, development, or production, banning development in most of the Beaufort and Chukchi Seas. That Order made it a policy of the United States to enhance the resilience of the northern Bering Sea region by conserving the region’s ecosystem and natural resources, created a task force on the Northern Bering Sea Climate Resilience Area, and created a Northern Bering Sea Intergovernmental Tribal Advisory Council to improve consultation with tribes. Indigenous residents of the region, the Bering Sea Elders Group, and nonprofits representing over 70 tribes requested the issuance of that December 9, 2016 Order.

In 2015 and 2016, former President Obama withdrew millions of acres of federally owned land in the North Atlantic and Arctic Oceans from future oil and

¹ Executive Order 13754 Northern Bering Sea Climate Resilience

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gas speculation, preventing consideration of these areas for future oil and gas leasing for exploration, development, or production. The Implementing America First Offshore Energy Strategy Executive Order reverses that, potentially allowing drilling in these formerly protected areas.

Section 6 directs the Secretary of the Interior to review the Bureau of Ocean Energy Management's (BOEM) September 2016 Notice to Lessees and Operators of Federal Oil and Gas, and Sulfur Leases, and Holder of Pipeline Right-of-Way and Right-of-Use and Easement Grants in the Outer Continental Shelf, and determine if changes are necessary to ensure operator compliance with lease terms while minimizing unnecessary regulatory burdens. The Secretary is also directed to review BOEM's financial assurance regulatory policy to determine the extent to which additional regulation is necessary.

Section 7 requires the Secretary of the Interior to review and consider revising the April 2016 Final Rule of the Bureau of Safety and Environmental Enforcement (BSEE), Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control, for consistency with the Order's policy to encourage oil and gas development. The Secretary is also required to lawfully revise related rules and guidance for consistency with the policy in the Order. Additionally, the Secretary of the Interior is to review BSEE's offshore operators' regulations and determine if more regulation is necessary.

Section 8 requires the Secretary of the Interior to review an April 2016 BOEM Rule, Air Quality Control, Reporting, and Compliance, and related rules and guidance and consider whether they should be revised or withdrawn. Section 9 requires the Secretary of the Interior and Secretary of Commerce to expedite Incidental Take Authorization requests, including Harassment Authorizations and Letters of Authorization, and to expedite seismic survey permit applications under the Outer Continental Shelf Lands Act and the Marine Mammal Protection Act.² On May 10, 2017, the Department of Interior announced that it will resume evaluating applications from six companies seeking permits to conduct geological and geophysical activities in the Atlantic Ocean, reversing the previous President's directive that BOEM deny the permits. The information from these seismic surveys is expected to inform future decisions about oil and gas leasing and development in the Atlantic Ocean—an area removed from development consideration in the 2017-2022 OCS Leasing Program.

Section 10 requires the Secretary of Commerce to review a July 2016 National Oceanic and Atmospheric Administration technical guidance document that

² Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., and the Marine Mammal Protection Act, 16 U.S.C. 1361 et seq.

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assesses the effects of anthropogenic sound on marine mammal hearing for consistency with the Order's policy encouraging oil and gas development, and in consultation with federal agencies, rescind or revise the technical guidance document, if appropriate. Section 11 requires the Secretary of the Interior to immediately review the July 2016 Final Rule, Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf and, if appropriate, publish for notice and comment a proposed rule suspending, revising, or rescinding this rule.

BACKGROUND:

The Commission manages the State's oil, gas, and mineral resources. Its jurisdiction is from the mean high tide line to 3 nautical miles offshore. BOEM manages oil and gas development in the OCS Area, which includes submerged federal lands beyond the federal-state boundaries. The area is divided into four regions: the Atlantic, Gulf of Mexico, Pacific, and Alaska regions. The Pacific region includes the offshore areas of Washington, Oregon, and California.

There are 27 offshore platforms off the California coastline—23 in federal waters and four in state waters. The Pacific OCS area has significant oil reserves, with an estimated 10 billion barrels of oil. Ocean basins off the coasts of Mendocino, San Francisco, Big Sur, Santa Barbara, and San Diego are estimated to contain over a billion barrels of oil.

California's coastline supports tourism, fishing, navigation, public access, and abundant marine life, including whales, salmon, sea lions, and shorebirds. Recreational fishing, commercial fishing, and scientific research investment are significant contributors to California's ocean economy, and depend on clean beaches and healthy oceans.

In 1969, 100,000 barrels³ of oil spilled into the Santa Barbara Channel, blanketing dozens of miles of coastline and devastating the local tourism and fisheries economies and wildlife populations. In 2015, Line 901, an onshore pipeline in Santa Barbara County ruptured near the coast. Experts estimate that the pipeline spilled approximately 600 barrels of oil onto the California coastline, but the precise amount remains unknown and under investigation.

DISCUSSION:

Facilitating new offshore oil and gas exploration and development in federal waters is the purpose of this Executive Order. The basis for the Order is that oil and gas development in the OCS area facilitates economic growth, job creation, and national security. California strongly believes that environmental protection and job creation go hand-in-hand and that California and the Nation ought to

³ An oil barrel is defined as 42 gallons.

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champion clean, renewable energy development because it is core and central to protecting against oil spills, achieving energy independence, growing the economy, and enhancing national security.

The existing 5-year oil and gas leasing program for the OCS, covering 2017 through 2022, was published in November 2016 and excludes lease sales in the Pacific or Atlantic areas. The Executive Order invalidates the existing program, restarting the OCS leasing program process. The first step, the Request for Information is expected to be published this summer. Once the Request for Information is issued, the draft program will likely take about 6 months to be issued. Public input is part of the program development process. The Secretary is required to consider comments and concerns from states, local governments, industry, tribes, and the public.

Contrary to the Executive Order, the Commission continues to pioneer clean, renewable energy, recognizing that the Nation can thrive by championing renewable energy, which creates jobs, bolsters the economy, and protects the coastline, resources, and marine wildlife from a catastrophic oil spill. California has spent decades laying a foundation for renewable energy as a significant part of the green economy and the State's energy portfolio. Existing law establishes targets to increase retail sales of renewable electricity to 50 percent by 2030, and to double the energy efficiency savings in electricity and natural gas end uses by 2030.

California leads the nation in carbon pollution reduction. In 2016, legislation was signed into law building on AB 32, the Global Warming Solutions Act of 2006, that requires greenhouse gas emissions to be 40 percent below the 1990 level by 2030. In 2015, Governor Edmund G. Brown Jr. issued Executive Order B-30-15 that acknowledges the threat of climate change to the health and well-being of humans and natural resources, highlights California's efforts to achieve significant emission reductions by 2050, and directs State government to implement Safeguarding California, California's climate adaptation plan. Shifting away from fossil fuel dependency and increasing the State's renewable energy portfolio is a key strategy to fight climate change and reduce greenhouse gas emissions.

Another aspect to the Executive Order is the effects on marine mammals from geological and geophysical surveys for oil and gas exploration. The Order requires the Secretary of Commerce to review a 2016 National Oceanic and Atmospheric Administration (NOAA) technical guidance document that assesses the effects of anthropogenic sound on marine mammal hearing for consistency with the Order's policy of encouraging oil and gas development, and in consultation with federal agencies, rescind or revise this guidance, if appropriate.

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In California, the Commission issues permits for geological and geophysical surveys offshore. Sound, and marine mammals, know no political boundaries—activities occurring beyond the State’s 3-nautical mile boundary in federal waters can influence and impact protected marine mammal species that use State waters to feed, breed, and migrate. Sound produced from seismic activities for oil and gas exploration, which includes high-energy sound sources such as airguns, can cause behavioral disturbance (e.g., avoidance, vocalization changes, and alarm responses), adverse stress responses, masking, temporary or permanent hearing impairment, tissue damage, and death (NOAA 2016). Federal and State agencies in California have developed strong, science-based protections for these species from the underwater acoustic impacts associated with seismic activities. The Executive Order may undermine these protections and expose marine mammals to detrimental noise levels, which could have population-level impacts.

The Commission has adopted numerous resolutions in past years opposing the resumption or expansion of oil and gas development in the Pacific OCS area. The resolutions convey the Commission’s view that additional offshore oil and gas leasing and development in the Pacific OCS threatens the environment and the economy, prevents the Nation from reducing its dependency on fossil fuels, contributes to greenhouse gas emissions, and adversely affects tourism and fisheries.

EXHIBIT:

- A. Proposed Resolution Opposing the President’s Implementing an America-First Offshore Energy Strategy

RECOMMENDED ACTION:

It is recommended that the Commission:

Adopt the Resolution substantially in the form as set forth in the attached Exhibit A opposing the President’s Implementing an America-First Offshore Energy Strategy.

Exhibit A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION OPPOSING PRESIDENTIAL EXECUTIVE ORDER CALLED IMPLEMENTING AN AMERICA- FIRST OFFSHORE ENERGY STRATEGY, WHICH ESTABLISHES A POLICY TO ENCOURAGE ENERGY EXPLORATION AND PRODUCTION ON THE OUTER CONTINENTAL SHELF

WHEREAS, the California State Lands Commission has exclusive jurisdiction over approximately 4 million acres of tide and submerged lands owned by the State, including approximately 120 navigable rivers and sloughs, 40 navigable lakes, tidal bays, inlets, straits, lagoons and estuaries, and along the State's over 1,100 miles of coastline and offshore islands from the mean high tide line to 3 nautical miles offshore; and

WHEREAS, the Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access; and

WHEREAS, On April 28, 2017, the President of the United States issued an Executive Order called Implementing an America-First Offshore Energy Strategy, which establishes a policy to encourage energy exploration and production on the Outer Continental Shelf (OCS) and restarts the 2017-2022 five-year lease sales program, potentially opening up Arctic waters and millions of coastal acres off U.S. shores to oil and gas drilling; and

WHEREAS, California's coastline supports tourism, fishing, navigation, public access, and abundant marine life, including whales, salmon, sea lions, and shorebirds, and the Pacific OCS area has significant oil reserves—estimated to contain approximately 10 billion barrels of oil, and ocean basins off the coasts of Mendocino, San Francisco, Big Sur, Santa Barbara, and San Diego are estimated to contain over one billion barrels of oil; and

WHEREAS, The purpose of the Executive Order is to facilitate offshore oil and gas development in federal waters and its' basis is that oil and gas development ushers in economic growth and job creation and bolsters national security; and

Exhibit A

WHEREAS, The Executive Order restarts the 5-year oil and gas leasing program for OCS areas, and while it is focused on the Arctic, the 5-year program covers the entire OCS planning area, including the Pacific OCS; and

WHEREAS, The existing 5-year oil and gas leasing program for 2017 through 2022 excludes lease sales in the Pacific or Atlantic OCS areas, and the Executive Order short circuits that program; and

WHEREAS, Contrary to the Executive Order, the Commission continues to pioneer clean, renewable energy, recognizing that instead of prioritizing new oil and gas development, the Nation can thrive by championing renewable energy, which creates jobs, bolsters the economy, and protects the coastline, resources, and marine wildlife from a catastrophic oil spill; and

WHEREAS, California has spent decades laying a foundation for the green economy and renewable energy, including establishing targets to increase retail sales of renewable electricity to 50 percent by 2030, and doubling the energy efficiency savings in electricity and natural gas end uses by 2030; and

WHEREAS, California leads the nation in reducing carbon pollution and recently enacted legislation requiring statewide greenhouse gas emissions to be 40 percent below the 1990 level by 2030; and

WHEREAS, Governor Edmund G. Brown Jr's Executive Order B-30-15 acknowledges the threat of climate change to the health and well-being of humans and natural resources, highlights California's efforts to achieve significant emission reductions by 2050, and directs State government to implement Safeguarding California, California's climate adaptation plan; and

WHEREAS, Shifting away from fossil fuel dependency and increasing the State's renewable energy portfolio is a key strategy to fight climate change and reduce greenhouse gas emissions; and

WHEREAS, Action to combat climate change works in concert with economic growth, and as California has shown, renewable energy creates more jobs per megawatt of power installed, per unit of energy produced, and per dollar of investment compared to energy production from fossil fuels; and

Exhibit A

WHEREAS, The Executive Order reverses progress toward climate change preparedness by revoking an Executive Order the previous President issued in 2016 that created the Northern Bering Sea Climate Resilience Area in Alaska and withdrew two OCS areas in the Arctic from oil and gas exploration, development, or production, banning development in most of the Beaufort and Chukchi Seas; and

WHEREAS, That 2016 Executive Order made it a policy of the United States to enhance the resilience of the northern Bering Sea region by conserving the region's ecosystem and natural resources, created a task force for the Northern Bering Sea Climate Resilience Area, and created a Northern Bering Sea Intergovernmental Tribal Advisory Council to improve consultation with tribes and indigenous residents of the region; the Bering Sea Elders Group and nonprofits representing over 70 tribes requested that Order; and

WHEREAS, California has made significant social and financial investments to create the nation's first science-based network of marine protected areas to protect marine life and habitats for current and future generations, and covering 16 percent of state waters, California's network safeguards ecosystems and economic activities that rely on a healthy ocean—including tourism and commercial fishing—and supports the state's thriving \$44 billion ocean economy; ¹ and

WHEREAS, California is a founding member of the International Ocean Acidification Alliance to Combat Ocean Acidification, which brings governmental and affiliate members together to identify, coordinate, and expand meaningful and timely actions to combat ocean acidification and limit other climate change-driven changes to the world's oceans, and the Alliance highlights the urgency of reducing greenhouse emissions and other causes of ocean acidification as well as implementing actions to adapt to and raise awareness of climate change-driven changes to the ocean; and

WHEREAS, The Implementing an America-First Offshore Energy Strategy Executive Order requires the Secretary of Commerce to review a 2016 National Oceanic and Atmospheric Administration guidance document that assesses the effects of anthropogenic sound on marine mammal hearing for consistency with the Order's policy of encouraging oil and gas development, and rescind or revise this guidance if appropriate; and

¹ NOAA Office of Coastal Management. 2015. The National Significance of California's Ocean Economy. Available at: <https://coast.noaa.gov/data/digitalcoast/pdf/california-ocean-economy.pdf>

Exhibit A

WHEREAS, The Commission issues permits for geological and geophysical surveys offshore, and works with federal agencies and state partners to develop strong, science-based protections for marine mammals from the underwater acoustic impacts associated with seismic activities; and

WHEREAS, Sound, and marine mammals, know no political boundaries—activities occurring beyond California’s 3 mile boundary in federal waters can influence and impact protected marine mammal species that use State waters to feed, breed, and migrate, and this Order may undermine federal and state protections and expose marine mammals to injurious noise levels that could have population-level impacts; and

WHEREAS, The Commission rejects the President’s premise that encouraging energy exploration and production on the OCS is necessary to maintain the Nation's position as a global energy leader and foster energy security and resilience for the benefit of the American people; now therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it opposes the Implementing an America-First Offshore Energy Strategy, which establishes a policy to encourage energy exploration and production on the Outer Continental Shelf; and be it further

RESOLVED, that the Commission’s Executive Officer transmits copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.