



February 8, 2012

Mr. Steven Textoris
5-Year Program Manager
Bureau of Ocean Energy Management (MS-4010)
Room 3120
381 Elden Street
Herndon, Virginia 20170

Comments on Proposed 5-Year Program for 2012–2017
Via electronic submission to: <http://www.regulations.gov/>

Dear Mr. Textoris,

The American Petroleum Institute (API) offers the following comments on the proposed 2012–2017 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program (5-year Program or proposed Program) announced by the U.S. Department of the Interior, Bureau of Ocean Energy Management (BOEM) in November 2011. The API is a national trade association that represents over 490 members involved in all aspects of the oil and natural gas industry, including exploring for and developing oil and natural gas resources in the GOM— a vital part of our nation’s economy. The industry supports millions of American jobs and delivers billions of dollars in annual revenue to our government. Last year, it directly contributed more than \$470 billion to the U.S. economy in spending, wages and dividends, and it is one of the few industries creating jobs throughout the recession and the ongoing national economic downturn.

This is the second proposal in the statutory process the BOEM must follow pursuant to the Outer Continental Shelf Lands Act (OCSLA). It comes after two years of deliberation by Department of the Interior (DOI) Secretary Salazar, during which time the Secretary announced that this proposed Program would offer the industry the opportunity to purchase leases in areas of the Mid- and South Atlantic, and potentially the Eastern Gulf of Mexico. However, the Secretary limited the proposed Program to portions of Alaska and the Gulf of Mexico where industry has been allowed to lease and explore for many years. This decision represents a missed opportunity to help reach a more secure energy future for our nation, an obstacle that will increase our reliance on foreign energy and deny major benefits to our economy. As highlighted in a recent report¹ by the President’s Council on Jobs and Competitiveness, “further expanding and expediting the domestic production of fossil fuels both offshore and onshore ... will reduce America’s reliance on foreign oil and the huge outflow of U.S. dollars this reliance entails.” We need a robust strategy for developing offshore areas because they are and will continue to be important to the nation’s economic recovery and energy security. We need to be doing the right things today to be able to meet our energy needs of tomorrow. This proposed Program is overly constrained and fails to take advantage of the enormous benefits documented in the program analysis. It maintains a status quo that will not adequately help prepare us for the Nation’s energy future.

¹ *Road Map to Renewal*, 2011 Year-end Report, published January 2012. http://files.jobs-council.com/files/2012/01/Jobscouncil_2011YearEndReportWeb.pdf

BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) have jointly undertaken many regulatory and policy initiatives subsequent to the Deepwater Horizon incident to improve safety and further reduce the risk of offshore oil and gas exploration and production. These include new requirements of the Drilling Safety Rule, Workplace Safety Rule (Safety and Environmental Management Systems-SEMS), Notice to Lessees (NTL) 2010-N06 regarding spill response planning, NTL 2010-N10 regarding corporate compliance statements and required subsea spill containment equipment, and enhancements to BOEM/BSEE's inspection and enforcement procedures, including a strengthened training program. While we continue to have concerns over the manner by which some of these new regulatory requirements were developed and implemented (e.g., Notices to Lessees and interim final rules used in lieu of formal notice-and-comment rulemaking), we do believe industry is operating in compliance with the new requirements. Industry has also undertaken several important new initiatives to reduce the risk of offshore operations and to greatly increase spill response capabilities. Taken together, these regulatory, policy, and industry led initiatives work to further reduce the risk of future incidents and improve the offshore industry's ability to respond to accidents or oil spills.

Shortly after the spill in the Gulf, the joint industry task forces (JITFs) formed by API, in coordination with other industry trade associations, worked to identify and learn from any potential gaps in operations or practices that could affect safety; sought options to address gaps through recommended practices, procedures, and research and development; and have been instrumental in the improvement of the industry's capabilities in safety, environmental performance and spill prevention and response.

The JITFs addressed several measures to enhance safety and risk management, including deepwater well design and control, shearing and other capabilities of blowout preventers, and acoustics systems and interface with remotely operated vehicles. The JITFs reviewed technologies and practices for controlling the release of oil from its source such as equipment designs, testing protocols, research and development, and regulations and documentation. In addition, they produced an assessment of the industry's entire spill response system and identified areas for improvement and additional research. Implementation of these recommendations will continue to enhance a strong industry safety record.

Further to the recommendations of the JITFs, much work has been done on API standards and recommended practices (RP) to improve industry safety and operations:

- API published RP 65—Part 2 *Isolating Potential Flow Zones During Well Construction*, in May 2010 and then revised the document based on: 1) lessons learned from the DWH incident; and 2) alignment with the planned *Deepwater Well Design and Construction* RP. The revisions resulted in the API RP becoming API Standard 65-Part 2, second edition. The Standard was published in December 2010.
- In June 2010 work began on the new API RP 96 *Deepwater Well Design and Construction*, which helps to address physical loads and design practices for subsea well completions and completion configurations that provide maximum reliability.
- In July 2010 work began on a new technical bulletin entitled "Well Construction Interface Document (WCID) guidelines." The WCID will be the bridging document between the drilling contractor's Health, Safety, and Environmental (HSE) safety case and the operator's Safety and

Environmental Management System (SEMS), and will address safety and risk management considerations on a well-by-well basis.

- In addition to the new documents issued or being created, API has also revised several documents, including: the 4th edition of API RP 53 *Recommended Practices for Blowout Prevention Equipment Systems for Drilling Well* (this edition will be updated to a Standard); 1st Edition of API Spec Q2 *Quality Management System Requirements for Service Supply Organizations for the Petroleum and Natural Gas Industries*; and the 4th Edition of API Spec 16A *Specification for Drill-through Equipment*.

These new operating requirements and industry initiatives should not be limited only to areas where industry currently operates. Our nation should also benefit from offshore development in new areas under these enhanced operating requirements and standards.

One criterion the Department of the Interior is required to use in selecting areas to be included in the proposed Program is the likely availability, or presence, of oil and gas resources. However, areas of the Pacific Ocean with significant known reserves that feature promising geological conditions were not included. These areas, like those in the Gulf of Mexico, have existing infrastructure to support exploration and development, including the required spill preparedness and response capabilities. It is also important to note that the necessary exploration drilling infrastructure can be developed prior to planned drilling activities in new areas where it may not exist today.

Another criterion cited for inclusion of an area in the proposed Program, existence of local and state support for development, was inconsistently applied. The Secretary removed Pacific areas from consideration citing recommendations of local elected officials. However, areas off of the mid-Atlantic coast such as Virginia, North Carolina and South Carolina enjoy strong support for leasing and development by elected officials. These areas were also excluded from the program despite the fact that the public in the mid-Atlantic region supports development and its potential for job creation and economic benefits. There does not appear to be a consistent rationale as to why both of these areas were excluded.

In other cases, the department's rationale for including or excluding areas appears to be unfounded; for instance, the argument that we should not be looking for more oil and natural gas where development infrastructure is not already in place is a stipulation that predisposes limited or no development in new areas. This standard effectively rules out all new development in frontier areas, and it would simply continue the leasing moratoria that have locked up more than 85% of our federal waters for many decades. It also fails to recognize the job creation and economic development benefits of building and maintaining new offshore infrastructure.

The department also considers the pre-existence of spill preparedness and response capabilities as criteria for determining whether an area should be included in its plan. Clearly, compliance with the department's regulations on spill preparedness and response will be demonstrated before a company will be permitted to drill a well anywhere, regardless if it is in an existing, or new, area. This is built into other phases of the four-stage process for development of oil and gas activity that is outlined by the Outer Continental Shelf Lands Act.

The department also cites potential conflicts with the military to rule out some areas despite thorough consideration of this issue – including extensive discussions between DOI and Department of Defense in mid-September of 2009 that led to a decision by the Secretary in March 2010 to include the Atlantic in its next five-year program. There was no mention of military concerns at that time when it appeared the mid-Atlantic might be opened up. Now, the department is citing conflicts with military operations as a reason for not including Atlantic areas in its five-year plan proposal. It fails to document or substantiate these conflicts and does not adequately explain the apparent ‘shift in position. This argument becomes even more spurious in light of the February 2 announcement of OCS wind energy leasing programs planned offshore Virginia, Maryland, New Jersey and Delaware.

Further, the department indicated that some areas were not included because data on resource potential was lacking. Inclusion of these areas in a five-year plan would offer the incentive for industry and seismic companies to spend the money to acquire new data, rather than presuming that the government can and will conduct effective assessments with taxpayer dollars. With no lease sale scheduled in the Atlantic, for example, seismic companies have no commercial incentive to gather speculative new data. Again, this criterion appears to ultimately predispose limited or no development of new areas.

There is a well-defined and time-tested process in place for gathering data and then making science-based decisions on how and whether to proceed. The pathway from lease sale to drilling and potential development contains numerous decision points and risk management decisions along the way. By removing areas from consideration at the point of resource identification and characterization, the proposed leasing program has short-circuited the ability of our nation to make informed decisions to strengthen its own energy security and produce hundreds of thousands of jobs. Americans deserve a healthy debate and discussion of the merit, risk and potential incentives of developing future offshore resources. Instead, the Department has chosen to cut off that debate and withdraw these resources from consideration for potential development until beyond 2017.

We can create more jobs and generate more public and private sector revenue if allowed to responsibly develop and produce more of the oil and natural gas here in the United States. But more development – especially on public lands and federally controlled waters – requires that industry and government share a vision of the potential benefits and act as partners to fully realize them. According to a 2011 study by Wood Mackenzie², allowing access to the offshore Atlantic, Pacific, and Eastern Gulf could generate over \$300 billion of additional government revenue and could result in the creation of over 400,000 jobs by 2030.

Despite the concerns over missed opportunities articulated in this letter, API supports moving forward with the 2012-2017 proposed Program and urges the department to expeditiously finalize the program so that, at a minimum, leasing can continue in the limited areas currently defined by the program. That will allow us to explore and develop in some areas and continue to generate at least some amount of job growth and additional revenue while serving to enhance the nation’s energy security.

² http://www.api.org/policy/americatowork/upload/API-US_Supply_Economic_Forecast.pdf

Separately, we also strongly urge the Department to begin work immediately on a new, more robust five-year program that will include additional OCS areas in the Atlantic, Pacific, and Eastern Gulf of Mexico that were removed from consideration as part of the 2012-2017 5-year program.

Sincerely,

A handwritten signature in blue ink that reads "Andy Radford". The signature is written in a cursive, flowing style.

Andy Radford