



January 9, 2014

Congressional Committees

Air Emissions: Status of Regulatory Activities and Permitting on Alaska's Outer Continental Shelf

Air emissions from certain oil and gas related operations on the outer continental shelf (OCS), such as from oil and gas exploration, development, and production, are subject to one of two different regulatory programs, depending on the location of the operation.¹ Operations are regulated by either the Department of the Interior or the Environmental Protection Agency (EPA). According to a Congressional Research Service report,² Interior and EPA's regulatory programs have fundamental differences, in part because they stem from different statutory authorities. Interior's authority is based on the Outer Continental Shelf Lands Act of 1953, as amended,³ which has a goal of offshore energy development and also requires Interior to issue and amend as necessary regulations for compliance with certain national ambient air quality standards to the extent that offshore energy activities significantly affect the air quality of any state. EPA's authority is based on the Clean Air Act Amendments of 1990,⁴ which focus on air quality.⁵ Interior has jurisdiction over air emissions from operations on the OCS in the western Gulf of Mexico and most of the central Gulf. Additionally, the Consolidated Appropriations Act, 2012, amended the Clean Air Act to transfer regulatory authority for air emissions on the OCS off Alaska's north coast, including the Chukchi and Beaufort seas, from EPA to Interior.⁶ Interior's Bureau of Ocean Energy Management (BOEM) is responsible for reviewing and approving plans for exploration, development, and production activities; this process includes projections of air emissions. EPA has regulatory authority for air emissions from similar sources in all other portions of the OCS. In addition to moving regulatory authority over air emissions from EPA to Interior for the OCS off Alaska's north coast, the act also mandates GAO to report

¹The OCS refers to the submerged lands outside the territorial jurisdiction of the states, but within U.S. jurisdiction and control. The portion of the North American continental edge that is federally designated as the OCS generally begins 3 geographical miles off the coastline and extends seaward to at least 200 nautical miles.

²CRS, *Controlling Air Emissions from Outer Continental Shelf Sources: A Comparison of Two Programs—EPA and DOI*. R42123 (Washington, D. C.: Nov. 26, 2012).

³Codified as amended at 43 U.S.C. §§ 1331-1356 (2013).

⁴Pub. L. No. 101-549, Title VIII, § 801, 104 Stat. 2685 (1990), codified as amended at 42 U.S.C. § 7627 (2013).

⁵For more information on EPA's and Interior's regulatory programs and statutory authorities, please see CRS, *Offshore Oil and Gas Development: Legal Framework*, RL33404 (Washington, D.C.: June 25, 2013).

⁶Pub.L. No. 112-74, Title IV, § 432(b)-(d), 125 Stat. 1048-49 (2011). The specific area for which the act transferred regulatory authority to Interior is the area offshore of the North Slope Borough of the State of Alaska. Id., 42 U.S.C. § 7627(a)(1), (b) (2013).

to Congress on the processes for Interior and EPA permitting of OCS air emission activities in this area.⁷ This report discusses the status of such activities.⁸

To determine the status of Interior and EPA's regulatory activities since the Consolidated Appropriations Act, 2012, was passed on December 23, 2011, including any permitting, related to air emissions on the OCS north of Alaska, we reviewed laws, reports, and pertinent Interior and EPA documents. We chose the date the law passed to review the status of activities because this is also the date when regulatory authority generally changed from EPA to Interior. We also interviewed Interior and EPA officials. We conducted this performance audit from October 2013 to January 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Results

Since the Consolidated Appropriations Act, 2012 was passed on December 23, 2011, there has been limited activity subject to air emission regulations or permitting on the OCS off Alaska's north coast, according to Interior and EPA officials. Before the act was passed, EPA had issued to Shell Gulf of Mexico Inc. and Shell Offshore, Inc., collectively, three air emission permits for drilling, exploratory drilling, and other activities on the OCS off Alaska's north coast. According to an official in BOEM's Office of Policy, Regulation, and Analysis, after the act passed, Shell conducted exploratory drilling on the OCS off Alaska's north coast in 2012, but it did so under its existing air emission permits from EPA. Ancillary activities, such as geological and geotechnical surveys,⁹ have also been conducted, but do not require a permit or authorization for air emissions, according to Interior officials. On November 6, 2013, Shell requested that its EPA permits be terminated. On the same day, Shell filed an exploration plan with Interior for the 2014 open water season in the Chukchi Sea; Interior officials were reviewing Shell's plan at the time this report was issued. According to Interior officials, this is the first proposed project to which BOEM's current regulations are expected to be applied to the OCS off Alaska's north coast since the Consolidated Appropriations Act, 2012 passed.

Interior's air quality regulations have not been substantively updated since 1988, and the department is developing a proposal to amend its current oil and gas air quality regulations. According to BOEM officials, the proposed rule under development will address not only the change in jurisdiction from EPA to Interior for the OCS off Alaska's north coast, but also update the regulations to reflect changes in pollution standards, modeling, and technology. For example, Interior officials said the proposed rule will incorporate by reference current EPA-defined national ambient air quality standards and certain modeling criteria. Interior officials said that the department is still developing the proposed rule changes, including defining the issues

⁷Pub.L. No. 112-74, Title IV, § 432(e), 125 Stat. 1049 (2011).

⁸Although the act's language requires GAO to compare "air quality permitting" of OCS sources by EPA (past) and Interior (current and future), only EPA issues air quality permits. Interior regulates air quality of OCS sources as part of its leasing process, but it does not issue specific air quality permits. Thus, in order to respond as closely as possible to the act's mandate, we treated Interior's air quality regulatory process as the point of comparison with EPA's permitting process.

⁹Geological and geotechnical surveys are conducted using sonar and other instruments to characterize the seafloor sediments before drilling is conducted.

that will be addressed in this or future rulemakings, as well as the expected time frames for completion.

Agency Comments

We provided Interior and EPA a draft of this report for review and comment. Both Interior and EPA responded on December 18, 2013, via e-mail and provided technical comments that we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of the Interior, Administrator of EPA, and other interested parties. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff members have any questions concerning this report, please contact me at (202) 512-3841 or gomezj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Janet Frisch (Assistant Director), Elizabeth Beardsley, and Wyatt R. Hundrup.

A handwritten signature in black ink that reads "Alfredo Gómez". The signature is written in a cursive style with a large, stylized initial "A" and "G".

J. Alfredo Gómez
Director, Natural Resources and Environment

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