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DEPARTMENT OF INTERIOR PROPOSES A SERIES OF CONTROVERSIAL CHANGES TO OFFSHORE DRILLING REGULATIONS

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The Department of the Interior (DOI) recently proposed a series of new changes to offshore drilling regulations as a part of President Trump's sweeping de-implementation of Obama-era regulations and policies. These changes will affect both the scope of offshore drilling operations in federal waters around the United States as well as the safety standards in place at each facility. These revisions are included as a part of a new budget plan for 2019 proposed by the DOI, an update to the National Outer Continental Shelf Oil and Gas Leasing Program (National OCS Program), and in a proposed rule modifying production safety system regulations by the DOI's Bureau of Safety and Environmental Enforcement (BSEE).

The first of these changes, contained in the BSEE's proposed revisions to production safety systems regulations, comes as a direct response to President Trump's executive order issued last March promoting energy independence, economic growth, and the termination of existing regulations "that unduly burden the development of domestic energy resources." Following this executive order, the BSEE in late December published a proposed update to the safety regulations affecting offshore oil platforms on the outer continental shelf. The update focuses specifically on amending and updating an Obama-era regulation that was enacted following the Deepwater Horizon catastrophe in 2010 which, according to the BSEE, "created potentially unduly burdensome requirements to oil and natural gas production operators on the OCS, without significantly increasing safety of the workers or protection of the environment." Following the publication of the proposed update, numerous environmental advocacy groups such as the Sierra Club and the National Resources Defense Council filed comments objecting to the BSEE's proposal.

The next series of changes regarding offshore drilling regulations comes in the form of the DOI's 5-year National OCS Program. The program, which details the plans to develop federal offshore areas for 2019-2024, "make[s] over 90 percent of the total OCS acreage and more than 98 percent of undiscovered, technically recoverable oil and gas resources in federal offshore areas available to consider for future exploration and development." The proposal makes 25 of the 26 areas previously closed off to offshore drilling by the Obama administration available for leasing and potential offshore development and includes 47 potential new leases: 19 off the coast of Alaska, 7 in the Pacific, 12 in the Gulf of Mexico, and 9 in the Atlantic.

While the sheer number of potential new leases and the total acreage of federal waters now open to offshore drilling development alone has elicited intense backlash from numerous environmental advocacy groups, the DOI has added insult to injury by tying the budget for the National Park System's enormous maintenance backlog to profits made by the new leases contained within the National OCS Program. In early February the DOI published their proposed budget for the 2019 fiscal year that included a provision called the Public Land Infrastructure Fund. While the fund is intended to "address repairs and improvements in national parks, national wildlife refuges, and Bureau of Indian Education-funded schools," the revenue needed for these repairs will be "derived from energy mineral leasing, e.g., oil, gas and coal, under the Mineral Leasing Act and Outer Continental Shelf Lands Act, as well as solar, wind, and geothermal development on public lands and offshore areas." This proposal has been met with fervent opposition from some democrats who believe these much-needed funds should come from pre-existing revenues on federal mining leases on public lands. Furthermore, the funds that are being earmarked for the National Park Service in the proposed budget are conditional. The plan states that "The Department is taking action to increase revenue from Federal energy leasing and development over 2018 budget projections and will keep 50 percent of additional revenue that is not allocated for other purposes, for Department infrastructure needs." In other words, the budget is dependent on the number of leases actually sold to increase greatly while rates for the leases and energy sales remain stable. This fact, coupled with the budget's plan to fire over 1,800 employees from the National Park Service spells trouble for a department that has already been struggling to keep up with record high numbers of visitors for the last three years and an increasingly large maintenance backlog. The California Environmental Lawyers at Bick Law LLP will continue to follow changes to both Federal and State environmental policies and the ramifications that follow.