



# OCS Regulation and Prospects after the Inflation Reduction Act

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# 1. Introduction

2. Background I: Administration actions pre-Inflation Reduction Act
3. Background II: What changed?
4. Inflation Reduction Act
5. Prospects for future

# Introduction (1/4): Who am I?



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- Oil & Gas lawyer
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**Gordon Arata**  
**MONTGOMERY BARNETT**

# Introduction (2/4): What are we talking about?

## The OCS (Outer Continental Shelf)

- Submerged lands and waters from 3 miles (9 from Texas) to 200 mi. off U.S. coast
- Immense: Larger than Louisiana Purchase



# Introduction (3/4): What are we talking about?

## OCS Regulation

### Federal Jurisdiction

- Owned by federal government
- Federal government lessor, not just regulator
- OCSLA – Outer Continental Shelf Lands Act (1953)

### Administrator/Regulator: DOI - BOEM/BSEE



**BOEM**  
Bureau of Ocean Energy  
Management



### Five-year leasing plan

- OCSLA Section 18(a), 43 U.S.C. 1344(a)
- Requires DOI Secretary to prepare an oil & gas leasing program
- Five-year schedule of proposed lease sales to best “meet national energy needs”

# Introduction (4/4): Why does this matter?

## Drilling in the GOM matters

### To the country

- Top 3 – 5 oil & gas reserves in world: “vast natural resource”
- >15% of U.S. oil production
- Energy independence
- Royalties (fed landowner): \$~5.5 bln in 2019

### To Louisiana

- ~\$160 mln in state revenue from OCS in 2020
- ~48,000 jobs – higher paying
- Dynamic and advanced sector Louisiana leads in

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# Administration initially hostile to oil & gas drilling – changed what they could (OCS)

## ♥♥ Renewables, not fossil fuels

- Trend: parties polarizing (No more Senator Mary Landrieu...)
  - Dems: encourage renewables
  - New trend: ...by limiting hydrocarbon production
- Environmental concerns
  - Greenhouse gases: in production
  - Fracking bogeyman
- Biden March 2020: “No more drilling on federal lands, no more drilling, including offshore – no ability for the oil industry to continue to drill – period.”

Issue: Feds’ ability to limit fracking or production on private lands limited

## Targeted what they could: OCS

- Fed gov. owner/lessor: control
- Three initial initiatives:
  - Moratorium on new leases (Executive Order 14008, Jan 27) – plus let current five-year lease plan lapse
  - Canceled already-scheduled lease sale and leases awarded in last lease sale
  - Directed agencies review regulations – give appropriate/greater weight to climate change/greenhouse gas emissions
    - Justification to cancel last lease sale
    - Grim for future



# Reaction: initially, partisan issue

## Litigation by Red States...

- To require lease sale and new five-year leasing plan
- Opposing new/redoing regs to curb greenhouse gases
- Administration fought

## Opposed/parried by admin.

- Administration fought suits
- When lost:
  - Issued new five-year plan with no required lease sales, only 11 possible sales in limited areas
  - Did not go forward with previously planned lease sale

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# Main change of Inflation Reduction Act: Lease sales

Act requires  
lease sales –  
previously  
planned and  
going forward

## Administration support

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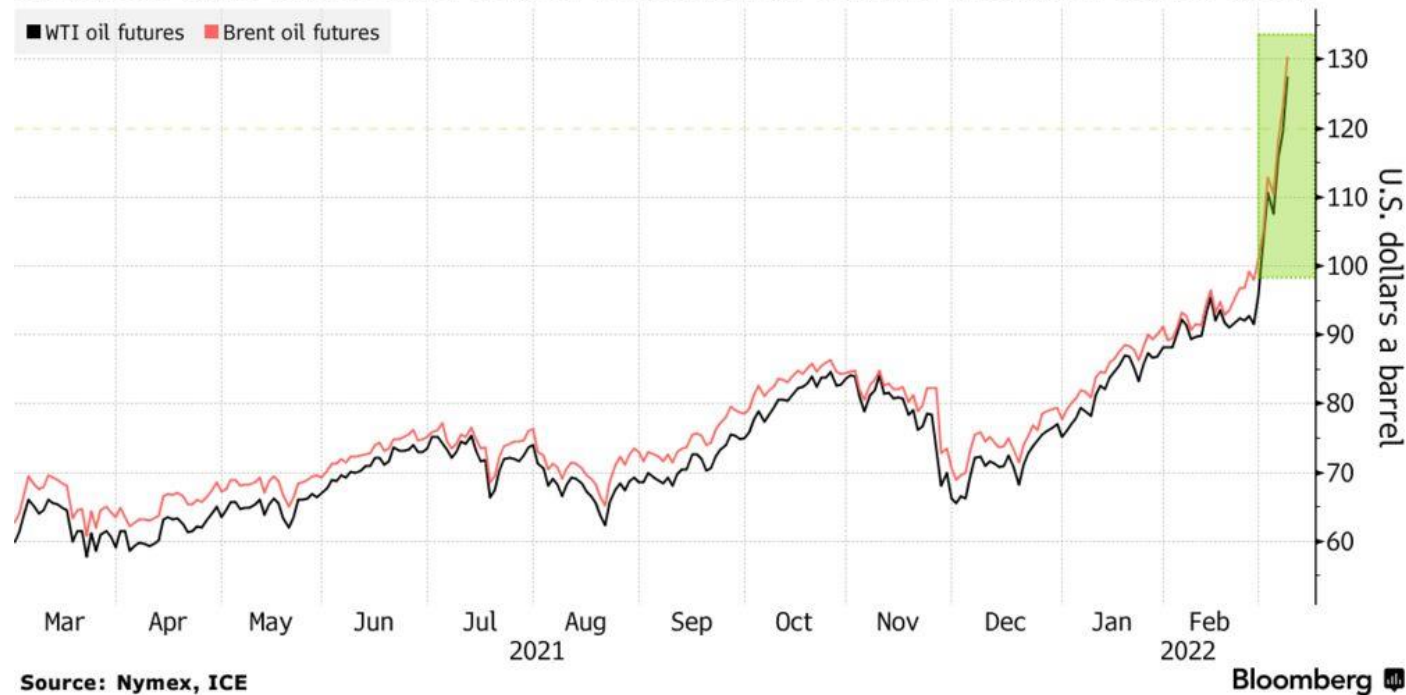
- Major expansion of federal leasing
- Passed with administration support

What  
happened?!?

# 2022: future without hydrocarbons further away than hoped (1/2): price

## Sizzling Surge

Oil prices have rallied after Russia's invasion of Ukraine prompted supply fears



- Jan 2021: WTI <\$55 barrel
- Econ recovery, low production: ~\$90 Feb 1, 2022
- Feb 2022: Russia invades Ukraine
- March 7: ~\$120
- Still over \$90 when Act signed in August 2022

# 2022: future without hydrocarbons further away than hoped (2/2): security

## Energy = security

- Cutting off gas – weapon Russia threatened, deployed against Europe
- Energy not just about greenhouse gases, but:
  - Security
  - Independence

## Return to older understanding

- Energy independence – long-term goal of U.S./OCSLA
- Only a change from recent policy

# Other change: Inflation

- “Inflation Reduction Act”
- Cost of transition before world ready more apparent, public and congressional sentiment

**Jan 2021**

**Almost none**



**End 2021 through 2022**

**7% annual rate**

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# What did the Act do (1/2): Lease sale

- Awarded leases won in last lease sale
  - \$192 mln in bids
  - 308 tracts
  - 1.7 mln acres
- Required two scheduled lease sales be held: March and September 2023
- Ties future wind leasing to oil & gas leasing
  - can only hold new offshore wind lease sale if oil & gas lease sale held in prior year
  - At least 60 mln acres offered to lease at that sale – typically 75-80 mln acres offered in recent sales



# What did the Act do (2/2): Other changes

## Offshore specific

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- Natural gas royalties – required to be paid on all produced gas, incl:
  - Lease gas
  - Flared gas
- Royalty rate on new leases:
  - Increased min 12.5% to 16.67%
  - Equal to min for deepwater
  - Capped at 18.75% for 10 years
- Royalty rate on overdue royalties or reinstated leases: 20% (was 16.67%)
- Increased rental minimums
- Expression of interest fee: \$5 / acre

## Generally

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- Superfund tax – 16.4 cents / brl
  - Previously assessed, ended in 1995
  - Most sites nothing to do with oil & gas...
- Methane emissions royalties:
  - Per metric ton (\$900 2024 rising to \$1,500 2026)
  - For methane in excess of certain percentage of natural gas or oil produced

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# Future: Much uncertainty

- Congressional intervention welcome
- Still, administration retains great discretion
  - Future lease sales – will they really happen? Be worthwhile?
  - Future regulations
  - Administration of existing leaseholds

# Future: Cautious skepticism

## Questions

### Future lease sales

- Will the required lease sales occur?
- Will they be worthwhile?

### Future regulations

- How aggressively will new regs in Act be enforced?
- New regs re: bonding, decommissioning, blowout preventers...?

### Future administration of leases

- Flexibility? New royalty rates OK at current prices, not if lease or price issue?
- Harshness in enforcing/auditing?

## Risks/skepticism

- Can offer worthless acres
- Draft plan late, non-committal – 10 proposed GOM sales, maybe none

- Environmental impact statement in plan...?
- Leased gas royalty reg burdensome
- Wind regs for rights of use sensible, O&G not
- New BOEM head not friend of industry...

# Future: Is there one – new drilling vs. existing ops; majors vs. independents

- Existing leases and operations – new regs manageable
- New leases: not clear if worth investing?
  - Economical
  - Uncertainty
- Big players vs. smaller operators

Questions?

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