

Syllabus and Outline of Offshore Energy Development Course

Course # / Section #:	(()) --- TBD
Professor:	R Scott McCay
Location:	(()) TBD
Time:	Tuesdays from 7:30 to 9:30 p.m.
Course Materials:	Blackboard postings three weeks in advance of class date
Office Hours:	One hour after class in classroom or by appointment
Contact Information:	Phone or text – (713) 898-2080
Email address:	smccay@central.uh.edu
Grading:	Open materials final exam; No internet access Class Participation is factored into grade
Absences:	Third absence results in notice to School Administration
CAPS:	See information at end of syllabus.

Note: Following outline is subject to change during course

- I. Week One – Introduction, History, and Jurisdiction
 - A. Class Introductions – Professor and Students
 - B. Offshore Development History
 - C. International Boundaries
 1. Common Law, International Comity, and Law of Sea Treaty (UNCLOS)
 2. Tidelands cases and 1953 Submerged Lands Act, 43 USC §§ 1301, et seq.
- II. Week Two – Outer Continental Shelf Lands Act (OCSLA) Overview
 - A. 1953 Original and 1978 Amendment 43 USC §§1331, et seq.
 1. Codifies Tidelands cases and declares Federal Rights over OCS
 2. Procedures for developing resources and protecting environment

- B. Regulations and Guidance
 - 1. Bureau of Ocean Energy Management (BOEM), 30 CFR Parts 550, 556
 - 2. Bureau of Safety and Environment Enforcement (BSEE), Parts 250, 256
 - 3. Notice to Lessees (NTLs)
 - 4. Industry Standards
- C. Associated Laws and Regulations
 - 1. Environmental and Safety
 - 2. Trade, Customs, and Navigation
- D. Enforcement and Appeals
 - 1. Incidents of Non-Compliance (INC), 30 CFR Part §§250.1400-09
 - a) Warnings, Component shut-in, Facility shut-in
 - b) Penalties and Injunctive Relief
 - 2. Administrative appeals – 30 CFR Parts 290 and 590; 43 CFR Part 4
 - a) Interior Board of Land Appeals (IBLA)
 - b) Judicial Review after exhaustion of administrative remedies

III. Week Three – Leasing Procedures

- A. Five Year Plans – 43 USC §§1344 – 1346; 30 CFR Part 556
 - 1. National Environmental Policy Act (NEPA), 42 USC §§4331, et seq
 - a) *CSE v. Jewell*, 779 F.3d 588 (D.C. Cir. 2015)
 - b) Development Stages, Standing, and Ripeness for Judicial Review
 - 2. Coastal Zone Management Act (CZMA), 16 USC §§1451, et seq
 - a) Consistency Determinations
 - b) Texas and Louisiana Coastal Zone Management Programs
 - 3. Comments from stakeholders

- B. Lease Sales
 - 1. Preliminary Sales Notices and Request for Information
 - a) Comments and Deliberation
 - b) Final Sales Notice
 - 2. Qualifications and Restrictions on Bidders
 - 3. Awards and Payments
 - 4. State sharing – GOMESA
 - 5. *Oceana v. BOEM*, No. 12-0981 (D.D.C., March 31, 2014)
 - a) Endangered Species, Marine Mammals, and Biological Opinions
 - b) Seismic activities and mitigation – NTL 2016-G02
- C. Financial Assurance and Bonding (30 CFR §§556.900, et seq)

IV. Week Four – Lease Substance – Rights and Obligations

- A. Similarities / Differences with Onshore Oil and Gas Leases
 - 1. Grants exclusive right to apply for permits to explore and develop
 - 2. Does not grant ownership of minerals or ability to immediately drill
- B. Lessee submits Exploration Plan (EP) to BOEM
 - 1. BOEM obtains Coastal State’s consistency determination
 - 2. BOEM evaluates for NEPA, possibly Environmental Impact Study (EIS)
 - 3. Application for Permit to Drill (APD) to BSEE
 - 4. Oil Spill Financial Responsibility Requirements
- C. Easements and Rights of Use (facilities); Rights of Way (pipelines)
- D. Federal Unitization, voluntary and compulsory
- E. Assignments and Transfers (30 CFR §§556.700, et seq. and 556.800, et seq.)
 - 1. BOEM Approval required, except for Economic Interests

2. Effects on Liabilities of Assignors and Assignees
- F. Lease Expiration, Relinquishment, and Cancellation
1. Differences between Non-producing vs. Producing leases
 2. Compensation under OCSLA: 43 USC §1334(a)(2) and Regs
 3. Remedy outside OCSLA: Mobil Oil E&P SE, Inc. v. U.S. (S.Ct. 2000)
- V. Week Five – Joint Operating Agreements (JOAs)
- A. Purpose and need for joint endeavors; advantages and disadvantages
- B. Common Law Co-Tenancy and Mining Partnership
- C. Structure of JOA and default provisions
1. Operator Rights and Obligations
 2. Non-operator Rights and Obligations
 3. Project Teams – Secondment and Confidentiality Agreements
 4. Authorizations for Expenditures (AFE) and accounting
 5. Non-consents and Forfeitures
- D. Operator Designations and Transfers
1. Filing with BOEM
 2. Continuing Liability
- E. Participation or Farm-out Agreements
1. Purpose and need for them
 2. Disproportionate costs / interests in assignment
- VI. Week Six – Suspensions of Production (SOP) and Operations (SOO)
- A. One-year Continuous Operations Clock
- B. Reasons needed; Requirements; Limitations

- C. Implementation in Practice: Requests, Responses, and Appellate Review

VII. Week Seven – Exploration and Drilling

- A. Geological & Geophysical Operations
 - 1. Regulatory Requirements
 - 2. Seismic License Agreements
- B. Federal filings:
 - 1. Application for Permit to Drill (APD) or Modify (APM)
 - 2. Oil Spill Response Plans and Containment Demonstrations
 - 3. Well information from Operations
- C. Contractors' Obligations
 - 1. Presence of numerous contractors on site
 - 2. BSEE's efforts to impose direct liability on contractors

VIII. Week Eight – Liabilities, Indemnities, and Insurance

- A. Applicable Law – Maritime or State; Effect on Enforceability
 - 1. Status of Drilling Rig or Production Facility as vessel
 - 2. Effect of Contractual Choice of Law provisions
- B. Civil and Criminal Liability for Oil Spills
 - 1. Oil Pollution Act; Common Law Property Damage
 - 2. Indemnities and limits – *In re Oil Spill*, 841 F.Supp.2d 988 (2012)
- C. Insurance – First Party, Third Party, and Workers Compensation
 - 1. BP v. Transocean's insurance carriers;
 - 2. Harborworkers & Longshore Workers Comp coverage
- D. BSEE's Regulations and Industry Responses
 - 1. Safety and Environmental Management Systems (SEMS)

2. Employee training and Stop Work Authority
3. Industry Standards / Verification and Auditing Requirements
4. Marine Well Containment Corporation and other response entities

IX. Week Nine – Appraisal and Development

- A. Appraisal – Activities included in Exploration Phase
 1. Not addressed in regulations as separate phase of activities
 2. Industry identifies appraisal in Operating Agreements as distinct phase
- B. Development – Lessees decide to build production facilities
 1. Operator submits Development and Production Plan (DPP) and Development Operations Coordination Document (DOCD) to BOEM
 2. Operator submits Conservation Information Document (CID) and Deepwater Operations Plan (DWOP) to BSEE
 3. BOEM obtains Coastal State’s consistency determination, possibly EIS
- C. Approval Procedures with Co-owners
 1. Plan submittals and voting under JOAs
 2. Final Investment Decisions (FIDs)
- D. Technical and Integrated Project Teams
 1. Emerging Technologies and Intellectual Property
 2. Joint Technology Development Agreements

X. Week Ten – Infrastructure Construction

- A. Contracting Strategies – Hire general contractor or orchestrate work yourself
- B. Host Facility Construction and Operations Agreement
- C. Export Pipelines or Floating Production, Storage, and Offloading (FPSO’s)
- D. Coast Guard approvals of designs and periodic inspections of facilities

- E. Jones Act Issues enforced by Customs and Border Protection
 - 1. Coastwise Trade of Merchandise
 - 2. Construction and Installation activities and movement

XI. Week Eleven – Production, Mid-stream Matters and Royalty Issues

- A. Facility operation and maintenance
- B. Production Handling Agreements (PHA) and tie-ins
- C. Royalties on Production
 - 1. Calculations, payments
 - 2. Appeal rights

XII. Week Twelve – Decommissioning and Abandonment; Wind Energy

- A. Bonding: Triggers, and extensions
- B. Assignments and liability of former lessees
- C. Bankruptcy Effects on Solvent Operators / Non-operators
- D. Idle Iron and long-term decommissioning plans
- E. Offshore Wind Energy comparisons

XIII. Week Thirteen – Exam Review

CAPS Statement: Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html