

Syllabus and Outline of Offshore Energy Development Course

Course # / Section #:	(----) / LAW 5297
Professor:	R Scott McCay
Location:	(----) TBD
Time:	Tuesdays from 7:30 to 9:20 p.m.
Course Materials:	Blackboard postings three weeks in advance of class date Reading materials are highlighted for easier focus
Office Hours:	One hour after class in classroom or by appointment
Contact Information:	Phone and text number will be provided during first class
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.
 - 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
 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
 2. Coastal Zone Management Act (CZMA), 16 USC §§1451, et seq
 3. Comments from stakeholders
- B. Lease Sales
1. Preliminary Sales Notices and Request for Information
 2. Qualifications and Restrictions on Bidders
 3. Awards and Payments
 4. State sharing – GOMESA
 5. Environmental Considerations
- 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
- B. Exploration Plans (EP) reviewed by BOEM
 - 1. Coastal State’s consistency determination
 - 2. Environmental Impact Study (EIS)
 - 3. Application for Permit to Drill (APD) reviewed by 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. Compensation under OCSLA: 43 USC §1334(a)(2) and Regs
 - 2. 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 without JOAs
- C. Structure of JOA and default provisions
 - 1. Operator Designations; Operators’ Rights and Obligations
 - 2. Non-operators’ Rights and Obligations
 - 3. Project Teams – Secondment and Confidentiality Agreements
 - 4. Authorizations for Expenditures (AFEs) and accounting
 - 5. Non-consents and Forfeitures

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
- D. Class Exercise in Arguing for and against Suspension of Operations

VII. Week Seven – Exploration and Drilling

- A. Geological & Geophysical Operations
 - 1. Regulatory Requirements
 - 2. Seismic License Agreements
- B. Drilling Operations
 - 1. Application for Permit to Drill (APD) or Modify (APM)
 - 2. Oil Spill Response Plans and Containment Demonstrations
 - 3. Drilling Contract Structure and Content
- 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
- B. Development – Lessees decide to build production facilities
 - 1. DPP or DOCD reviewed by BOEM
 - 2. CID and DWOP reviewed by BSEE
 - 3. 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
- XII. Week Twelve – Decommissioning and Abandonment; Wind Energy
- A. Bonding: Triggers, and extensions
 - B. Assignments and liability of former lessees
 - C. Idle Iron and long-term decommissioning plans
 - D. Offshore Wind Energy comparisons
- XIII. Week Thirteen – Exam Review
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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