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114TH CONGRESS, 1st Session | SENATE | REPORT 114–137

THE OFFSHORE PRODUCTION AND ENERGIZING NATIONAL SECURITY ACT OF 2015

SEPTEMBER 9, 2015.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 2011]

The Committee on Energy and Natural Resources, having considered an original bill (S. 2011) to provide for reforms of the administration of the Outer Continental Shelf of the United States, and for other purposes, reports favorably thereon and recommends that the bill do pass.

CONTENTS

PURPOSE

The purpose of this measure is to provide for reforms of the administration of the Outer Continental Shelf of the United States, to provide for revenue sharing for coastal producing states, to lift

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the ban on crude oil exports, and to support Tribal resilience efforts.

Background and Need

The outer continental shelf (OCS) of the United States is a significant source of domestic oil and natural gas production. Following the Supreme Court's decision in United States v. California in 1947 that all of the submerged lands and their oil and gas resources beyond the nation's coastline belonged to the nation as a whole and not to the adjacent state, Congress gave the coastal states the first three nautical miles of submerged lands beyond their shores in 1953. At the same time, Congress expressly retained control over the submerged lands and their resources beyond the three-nautical-mile area ceded to the coastal states. In 1986, Congress gave the coastal states an additional 27 percent of the federal oil and gas royalties from leases in the second three nautical miles from the coastline to compensate the states for any drainage of state resources that might occur from oil and gas development on adjacent federal leases. In 2006, pursuant to the Gulf of Mexico Energy Security Act (GOMESA), Congress gave four coastal states—Louisiana, Texas, Alabama, and Mississippi—37.5 percent of the federal royalties from new leases in a limited area (Phase I) of the Gulf of Mexico beginning in 2007, and beginning in fiscal year 2017 from all leases in the Gulf of Mexico entered into after 2006 (Phase II). Phase II revenue sharing for the four Gulf states is currently subject to an annual cap of $500 million. Under current law, Alaska, Florida, and the Atlantic and Pacific Ocean coastal states are not eligible to receive a share of lease revenues for leasing that may occur off their shores.

Oil and gas lease sales

According to the U.S. Energy Information Administration (EIA), crude oil production from the Federal OCS in the Gulf of Mexico (GOM) averaged 1.4 million barrels per day in 2014, which accounts for roughly 16 percent of domestic crude oil production. Offshore production also contributes substantial revenues to the Federal Treasury. According to the Office of Natural Resources Revenue, royalties from crude oil production in the offshore GOM for fiscal year 2014 were $4.65 billion dollars. In the same fiscal year, $3.4 million dollars were shared with the four coastal states pursuant to GOMESA, accounting for roughly 0.07 percent of the royalties from GOM crude oil production. In addition to crude oil, the OCS is an important source of natural gas, natural gas liquids, and condensate that also provide domestic energy and revenues for the treasury. In addition to direct revenues, producing oil and gas from the OCS supports local businesses and employment; the Bureau of Ocean Energy Management (BOEM) estimates that the GOM supports approximately 250,000 jobs and that increased leasing may increase local employment opportunities associated with development and production.

Lease sales form the foundation of future OCS production by providing access to prospective acreage. In lease sales, companies competitively bid for the right to explore for oil and gas on the lease and—should they discover commercially viable quantities of oil and gas—the right to pursue development, and ultimately production.

Lease sales are held by the BOEM based on Five-Year Plans developed according to the Outer Continental Shelf Lands Act (OCSLA). The current Draft Proposed Program (DPP) issued by BOEM recommends 14 lease sales over the period from 2017 through 2022. BOEM proposes a single lease sale in the Beaufort (2020), one in the Cook Inlet (2021), and one in the Chukchi (2022) sea off Alaska over the five year period. Similarly, in the Mid-Atlantic and South-Atlantic the DPP calls for a single sale (2021). The remaining lease sales are proposed for the GOM regions not currently subject to Congressional moratorium—primarily the Eastern Gulf of Mexico (EGOM). It is important to note that inclusion of a sale in the DPP does not guarantee that a sale will be included in the final plan. The Committee believes this legislation is necessary to improve our economy, strengthen national energy security, and provide more funding for land and water conservation.

Oil exports

A complex regulatory and legal framework imposes a general prohibition on the export of domestic crude oil. The Energy Policy and Conservation Act of 1975 requires the President to "promulgate a rule" prohibiting oil exports. Additional statutory restrictions are imposed by the Mineral Leasing Act, as amended in 1973; the Outer Continental Shelf Lands Act, as amended in 1978; and the Naval Petroleum Reserves Production Act of 1976. In the past, Presidents Ronald Reagan, George H.W. Bush, and Bill Clinton determined oil exports to be in the national interest under certain conditions. The United States is the only member of the International Energy Agency that generally prohibits exporting oil.

Despite rising supply and falling net imports, companies that produce oil in the United States are unable to access global markets. Refined products, however, may be exported without a license and are currently at record levels. The EIA reported that light grades of oil constitute the majority of new production, which the bulk of refineries in the U.S. are not optimized to process, and that domestic gasoline prices correlate to the international benchmark price of oil, which would likely decrease as a result of greater domestic oil exports. The Congressional Budget Office and the Government Accountability Office (GAO) have concluded that repealing the general prohibition on exporting oil would likely not raise gasoline prices.

The Committee believes that domestic crude oil exports are in the best interest of the country. This legislation would authorize exports of domestic crude oil without a license although exports of oil from the Strategic Petroleum Reserve would still require a license. Exports to countries that are subject to sanctions by the United States would be prohibited. This legislation also preserves the emergency authority of the President to prohibit exports.

Tribal resilience

The Committee recognizes the need to provide support to Indian Tribes to protect their land and resources from weather-related events. This legislation builds off existing Administration planning and education programs to focus on capital investment in the restoration or construction of infrastructure, energy systems that reduce emissions and social or cultural infrastructure that supports resilience.

LEGISLATIVE HISTORY

During the 113th Congress, the Committee on Energy and Natural Resources conducted two oversight hearings (January 30, 2014 and March 25, 2014) to examine the issue of crude oil exports. Numerous measures in both the Senate and the House of Representatives were introduced dealing with oil and gas development in the OCS. The House of Representatives passed H.R. 2231, the Offshore Energy and Jobs Act on June 28, 2013 and it was referred to the Committee but no further action was taken.

In the 114th Congress, the Committee of Energy and Natural Resources conducted an oversight hearing on crude oil export policy (March 19, 2015). The Full Committee held a legislative hearing on energy supply (S. Hrg. 114–17, May 19, 2015) to consider a number of measures, including: S. 1276, the Gulf of Mexico Offshore Energy and Jobs Act, S. 1278, the Alaska Outer Continental Shelf Lease Sale Act; and S. 1279, the Southern Atlantic Energy Security Act. The Committee also held a legislation hearing to consider energy accountability and reform measures (June 9, 2015), including S. 1312, the Energy Supply and Distribution Act.

On July 22, 2015, the Chairman circulated to Members of the Committee a draft of an original bill drawn from the text of S. 1276. S. 1278, S. 1279, and S. 1312.

The Committee on Energy and Natural Resources met in open business session on July 30, 2015 to consider the draft, and ordered an original bill favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in an open business session on July 30, 2015, by a majority voice vote of a quorum present, recommended that the Senate pass an original bill, as described herein.

The roll call vote on reporting the measure was 12 yeas, 10 nays, as follows:

YEAS	NAYS
Ms. Murkowski	Ms. Cantwell
Mr. Barrasso	Mr. Wyden*
Mr. Risch	Mr. Sanders*
Mr. Lee*	Ms. Stabenow
Mr. Flake*	Mr. Franken
Mr. Daines	Mr. Manchin
Mr. Cassidy	Mr. Heinrich
Mr. Gardner	Ms. Hirono
Mr. Portman	Mr. King
Mr. Hoeven	Ms. Warren
Mr. Alexander*	
Mrs. Capito	

*Indicates vote by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; Table of contents

Section 1 provides a short title and table of contents.

Section 2. Definition of Secretary

Section 2 defines "Secretary" for purposes of the Act as the Secretary of the Interior.

TITLE 1: THE GULF OF MEXICO OFFSHORE ENERGY AND JOBS ACT OF 2015

Section 101. Outer Continental Shelf leasing program reforms

Section 101 amends section 18 of the OCSLA by defining the term "available unleased acreage" and requiring the Secretary to make available unleased acreage in each proposed oil and gas leasing program in the Gulf of Mexico based on the most recent geologic assessment. It also requires the Secretary to include any State subdivision requested by a Governor of the State in each proposed oil and gas leasing program in the Gulf of Mexico; prohibits the Secretary from removing such subdivision from the proposed program until publication of the final program; and requires the Secretary to include in each proposed oil and gas leasing program in the Gulf of Mexico any OCS area that is estimated to include more than a specified quantity of oil or gas resources and specifies the guidelines to be used by the Secretary in estimating the resources.

Section 102. Moratorium on oil and gas leasing in certain areas of the Gulf of Mexico

Section 102(a) amends section 102 of GOMESA to define the military mission line in the western border of the Eastern Planning Area. Section 102(b) amends section 104(a) of that Act by adjusting the moratorium in the Eastern Planning Area from 125 miles off the coast of the State of Florida to 50 miles and the area of the moratorium in the Central Planning Area from within 100 miles to within 50 miles off the Florida coastline.

Section 103. Requirement to implement proposed 2017–2022 oil and gas leasing program

Section 103 requires the Secretary to implement the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program (2017–2022) with certain revisions and adds three lease sales in the Eastern Gulf of Mexico Planning Area in fiscal years 2018, 2019, and 2020.

Section 104. Disposition of outer Continental Shelf revenues to Gulf producing States

Section 104 amends section 102 of GOMESA to include the State of Florida as a Gulf producing State beginning in fiscal year 2017 and to provide for revenue sharing to the State from sales in the Eastern Gulf of Mexico Planning Area from leases entered into on, or after October 1, 2016. Section 104(b) amends section 105(a) of GOMESA to direct the 25 percent of the 50 percent of revenues from the Gulf of Mexico not reserved to the treasury or to states to be considered as income to the Land and Water Conservation Fund for financial assistance to States. Section 104(d) amends section 105(f) of GOMESA to increase the cap on revenue sharing to Gulf Producing States from $500 million to $699 million from fiscal years 2018 through 2025 and from $699 million to $999 million from fiscal years 2026 through 2055.

Section 105. National defense

Section 105 clarifies that the authority of the Secretary of Defense to designate national defense areas on the OCS remains unaffected, and prohibits conflicts between exploration, development or production of oil and gas on the OCS with any military operation.

Section 106. Environmental impact statement requirement

Section 106 directs the Secretary to prepare a multi-state environmental impact statement for the lease sales required under the title that are not included in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program (2017–2022) and specifies the actions to be considered.

Section 107. State authorization

Section 107 allows a State to enter into a leasing program prior to the publication of an environmental impact statement for the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program if the legislature of that State enacts a law approving inclusion in the program.

Section 108. Air emissions from outer Continental Shelf activities

Section 108 amends section 328 of the Clean Air Act to create consistency with the rest of the Gulf of Mexico for the Eastern Gulf of Mexico Planning Area for the purposes of air permitting.

Section 109. Offshore certainty

Section 109 adopts time requirements for the Secretary's consideration of requests for an Incidental Harassment Authorization (IHA) and clarifies the treatment of an IHA for the purposes of the Endangered Species Act.

Section 110. Continuous operations rule

Section 110 requires the Secretary to amend the regulatory requirement for continuous operations to maintain a lease from 180 to 365 days.

Section 111. GAO report on cumulative cost of regulation for offshore energy production

Section 111 requires the Comptroller General to prepare a report estimating the cost of complying with major Federal rules relating to offshore energy development and submit the report to the Congressional committees of jurisdiction.

TITLE II: THE ALASKA OUTER CONTINENTAL SHELF LEASE SALE ACT

Section 201. Lease sales in Nearshore Beaufort Sea Planning Area, Cook Inlet Planning Area

Section 201 establishes the Nearshore Beaufort Sea Planning Area and requires the Secretary to conduct lease sales in that Planning Area and the Cook Inlet Planning Area in fiscal years 2018, 2019, and 2020.

Section 202. Lease terms of certain Chukchi and Beaufort leases

Section 202 amends section 8(b)(2) of OCSLA to revise the term of leases issued in the Beaufort Sea Planning Area or the Chukchi Sea Planning Area to 20 years and provides the Secretary explicit authority to extend existing lease terms in the Chukchi and Beaufort to 20 years.

Section 203. Distribution of revenue to Alaska

Section 203 amends section 9 of OCSLA to direct the disposition of revenues from the OCS of Alaska for fiscal years 2016 through 2026 to the Treasury; the State of Alaska; coastal political subdivisions; the North Slope Science Initiative; institutions of higher education and workforce investment boards; a special account in the Treasury to support offshore leasing and development programs and the development of rights of way needed for transportation purposes; and to the Tribal Resilience Fund established in section 402 of this bill. It directs the disposition of revenues from the OCS of Alaska to the Treasury, the State of Alaska, coastal political subdivisions and the Tribal Resilience Fund beginning in fiscal year 2027.

Section 204. Inclusion of Beaufort, Nearshore Beaufort, Cook Inlet, and Chukchi lease sales in 5-year leasing programs

Section 304 amends section 18 of OCSLA to require at least three lease sales in each of the Beaufort Planning Area and the Chukchi Planning Area, and annually in the Nearshore Beaufort Planning Area and Cook Inlet Planning area in any 5-year proposed oil and gas leasing program, beginning with the oil and gas leasing program for 2023 to 2027.

Section 205. North Slope science initiative

Section 205 amends section 348 of the Energy Policy Act of 2005 to include the Beaufort and Chukchi Seas in the jurisdiction of the North Slope Science Initiative (NSSI) and to expand the membership of the NSSI to include the Northwest Arctic Borough and NANA Regional Corporation.

TITLE III: THE SOUTHERN ATLANTIC ENERGY SECURITY ACT

Section 301. Definition

Section 301 defines key terms for the title and establishes the South Atlantic Planning Area.

Section 302. Preserving coastal viewsheds

Section 302(a) creates protections for coastal viewsheds by requiring consultation by the Secretary with a Governor prior to conducting a lease sale within 30 nautical miles of the coastline of a State to consider the establishment of lease stipulations for the management of surface occupancy of the areas between the coastline and 30 nautical miles. Section 302(b) sets forth consideration for production facilities. Section 302(c) establishes restrictions on the installation of permanent production facilities in the area up to 30 nautical miles off coastline.

Section 303. 2017–2022 leasing program

Section 303 requires the Secretary to include the South Atlantic Planning Area in the OCS leasing program for fiscal years 2017 through 2022 and conduct lease sales in the South Atlantic Planning Area in fiscal years 2021 and 2022.

Section 304. Balancing of military and energy production goals

Section 304(a) recognizes that the OCS is integral to national security, requires the Secretary to work with the Secretary of Defense in implementing lease sales to preserve the ability of the Armed Forces of the United States to use the OCS and to allow effective oil, gas and renewable energy exploration, development and production from the OCS. Section 304(b) clarifies that nothing in this title or amendment affects the authority of the Secretary of Defense to designate national defense areas on the OCS. Prohibits exploration, development, or production of oil and gas on the OCS that would conflict with any military operation.

Section 305. Disposition of revenues to Atlantic States

Section 305 amends section 9 of OCSLA to direct the disposition of revenues from the South Atlantic Planning Area to the Treasury, States, the Department of Energy for projects that enhance the safety, security, resiliency and reliability of energy supply, research, transmission, storage or distribution infrastructure, the Energy Efficiency and Renewable Energy program at the Department of Energy, and to high priority maintenance needs at the National Park Service that support critical infrastructure and visitor services. It provides for a Governor to direct revenues received by a State to enhance State land and water conservation efforts, improve public transportation projects, establish alternative, renewable and clean energy production, enhance beach nourishment and coastal dredging, and enhance geological and geophysical education programs.

Section 306. Enhancing geological and geophysical education for America's energy future

Section 306(a) requires the Secretary to partner with institutions of higher education to facilitate the study of geological and geophysical sciences in support of exploration and development of the OCS. Section 306(b) provides direction for the focus of activities amended under this section. Section 306(c) provides direction for a Governor's nomination of institutions of higher education, authorizes an institution of higher education to conduct research under this section, requires a permit to conduct certain research that uses any solid or liquid explosive, establishes requirements for data development, and establishes reporting requirements.

Section 307. Atlantic regional office

Section 307 requires the Director of the BOEM to establish an Atlantic Regional Office and provides criteria for the location of the office.

TITLE IV: TRIBAL RESILIENCE PROGRAM

Section 401. Tribal Resilience Program

Section 401 requires the Secretary to establish the Tribal Resilience Program, authorizes grants, defines eligible program activities, specifies the uses of program funds, requires interagency cooperation and creates a Tribal Resilience Liaison position.

Section 402. Tribal Resilience Fund

Section 402 establishes the Tribal Resilience Fund, defines deposits to the fund, and authorizes appropriations.

TITLE V: MISCELLANEOUS

Section 501. Access to markets

Section 501(a) authorizes all crude oil to be exported without a Federal license to countries not sanctioned by the United States, except crude oil stored in the Strategic Petroleum Reserve. Section 501(b) preserves the emergency authorities of the President to prohibit exports. Section 501(d) specifies that the President may prohibit exports on an annual basis if the Secretary of Commerce and the Secretary Energy determine that exports are causing supply shortages or price spikes that threaten the U.S. economy. Section 501(e) requires the GAO to report biannually on the effects of oil exports.

Section 502. Reports

Section 502(a) requires the Secretary to submit to the relevant Congressional Committees an analysis of the proposed regulations of the Bureau of Safety and Environmental Enforcement relating to blowout preventer systems and well control and exploratory drilling in the arctic. Section 501(b) provides direction for the contents of such analysis, and prohibits the Secretary from issuing any proposed, interim or final regulation until submission of the required report. Section 501(c) further prohibits the Secretary from issuing any final regulation or rule that does not take into account the report's findings.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out the legislation.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

The provides that an institute of higher education selected for a grant under this section may only conduct research under this section using any solid or liquid explosive upon authorization by a permit issued by the Director.

The bill also provides that the President may impose export licensing requirements or other restrictions on the export of crude oil from the United States in certain emergency circumstances. This emergency authority mirrors existing law and any economic and regulatory burden would only apply in times of emergency.

No personal information would be collected in administering programs authorized under the bill. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of the bill, as ordered reported.

Congressionally Directed Spending

The bill, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

Executive Communications

Executive views on the original bill have not been received.

MINORITY VIEWS

The best thing that can be said for the Offshore Production and Energizing National Security Act, or OPENS Act, is that it has an appropriate acronym. It opens the doors to the United States Treasury to a few chosen states; it opens new offshore areas to oil and gas development upon demand, heedless of rational planning; and it opens access to our domestic oil supplies to foreign buyers, leaving the American people open to paying higher gasoline prices.

THE ROYALTY GIVE-AWAY

All of the lands submerged beneath the territorial sea beyond our shores and the oil and natural gas resources they contain once belonged to the nation and to its people as a whole. More than sixty years ago, a few coastal states tried to claim those submerged lands and their resources for themselves alone. But the Supreme Court rejected the coastal states' claims and held that the submerged lands and their resources belonged to the nation as a whole. "National interests, national responsibilities, national concerns are involved," the Court said.[1]

In spite of the Supreme Court's decision, Congress voted to give the submerged lands beneath our territorial seas to the adjacent coastal states in 1953. The Submerged Lands Act, dubbed the "Oil Give-Away" Law by its opponents, gave the coastal states all of the submerged lands to a distance of three nautical miles from the coastline (and in the case of Florida and Texas, nine nautical miles into the Gulf of Mexico). The Oil Give-Away Law also gave the coastal states the right to develop the oil and natural gas resources beneath these submerged lands and to retain all of the royalties from those resources for themselves.

But in giving the coastal states the first three nautical miles of the continental shelf, Congress made it clear that it was retaining for the nation as a whole the so-called "outer" continental shelf, the rest of the continental shelf outside the area given to the coastal states. The Outer Continental Shelf Lands Act, enacted just three months after the Oil Give-Away Law, gave the federal government exclusive ownership and control over the mineral wealth of the outer continental shelf. Royalties from the oil and natural leases on the outer continental shelf are now one of the federal government's largest sources of non-tax income.

Not satisfied with the generous gift of the inner continental shelf, four of the five Gulf Coast states persuaded Congress in 2006 to give them 37.5 percent of the federal government's royalties from certain new federal leases in the Gulf of Mexico beginning in fiscal year 2007, and 37.5 percent of the federal royalties from all leases

[1] *United States v. Louisiana,* 339 U.S. 699, 704 (1950), citing *United States v. California,* 332 U.S. 19 (1947).

in the central and western planning areas of the Gulf of Mexico beginning in fiscal year 2017, up to a total of $500 million per year.

The OPENS Act will compound this huge loss to the Federal Treasury. It begins by raising the $500 million annual cap on the payment of federal royalties to the Gulf Coast states to $699 million per year beginning in October 2017, and then raising it again to $999 million per year, nearly double its current level, beginning in October 2025.

But the OPENS Act does not stop there. It extends the payment of federal royalties to six more coastal states: Alaska, Florida, Georgia, North Carolina, South Carolina, and Virginia. It commits 37.5 percent of the federal royalties from oil and gas leases on the outer continental shelf beneath the Atlantic Ocean to the four Atlantic coastal states, without any cap on the total payments. It commits 22.5 percent of the federal royalties from oil and gas leases on the outer continental shelf surrounding Alaska to Alaska and 2.5 percent to Indian tribes beginning this October, and 37.5 percent to Alaska and 12.5 percent to Indian tribes beginning in October 2026, without any cap on total payments. All of these amounts are in addition to the state royalties collected by the coastal states for oil and gas leases on the inner continental shelf given to them by the Submerged Lands Act in 1953. They are taken from the federal royalties the Act reserved to the federal government for the benefit of all Americans.

THE PLANNING GIVE-AWAY

Under current law, "the outer Continental Shelf is a vital national reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with . . . national needs." 43 U.S.C. § 1332(3). To that end, the Outer Continental Shelf Lands Act establishes an orderly planning process. It requires the Secretary of the Interior, as the guardian of this public trust, to maintain an ongoing leasing program in five-year planning increments. The Act commands her to conduct the leasing program "in a manner which considers economic, social, and environmental values . . ., and the potential impact of oil and gas" development on "the marine, coastal, and human environments." 43 U.S.C. § 1344(a)(1).

The OCS Lands Act entrusts the responsibility for conducting the leasing program to the Secretary of the Interior. She is entrusted to "select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for discovery of oil and gas, and the potential for adverse impact on the coastal zone." 43 U.S.C. § 1344(a)(3). Governors may make recommendations to the Secretary, but she alone bears the responsibility for striking "a reasonable balance between the national interest and the well-being of the citizens of the affected state." 43 U.S.C. § 1345(c). It is the Secretary, not the Governors or the oil and gas industry, who must determine "the size, timing, and location of leasing activity which . . . will best meet national energy needs . . ." 43 U.S.C. § 1344(a).

The OPENS Act upends this balance by requiring the Secretary to conduct mandatory lease sales. To begin with, under the Gulf of Mexico Energy Security Act of 2006, the Secretary may not lease any area within 125 miles of the Florida coastline in the eastern planning area or within 100 miles of the Florida coastline in the central planning area before July 2022. Nor may she lease, before July 2022, any area east of the Military Mission Line, a line drawn south from Eglin Air Force Base nearly 30 years ago to avoid conflicts between oil and gas leasing and military testing and training activities in the Eastern Gulf of Mexico. Congress put these areas off limits by statute in 2006 out of concern for military preparedness and the potential environmental consequences of oil and gas development in the Eastern Gulf.

The OPENS Act opens up a vast part of the Eastern Gulf currently protected by current law by shrinking the statutory 125- and 100–mile exclusion areas to only 50 miles, and by shortening the Military Mission line to only 50 miles from the Florida coastline. It then mandates three lease sales in the Eastern Gulf, one each in fiscal years 2018, 2019, and 2020, without regard to the Secretary's determination of national energy needs or her balancing of national interests.

Similarly, the OPENS Act requires the Secretary to make available for leasing all "available unleased acreage" within each of the three planning areas in the Gulf of Mexico thought "to have the largest undiscovered, technically recoverable oil and gas resources," as well as any subdivision of a planning area requested by a Governor. It mandates three lease sales, one each in fiscal years 2018, 2019, and 2020, in a new "Nearshore" planning area in the Beaufort Sea, and three additional lease sales, one each in fiscal years 2018, 2019, and 2020, in the Cook Inlet planning area in Alaska. It requires the Secretary to conduct at least 3 lease sales in the existing Beaufort planning area and at least 3 lease sales in the Chukchi planning area during the 2023–2027 planning period. It requires her to conduct one lease sale in the new "Nearshore" planning area in the Beaufort Sea and one lease sale in the Cook Inlet planning area in each of the five years during the 2023–2027 planning period. And it requires her to conduct at least one lease sale during fiscal year 2021 and two lease sales during fiscal year 2022 in the South Atlantic planning area. That adds up to 28 mandatory lease sales that the Secretary must conduct without regard to whether she believes they "will best meet national energy needs," or whether they will strike a "proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone."

To make matters worse, the OPENS Act goes on to weaken air pollution controls, marine mammal protections, endangered species protections, due diligence requirements, and National Environmental Policy Act requirements, and it quadruples the length of leases in the Arctic in its headlong rush to produce more oil for sale abroad.

THE OIL GIVE-AWAY

The OPENS Act also lifts the crude oil export ban. The current ban on crude oil exports stems from three separate laws within the

Committee's jurisdiction: section 103 of the Energy Policy and Conservation Act; section 28 of the Mineral Leasing Act; and section 28 of the OCS Lands Act. All three of these laws rest on the Export Administration Act of 1979, which by its terms expired in 2001, but remains in effect under emergency authority granted to the President by the International Emergency Economic Powers Act. President Bush invoked this emergency authority to continue the Export Administration Act's export controls in 2001, saying that it was necessary to protect the domestic economy. President Bush and President Obama have continued to use the emergency authority to continue export controls each year since 2001.

The Energy Policy and Conservation Act was enacted in 1975 to conserve energy supplies following the Arab oil embargo of 1973. EPCA does not bar crude oil export directly, but instead directs the President to prohibit crude oil exports by use of the export control procedures established by the Export Administration Act of 1979. Similarly, the Mineral Leasing Act subjects the export of any domestically produced crude oil that is transported by pipeline over a right-of-way granted under that Act across public lands to the licensing requirements of the Export Administration Act. And the OCS Lands Act subjects oil and gas produced from the outer continental shelf to the requirements of the Export Administration Act.

Significantly, though, EPCA, the Mineral Leasing Act, and the OCS Lands Act all provide a national interest exception to the export ban. EPCA exempts crude oil exports from the ban if the President determines they are consistent with the national interest. The Mineral Leasing Act permits crude oil exports if they will not diminish domestic oil supplies. The OCS Lands Act permits exports if they will not increase our dependence on imported oil. Both the Mineral Leasing Act and the OCS Lands Act also require that any exports be in the national interest and in accord with the Export Administration Act.

Plainly, then, the President can loosen or lift the ban on crude oil exports under these statutes without any additional legislative authority simply by finding that crude oil exports are consistent with the national interest and will not diminish domestic supplies or increase dependence on foreign imports. Under this authority, President Reagan authorized crude oil exports to Canada in 1985 and 1988, President George H. W. Bush authorized exports of California heavy crude oil in 1992, and President Clinton authorized exports of Alaskan North Slope crude oil in 1996. In addition, the Commerce Department has recently announced its decision to permit the export of light, sweet crude produced in this country to Mexico, in exchange for heavy Mexican crude. Several Presidents have found relaxing the ban on crude oil exports is in the national interest, but none has yet been able to find that lifting it entirely is. The fact that our dependence on foreign oil has declined since its peak in 2005 may suggest to some that the ban can now be lifted. But the fact that we still need to import about a quarter of the oil we consume argues strongly against lifting the ban completely.

The OPENS Act sweeps away the crude oil export ban based upon its own self-declared findings. But the bill's wishful thinking is no substitute for the Presidential determination required by current law that exports must be in the national interest, must not diminish domestic supplies, and must not increase our dependence on foreign imports. The bill contains a savings clause that would allow the President to reinstate the ban if exports harm the economy. But it would be better not to lift the ban until the President can make the necessary determinations that the ban will do no harm in the first place, rather than promising to reinstate the ban after harm is done.

CONCLUSION

Under current law, the Outer Continental Shelf "is a vital natural resource reserve held by the Federal Government for the public." It is "available for expeditious and orderly development," but "subject to environmental safeguards," and "in a manner which is consistent with . . . national needs." 43 U.S.C. § 1332(3). Congress should use the wealth that comes from developing this national resource to meet national needs, for the benefit of the nation as a whole, and not turn it over to a few select coastal states. It should ensure the orderly development of those resources, in a manner that safeguards our fisheries and the environment, and on a schedule designed to "best meet national energy needs." We should not "mindlessly . . . lease every square foot of seabottom at whatever risk"[2] to satisfy world oil demand. We should not lift the ban on crude oil exports unless we can first establish that doing so will not reduce our domestic oil supplies, increase our dependence on foreign imports, or harm our national interest.

The OPENS Act would give federal royalties that belong to the nation as a whole to a select group of coastal states, it would force the leasing of areas without regard to our national energy needs, and it would export domestic crude oil without regard for the national interest. For all of these reasons, it should not be enacted.

MARIA CANTWELL.

[2] *Massachusetts v. Andrus,* 594 F.2d 872, 889 (1st Cir. 1979).

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as ordered reported, are shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no changes is proposes is shown in roman):

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CLEAN AIR ACT

Act of July 14, 1955, Chapter 360, as amended

*   *   *   *   *   *   *

SEC. 328. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES.

(a)(1) APPLICABLE REQUIREMENTS FOR CERTAIN AREAS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, following consultation with the Secretary of the Interior and the Commandant of the United States Coast Guard, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic and Atlantic Coasts (other than Outer Continental Shelf sources located offshore of the North Slope Borough of the State of Alaska), [and along the United States Gulf Coast off the State of Florida eastward of longitude 87 degrees and 30 minutes] ("OCS sources") to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I. For such sources located within 25 miles of the seaward boundary of such States, such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting. New OCS sources shall comply with such requirements on the date of promulgation and existing OCS sources shall comply on the date 24 months thereafter. The Administrator shall update such requirements as necessary to maintain consistency with onshore regulations. The authority of this subsection shall supersede section 5(a)(8) of the Outer Continental Shelf Lands Act but shall not repeal or modify any other Federal, State, or local authorities with respect to air quality. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111 and a violation of any such requirement shall be considered a violation of section 111(e).

* * * * * * *

(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the United States Outer Continental Shelf that are adjacent to the States not covered by subsection (a) which are Texas, Louisiana, Mississippi, *the United States Gulf Coast off the State of Florida,* and Alabama or are adjacent to the North Slope Borough of the State of Alaska, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within 3 years of enactment of this section a research study examining the impacts of emissions from Outer Continental Shelf activities in such areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall consult with the Administrator and determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.

* * * * * * *

ENERGY POLICY ACT OF 2005

Public Law 109–58, as amended

* * * * * * *

SEC. 348. NORTH SLOPE SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior *(referred to in this section as the "Secretary")* shall establish a long-term initiative to be known as the "North Slope Science Initiative" (referred to in this section as the "Initiative").

(2) PURPOSE.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska *(including the Beaufort and Chukchi seas).*

(b) OBJECTIVES.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope *(including the Beaufort and Chukchi seas)*;

(2) 【develop an understanding of】 *identify* information needs for regulatory and land management agencies, local governments, and the public;

* * * * * * *

(c) MEMBERSHIP.—

(1) IN GENERAL.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, *the Northwest Arctic Borough,* the NANA Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

* * * * * * *

GULF OF MEXICO ENERGY SECURITY ACT OF 2006

Division C of Public Law 109–432

* * * * * * *

SEC. 102. DEFINITIONS.

In this title:

* * * * * * *

⟦(7) GULF PRODUCING STATE.—The term "Gulf producing State" means each of the States of Alabama, Louisiana, Mississippi, and Texas.⟧

(7) GULF PRODUCING STATE.—The term "Gulf producing State" means—

(A) each of the States of Alabama, Louisiana, Mississippi, and Texas; and

(B) effective beginning in fiscal year 2017, the State of Florida.

⟦(8) MILITARY MISSION LINE.—The term "Military Mission Line" means the north-south line at 86° 41′ W. longitude.⟧

(8) MILITARY MISSION LINE.—The term "Military Mission Line" means the western border of the Eastern Planning Area extending from the State of Florida waters to the point that is 50 miles south in the Gulf of Mexico.

(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(A) IN GENERAL.—The term "qualified outer Continental Shelf revenues" means—

(i) in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for—

(I) areas in the 181 Area located in the Eastern Planning Area; and

(II) the 181 South Area; ⟦and⟧

⟦(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for—

【(I) the 181 Area;

【(II) the 181 South Area; and

【(III) the 2002–2007 planning area.】

(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after December 20, 2006 in—

(I) areas in the 181 Area located in the Eastern Planning Region;

(II) the 181 South Area;

(III) the Central Planning Area, as described in paragraph (6)(A)(ii); and

(IV) the Western Planning Area, as described in paragraph (6)(A)(iii); and

(iii) in the case of fiscal year 2017 and each fiscal year thereafter, all eligible rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after October 1, 2016, in the Eastern Planning Area, as described in paragraph (6)(A)(i).

* * * * * * *

SEC. 104. MORATORIUM ON OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.

(a) IN GENERAL.—Effective during the period beginning on the date of enactment of this Act and ending on June 30, 2022, the Secretary shall not offer for leasing, preleasing, or any related activity—

(1) any area east of the Military Mission Line in the Gulf of Mexico;

(2) any area in the Eastern Planning Area that is within 【125】 *50* miles of the coastline of the State of Florida; or

【(3) any area in the Central Planning Area that is—

【(A) within—

【(i) the 181 Area; and

【(ii) 100 miles of the coastline of the State of Florida; or

【(B)(i) outside the 181 Area;

【(ii) east of the western edge of the Pensacola Official Protraction Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

【(iii) within 100 miles of the coastline of the State of Florida.】

(3) any area in the Central Planning Area that is within—

(A) the 181 Area; and

(B) 50 miles off the coastline of the State of Florida.

* * * * * * *

SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.

(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; [and]

[(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—]

[(A) 75 percent to Gulf producing States in accordance with subsection (b); and]

[(B) 25 percent to provide financial assistance to States in accordance with section 200305 of title 54, United States Code, which shall be considered income to the Land and Water Conservation Fund for purposes of section 200302 of that title.]

(2) in the case of qualified outer Continental Shelf revenues described in section 102(9)(A)(ii) generated from outer Continental Shelf areas adjacent to the Gulf producing States described in section 102(7)(A), 50 percent in a special account in the Treasury from which the Secretary shall disburse—

(A) 75 percent to those Gulf producing States in accordance with subsection (b); and

(B) 25 percent to provide financial assistance to States in accordance with section 200305 of title 54, United States Code, which shall be considered income to the Land and Water Conservation Fund for purposes of section 200302 of that title.

(3) in the case of qualified outer Continental Shelf revenues described in section 102(9)(A)(iii) generated from outer Continental Shelf areas adjacent to the Gulf producing States described in section 102(7), 50 percent in a special account in the Treasury from which the Secretary shall disburse—

(A) 75 percent to those Gulf producing States in accordance with subsection (b); and

(B) 25 percent to provide financial assistance to States in accordance with section 200305 of title 54, United States Code, which shall be considered income to the Land and Water Conservation Fund for purposes of section 200302 of that title.

* * * * * * *

(b) ALLOCATION AMONG GULF PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

(1) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEARS 2007 THROUGH 2016.—

(A) IN GENERAL.—Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(2) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEAR 2017 AND THEREAFTER.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter—

(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State*, as described in section 102(7)(A),* in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State*, as described in section 102(7)(A)*, that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; ⟦and⟧

(ii) the amount made available under subsection (a)(2)(A) from any lease entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State*, as described in section 102(7)(A)*, in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State, *as described in section 102(7)(A)*, that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary⟦.⟧*; and*

(iii) the amount made available under subsection (a)(3)(A) from any lease entered into within the Eastern Planning Area, as described in section 102(6)(A)(i), shall be allocated to each Gulf producing State, as described in section 102(7), in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State, as described in section 102(7), that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State ⟦each fiscal year under subparagraph (A)⟧ *described in section 102(7)(A) each fiscal year under clauses (i) and (ii) of subparagraph (A)* shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

* * * * * * *

(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

⟦(1) IN GENERAL.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.]

(1) IN GENERAL.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues described in section 102(9)(A)(ii) that are made available under subsection (a)(2)(A) shall not exceed—

(A) for fiscal year 2017, $500,000,000;

(B) for each of fiscal years 2018 through 2025, $699,000,000; and

(C) for each of fiscal years 2026 through 2055, $999,000,000.

* * * * * * *

THE OUTER CONTINENTAL SHELF LANDS ACT

Act of August 7, 1953, Chapter 345, as amended

* * * * * * *

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—

(a) * * *

* * * * * * *

(b) An oil and gas lease issued pursuant to this section shall—

(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

(2) be for an initial period of—

(A) five years; [or]

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon[;]*; or*

(C) in the case of an oil and gas lease in the Beaufort Planning Area or the portion of the Chukchi Planning Area that is beyond 3 nautical miles of the seaward boundary of the State of Alaska, 20 years;".

* * * * * * *

SEC. 9. DISPOSITION OF REVENUES.—[All rentals,]

(a) IN GENERAL.—Except as provided in subsections (b) and (c), all rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

(b) DISTRIBUTION OF REVENUE TO ALASKA.—

(1) DEFINITIONS.—In this subsection:

(A) COASTAL POLITICAL SUBDIVISION.—The term "coastal political subdivision" means a county-equivalent subdivision of the State—

(i) all or part of which lies within the coastal zone of the State (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

(ii)(I) the closest coastal point of which is not more than 200 nautical miles from the geographical center of any leased tract in the Alaska outer Continental Shelf region; or

(II)(aa) the closest point of which is more than 200 nautical miles from the geographical center of a leased tract in the Alaska outer Continental Shelf region; and

(bb) that is determined by the State to be a significant staging area for oil and gas servicing, supply vessels, operations, suppliers, or workers.

(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(C) QUALIFIED REVENUES.—

(i) IN GENERAL.—The term 'qualified revenues' means all revenues derived from all rentals, royalties, bonus bids, and other sums due and payable to the United States from energy development in the Alaska outer Continental Shelf region.

(ii) EXCLUSIONS.—The term 'qualified revenues' does not include revenues generated from leases subject to section 8(g).

(D) STATE.—The term 'State' means the State of Alaska.

(E) WORKFORCE INVESTMENT BOARD.—The term 'workforce investment board' means a State or local workforce investment board established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

(2) FISCAL YEARS 2016–2026.—For each of fiscal years 2016 through 2026, the Secretary shall deposit—

(A) 75 percent of qualified revenues in the general fund of the Treasury;

(B) 7.5 percent of qualified revenues in a special account in the Treasury, to be distributed by the Secretary to the State;

(C) 7.5 percent of qualified revenues in a special account in the Treasury, to be distributed by the Secretary to coastal political subdivisions;

(D) 2.5 percent of qualified revenues in a special account in the Treasury, to be used to carry out the North Slope Science Initiative established under section 348(a)(1) of the Energy Policy Act of 2005 (42 U.S.C. 15906(a)(1));

(E) 2.5 percent of qualified revenues in a special account in the Treasury, to be used by the Secretary to provide grants on a competitive basis to eligible institutions of higher education and workforce investment boards in the State to establish and providing funding for—

(i) programs to ensure an adequately skilled workforce to construct, operate, or maintain oil or gas pipelines; or

(ii) programs to ensure an adequately skilled workforce to operate, maintain, and perform all environmental processes relating to existing or future oil and gas infrastructure;

(F) 2.5 percent of qualified revenues in a special account in the Treasury to provide financial assistance for—

(i) offshore leasing and development programs in the State; and

(ii) the development of rights-of-way for pipelines to transport oil or gas produced offshore through land under the jurisdiction of the Secretary in the State; and

(G) 2.5 percent of qualified revenues in the Tribal Resilience Fund established by section 402 of the Offshore Production and Energizing National Security Act of 2015.

(3) SUBSEQUENT FISCAL YEARS.—For fiscal year 2027 and each subsequent fiscal year, the Secretary shall deposit—

(A) 50 percent of qualified revenues in general fund of the Treasury;

(B) 30 percent of qualified revenues in a special account in the Treasury, to be distributed by the Secretary to the State;

(C) 12.5 percent of qualified revenues in the Tribal Resilience Fund established by section 402 of the Offshore Production and Energizing National Security Act of 2015; and

(D) 7.5 in a special account in the Treasury, to be distributed by the Secretary to coastal political subdivisions.

(4) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS.—Of the amount paid by the Secretary to coastal political subdivisions under paragraph (2)(C) or (3)(D)—

(A) 90 percent shall be allocated in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point in each coastal political subdivision that is closest to the geographic center of the applicable leased tract and not more than 200 miles from the geographic center of the leased tract; and

(B) 10 percent shall be divided equally among each coastal political subdivision that—

(i) is more than 200 nautical miles from the geographic center of a leased tract; and

(ii) the State of Alaska determines to be a significant staging area for oil and gas servicing, supply vessels, operations, suppliers, or workers.

(5) TIMING.—The amounts required to be deposited under paragraphs (2) and (3) for the applicable fiscal year shall be made available in accordance with those paragraphs during the fiscal year immediately following the applicable fiscal year.

(6) ADMINSTRATION.—Amounts made available under paragraphs (2) and (3) shall—

(A) be made available, without further appropriation, in accordance with this subsection;

(B) remain available until expended; and

(C) be in addition to any amounts appropriated under any other provision of law.

(c) DISTRIBUTION OF REVENUE TO ATLANTIC STATES.—

(1) DEFINITIONS.—In this subsection:

(A) ATLANTIC STATE.—The term 'Atlantic State' means a State adjacent to the South Atlantic Planning Area.

(B) QUALIFIED REVENUES.—

(i) IN GENERAL.—The term 'qualified revenues' means all revenues derived from all rentals, royalties, bonus bids, and other sums due and payable to the United States from energy development in the Atlantic planning region.

(ii) EXCLUSIONS.—The term 'qualified revenues' does not include revenues generated from leases subject to section 8(g).

(2) DEPOSIT.—For fiscal year 2017 and each fiscal year thereafter, the Secretary shall deposit—

(A) 62.5 percent of any qualified revenues in the general fund of the Treasury, of which—

(i) 5 percent shall be allocated to the Department of Energy for projects that enhance the safety, security, resilience, and reliability of energy supply, research, transmission, storage, or distribution infrastructure;

(ii) 5 percent shall be allocated to the Energy Efficiency and Renewable Energy program at the Department of Energy; and

(iii) 2.5 percent shall be allocated to high priority deferred maintenance needs of the National Park Service that support critical infrastructure and visitor services; and

(B) 37.5 percent of any qualified revenues in a special account in the Treasury from which the Secretary shall disburse amounts to the Atlantic States in accordance with paragraph (3).

(3) ALLOCATION TO STATES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter, the Secretary of the Treasury shall allocate the qualified revenues described in paragraph (2)(B) to each Atlantic State in amounts (based on a formula established by the Secretary, by regulation) that are inversely proportional to the respective distances between—

(i) the point on the coastline of each Atlantic State that is closest to the geographical center of the applicable leased tract; and

(ii) the geographical center of that leased tract.

(B) MINIMUM ALLOCATION.—The amount allocated to an Atlantic State for each fiscal year under subparagraph (A) shall be not less than 10 percent of the amounts available under paragraph (2)(B).

(C) STATE ALLOCATION.—Of the amounts received by a State under subparagraph (A), the Atlantic State may use, at the discretion of the Governor of the State—

(i) 10 percent—

(I) to enhance State land and water conservation efforts;

(II) to improve State public transportation projects;

(III) to establish alternative, renewable, and clean energy production and generation within each State; and

(IV) to enhance beach nourishment and costal dredging; and

(ii) 2.5 percent to enhance geological and geophysical education for the energy future of the United States in accordance with section 306 of the Offshore Production and Energizing National Security Act of 2015.

* * * * * * *

SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—

(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activitiy which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

* * * * * * *

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

(5)(A) In this paragraph, the term 'available unleased acreage' means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law in the Gulf of Mexico.

(B) In each oil and gas leasing program under this section, the Secretary shall make available for leasing, and conduct lease sales including, the available unleased acreage within each outer Continental Shelf planning area in the Gulf of Mexico considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based on the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area.

(6)(A) The Secretary shall include in each proposed oil and gas leasing program under this section any State subdivision of an outer Continental Shelf planning area in the Gulf of Mexico that the Governor of the State that represents that subdivision requests be made available for leasing.

(B) The Secretary may not remove a subdivision described in subparagraph (A) from the program until publication of the final program.

(7)(A) The Secretary shall make available for leasing under each 5–year oil and gas leasing program under this section any outer Continental Shelf planning area in the Gulf of Mexico that—

(i) is estimated to contain more than 2,500,000,000 barrels of oil; or

(ii) is estimated to contain more than 7,500,000,000,000 cubic feet of natural gas.

(B) To determine which planning areas meet the criteria described in subparagraph (A), the Secretary shall use the document entitled 'Bureau of Ocean Energy Management Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2011'.

* * * * * * *

(i) INCLUSION OF CERTAIN LEASE SALES.—Effective starting with the leasing program for fiscal years 2023 through 2027, the Secretary shall include in any leasing program prepared in accordance with this section provisions for the conduct of at least 3 lease sales in each of the Beaufort Planning Area and the Chukchi Planning Area, and annual lease sales in the Nearshore Beaufort Sea Plan-

ning Area and the Cook Inlet Planning Area during the term of the leasing program.

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