

Calendar No. 43112TH CONGRESS
1ST SESSION**S. 953**

To authorize the conduct of certain lease sales in the outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Mr. McCONNELL (for himself, Ms. MURKOWSKI, Mr. COATS, Mr. CORKER, Mr. WICKER, Mr. ALEXANDER, Mr. BARRASSO, Mr. BLUNT, Mr. PAUL, Mr. ENZI, Mr. ROBERTS, Mr. HELLER, Mr. ISAKSON, Mr. MORAN, Mr. BOOZMAN, Ms. AYOTTE, and Mr. JOHANNES) introduced the following bill; which was read the first time

MAY 12, 2011

Read the second time and placed on the calendar

A BILL

To authorize the conduct of certain lease sales in the outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Offshore Production
3 and Safety Act of 2011”.

4 **SEC. 2. OIL SPILL RESPONSE AND CONTAINMENT.**

5 (a) RESPONSE PLANS.—The Outer Continental Shelf
6 Lands Act (43 U.S.C. 1331 et seq.) is amended by insert-
7 ing after section 9 the following:

8 **“SEC. 10. EXPLORATION PLANS.**

9 “(a) IN GENERAL.—Notwithstanding any other pro-
10 vision of this Act, in the case of each exploration plan sub-
11 mitted after the date of enactment of this Act, the Sec-
12 retary shall require the incorporation into the exploration
13 plan of a third-party reviewed response plan that describes
14 the means and timeline for containment and termination
15 of an ongoing discharge of oil (other than a de minimis
16 discharge, as determined by the Secretary) at the depth
17 at which the exploration, development, or production au-
18 thorized under the exploration plan is to take place.

19 “(b) TECHNOLOGICAL FEASIBILITY.—Before deter-
20 mining whether to approve a new exploration plan under
21 subsection (a), the Secretary shall certify the technological
22 feasibility of methods proposed to be used under a re-
23 sponse plan described in that paragraph, as demonstrated
24 by the potential lessee through simulation, demonstration,
25 or other means.”.

1 (b) PUBLIC/PRIVATE TASK FORCE ON OIL SPILL RE-
2 SPONSE AND MITIGATION.—

3 (1) IN GENERAL.—The Secretary of Energy,
4 acting through the Office of Science of the Depart-
5 ment of Energy, shall use available funds in the
6 Ultra-Deepwater and Unconventional Natural Gas
7 and Other Petroleum Research Fund established
8 under section 999H of the Energy Policy Act of
9 2005 (42 U.S.C. 16378), and such other funds as
10 are necessary, to conduct a study, in collaboration
11 with the Office of Fossil Energy of the Department,
12 on means of improving prevention methodologies and
13 technological responses to oil spills and mitigating
14 the effects of oil spills on natural habitat.

15 (2) TASK FORCE.—As part of the study re-
16 quired under this subsection, the Secretary shall
17 convene a task force composed of representatives of
18 the private sector, institutions of higher education,
19 and the National Academy of Sciences—

20 (A) to assess the prevention methodologies
21 and technological response to the blowout and
22 explosion of the mobile offshore drilling unit
23 Deepwater Horizon that occurred on April 20,
24 2010, and resulting hydrocarbon releases into
25 the environment;

1 (B) to assess the adequacy of existing
2 technologies for prevention and responses to
3 deep water oil spills; and

4 (C) to recommend means of improving pre-
5 vention methodologies and technological re-
6 sponses to future oil spills (including drilling re-
7 lief wells) and mitigating the effects of the oil
8 spills on natural habitat.

9 (3) REPORT.—Not later than 180 days after
10 the date of enactment of this Act, the Secretary
11 shall submit to Congress, the President, the Sec-
12 retary of Homeland Security, the Administrator of
13 the Environmental Protection Agency, the Secretary
14 of the Interior, and the Secretary of Defense a re-
15 port that describes the results of the study con-
16 ducted under this subsection, including a rec-
17 ommended standard for technological best practices
18 for prevention of and responses to oil spills, practice
19 drills for emergency responses, and any other rec-
20 ommendations.

21 (c) STUDY ON FEDERAL RESPONSE TO OIL
22 SPILLS.—

23 (1) IN GENERAL.—The Comptroller General of
24 the United States shall conduct a study of existing

1 capabilities and legal authorities of the Federal Gov-
2 ernment to prevent and respond to oil spills.

3 (2) DEEPWATER HORIZON INCIDENT.—As part
4 of the study required under this subsection, the
5 Comptroller General of the United States shall as-
6 sess the extent to which the capabilities and authori-
7 ties described in paragraph (1) have been fully used
8 in the response to the blowout and explosion of the
9 mobile offshore drilling unit Deepwater Horizon that
10 occurred on April 20, 2010, and resulting hydro-
11 carbon releases into the environment.

12 (3) REPORT.—Not later than 180 days after
13 the date of enactment of this Act, the Comptroller
14 General of the United States shall submit to Con-
15 gress a report that describes the results of the study
16 conducted under this subsection, including any rec-
17 ommendations.

18 **SEC. 3. CONDUCT OF CERTAIN PROPOSED OIL AND GAS**

19 **LEASE SALES.**

20 (a) DEFINITIONS.—In this section:

21 (1) ENVIRONMENT IMPACT STATEMENT FOR
22 THE 2007–2012 5-YEAR OCS PLAN.—The term “Envi-
23 ronmental Impact Statement for the 2007-2012 5-
24 Year OCS Plan” means the Final Environmental
25 Impact Statement for the Outer Continental Shelf

1 Oil and Gas Leasing Program: 2007-2012 prepared
2 by the Secretary and dated April 2007.

3 (2) MULTI-SALE ENVIRONMENTAL IMPACT
4 STATEMENT.—The term “Multi-Sale Environmental
5 Impact Statement” means the Environmental Im-
6 pact Statement for Proposed OCS Oil and Gas
7 Lease Sales 193, 204, 205, 206, 207, 208, 209,
8 210, 212, 215, and 218, 213, 216, and 222 pre-
9 pared by the Secretary and dated September 2008.

10 (3) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 (b) REQUIREMENT TO CONDUCT CERTAIN PROPOSED
13 OIL AND GAS LEASE SALES.—

14 (1) IN GENERAL.—In accordance with section 8
15 of the Outer Continental Shelf Lands Act (43
16 U.S.C. 1337), the Secretary shall conduct—

17 (A) as soon as practicable, but not later
18 than 120 days, after the date of enactment of
19 this Act, offshore oil and gas lease sale 216;

20 (B) as soon as practicable, but not later
21 than 240 days, after the date of enactment of
22 this Act, offshore oil and gas lease sale 218;

23 (C) as soon as practicable, but not later
24 than 1 year, after the date of enactment of this
25 Act, offshore oil and gas lease sale 220;

1 (D) as soon as practicable after the date of
2 enactment of this Act, but not later than June
3 1, 2012, offshore oil and gas lease sale 222;

4 (E) not later than September 1, 2012, off-
5 shore oil and gas lease sale 209; and

6 (F) not later than December 31, 2012, off-
7 shore oil and gas lease sale 212.

8 (2) PROHIBITION ON CONFLICTS WITH MILI-
9 TARY OPERATIONS.—The Secretary shall not make
10 any tract available for leasing under paragraph
11 (1)(C) if the President, acting through the Secretary
12 of Defense, determines that drilling activity on the
13 tract would create an unreasonable conflict with
14 military operations.

15 (3) ENVIRONMENTAL REVIEW.—For the pur-
16 poses of lease sale 193 and each of the lease sales
17 authorized under subparagraphs (A), (B), (D), (E),
18 and (F) of paragraph (1), the Environmental Impact
19 Statement for the 2007–2012 5-Year OCS Plan and
20 the Multi-Sale Environmental Impact Statement
21 shall be considered to satisfy the requirements of the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.).

1 **SEC. 4. APPROVAL OR DENIAL OF DRILLING PERMITS.**

2 (a) AMENDMENT.—Section 11 of the Outer Conti-
3 nental Shelf Lands Act (43 U.S.C. 1340) is amended by
4 striking subsection (d) and inserting the following:

5 “(d) DRILLING PERMITS.—

6 “(1) IN GENERAL.—The Secretary shall, by
7 regulation, require that any lessee operating under
8 an approved exploration plan obtain a permit—

9 “(A) before the lessee drills a well in ac-
10 cordance with the plan; and

11 “(B) before the lessee significantly modi-
12 fies the well design originally approved by the
13 Secretary.

14 “(2) SAFETY REVIEW REQUIRED.—The Sec-
15 retary shall not issue a permit under paragraph (1)
16 until the date on which the Secretary determines
17 that the proposed drilling operations meet all—

18 “(A) critical safety system requirements
19 (including requirements relating to blowout pre-
20 vention); and

21 “(B) oil spill response and containment re-
22 quirements.

23 “(3) APPROVAL OR DENIAL OF PERMIT.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), not later than 30 days after the date
26 on which the Secretary receives an application

1 for a permit under paragraph (1), the Secretary
2 shall approve or deny the application.

3 “(B) EXTENSIONS.—

4 “(i) IN GENERAL.—The Secretary
5 may extend the deadline under subpara-
6 graph (A) by an additional 15 days on not
7 more than 2 occasions, if the Secretary
8 provides to the applicant prior written no-
9 tice of the delay in accordance with clause
10 (ii).

11 “(ii) NOTICE REQUIREMENTS.—The
12 written notice required under clause (i)
13 shall—

14 “(I) be in the form of a letter
15 from the Secretary or a designee of
16 the Secretary; and

17 “(II) include the names and titles
18 of the persons processing the applica-
19 tion, the specific reasons for the delay,
20 and the date on which a final decision
21 on the application is expected.

22 “(C) DENIAL.—If the Secretary denies an
23 application under subparagraph (A), the Sec-
24 retary shall provide the applicant—

25 “(i) written notice that includes—

1 “(I) a clear and comprehensive
2 description of the reasons for denying
3 the application; and

4 “(II) detailed information con-
5 cerning any deficiencies in the appli-
6 cation; and

7 “(ii) an opportunity—

8 “(I) to address the reasons iden-
9 tified under clause (i)(I); and

10 “(II) to remedy the deficiencies
11 identified under clause (i)(II).

12 “(D) FAILURE TO APPROVE OR DENY AP-
13 PLICATION.—If the Secretary has not approved
14 or denied the application by the date that is 60
15 days after the date on which the application
16 was received by the Secretary, the application
17 shall be considered to be approved.”.

18 (b) DEADLINE FOR CERTAIN PERMIT APPLICATIONS
19 UNDER EXISTING LEASES.—

20 (1) DEFINITION OF COVERED APPLICATION.—

21 In this subsection, the term “covered application”
22 means an application for a permit to drill under an
23 oil and gas lease under the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1331 et seq.) in effect on the
25 date of enactment of this Act, that—

1 (A) represents a resubmission of an ap-
2 proved permit to drill (including an application
3 for a permit to sidetrack) that was approved by
4 the Secretary before May 27, 2010; and

5 (B) is received by the Secretary after Octo-
6 ber 12, 2010, and before the end of the 30-day
7 period beginning on the date of enactment of
8 this Act.

9 (2) IN GENERAL.—Notwithstanding the amend-
10 ment made by subsection (a), a lease under which a
11 covered application is submitted to the Secretary of
12 the Interior shall be considered to be in directed sus-
13 pension during the period beginning May 27, 2010,
14 and ending on the date on which the Secretary
15 issues a final decision on the application, if the Sec-
16 retary does not issue a final decision on the applica-
17 tion—

18 (A) before the end of the 30-day period be-
19 ginning on the date of enactment of this Act,
20 in the case of a covered application submitted
21 before the date of enactment of this Act; or

22 (B) before the end of the 30-day period be-
23 ginning on the date on which the application is
24 received by the Secretary, in the case of a cov-

1 ered application submitted on or after the date
2 of enactment of this Act.

3 **SEC. 5. EXTENSION OF CERTAIN OUTER CONTINENTAL**
4 **SHELF LEASES.**

5 (a) DEFINITION OF COVERED LEASE.—In this sec-
6 tion, the term “covered lease” means each oil and gas
7 lease for the Gulf of Mexico outer Continental Shelf region
8 issued under section 8 of the Outer Continental Shelf
9 Lands Act (43 U.S.C. 1337) that—

10 (1)(A) was not producing as of April 30, 2010;

11 or

12 (B) was suspended from operations, permit
13 processing, or consideration, in accordance with the
14 moratorium set forth in the Minerals Management
15 Service Notice to Lessees and Operators No. 2010–
16 N04, dated May 30, 2010, or the decision memo-
17 randum of the Secretary of the Interior entitled
18 “Decision memorandum regarding the suspension of
19 certain offshore permitting and drilling activities on
20 the Outer Continental Shelf” and dated July 12,
21 2010; and

22 (2) by the terms of the lease, would expire on
23 or before December 31, 2011.

1 (b) EXTENSION OF COVERED LEASES.—The Sec-
 2 retary of the Interior shall extend the term of a covered
 3 lease by 1 year.

4 (c) EFFECT ON SUSPENSIONS OF OPERATIONS OR
 5 PRODUCTION.—The extension of covered leases under this
 6 section is in addition to any suspension of operations or
 7 suspension of production granted by the Minerals Manage-
 8 ment Service or Bureau of Ocean Energy Management,
 9 Regulation and Enforcement after May 1, 2010.

10 **SEC. 6. JUDICIAL REVIEW OF AGENCY ACTIONS RELATING**
 11 **TO OUTER CONTINENTAL SHELF ACTIVITIES**
 12 **IN THE GULF OF MEXICO.**

13 (a) DEFINITIONS.—In this section:

14 (1) COVERED CIVIL ACTION.—The term “cov-
 15 ered civil action” means a civil action containing a
 16 claim under section 702 of title 5, United States
 17 Code, regarding “agency action” (as the term is
 18 used in that section) affecting a covered energy
 19 project.

20 (2) COVERED ENERGY PROJECT.—

21 (A) IN GENERAL.—The term “covered en-
 22 ergy project” mean the leasing of Federal land
 23 of the outer Continental Shelf (including sub-
 24 merged land) for the exploration, development,
 25 production, processing, or transmission of oil,

1 natural gas, wind, or any other source of energy
2 in the Gulf of Mexico, including any action
3 under such a lease.

4 (B) EXCLUSIONS.—The term “covered en-
5 ergy project” does not include any disputes be-
6 tween the parties to a lease regarding the obli-
7 gations under a lease described in subparagraph
8 (A), including regarding any alleged breach of
9 the lease.

10 (b) EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS
11 RELATING TO COVERED ENERGY PROJECTS IN THE GULF
12 OF MEXICO.—Venue for any covered civil action shall be
13 in the United States Court of Appeals for the Fifth Cir-
14 cuit, unless there is no proper venue in any court within
15 the United States Court of Appeals for the Fifth Circuit.

16 (c) TIME LIMITATION ON FILING.—A covered civil
17 action shall be barred unless the covered civil action is
18 filed not later than the end of the 60-day period beginning
19 on the date of the final Federal agency action to which
20 the covered civil action relates.

21 (d) EXPEDITION IN HEARING AND DETERMINING
22 THE ACTION.—The court shall endeavor to hear and de-
23 termine any covered civil action as expeditiously as pos-
24 sible.

1 (e) STANDARD OF REVIEW.—In any judicial review
2 of a covered civil action—

3 (1) administrative findings and conclusions re-
4 lating to the challenged Federal action or decision
5 shall be presumed to be correct; and

6 (2) the presumption under paragraph (1) may
7 be rebutted only by the preponderance of the evi-
8 dence contained in the administrative record.

9 (f) LIMITATION ON PROSPECTIVE RELIEF.—In a cov-
10 ered civil action, the court shall not grant or approve any
11 prospective relief unless the court finds that the relief—

12 (1) is narrowly drawn;

13 (2) extends no further than necessary to correct
14 the violation of a legal requirement; and

15 (3) is the least intrusive means necessary to
16 correct that violation.

17 (g) LIMITATION ON ATTORNEYS' FEES.—

18 (1) IN GENERAL.—Sections 504 of title 5,
19 United States Code, and 2412 of title 28, United
20 States Code, shall not apply to a covered civil action.

21 (2) PROHIBITION.—No party to a covered civil
22 action shall receive payment from the Federal Gov-
23 ernment for attorneys' fees, expenses, or other court
24 costs.

Calendar No. 43

112TH CONGRESS
1ST Session
S. 953

A BILL

To authorize the conduct of certain lease sales in the outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration, and for other purposes.

MAY 12, 2011

Read the second time and placed on the calendar