

118TH CONGRESS
2D SESSION

S. 5597

To amend the Deepwater Port Act of 1974 to improve community outreach, public participation, and the consideration of community and environmental impacts with respect to the issuance of a license under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18 (legislative day, DECEMBER 16), 2024

Mr. MARKEY (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Deepwater Port Act of 1974 to improve community outreach, public participation, and the consideration of community and environmental impacts with respect to the issuance of a license under that Act, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nautical Oversight,
5 Safety, and Protection of Inflammable Liquids by Law in
6 the Sea Act of 2024” or the “NO SPILLS Act of 2024”.

1 **SEC. 2. DEFINITIONS.**

2 Section 3 of the Deepwater Port Act of 1974 (33
3 U.S.C. 1502) is amended—

4 (1) in paragraph (5), in the first sentence, by
5 striking “including waters” and inserting “(includ-
6 ing waters”;

7 (2) by redesignating paragraphs (10), (11), and
8 (12) through (19) as paragraphs (13), (16), and
9 (18) through (25), respectively;

10 (3) by inserting after paragraph (9) the fol-
11 lowing:

12 “(10) ENVIRONMENT.—The term ‘environment’
13 includes—

14 “(A) water, air, and land; and

15 “(B) the interrelationship that exists
16 among and between water, air, and land and all
17 present and future generations of living beings.

18 “(11) ENVIRONMENTAL JUSTICE COMMU-
19 NITY.—The term ‘environmental justice community’
20 means a community with significant representation
21 of communities of color, low-income communities, or
22 Tribal and Indigenous communities, that experi-
23 ences, or is at risk of experiencing, higher or more
24 adverse human health or environmental effects.

25 “(12) ENVIRONMENTAL PROTECTION; PROTEC-
26 TION OF THE ENVIRONMENT.—The terms ‘environ-

1 mental protection’ and ‘protection of the environ-
 2 ment’ mean wide-ranging measures to prevent or
 3 mitigate negative impacts to the environment, in-
 4 cluding the preservation of ocean ecosystems and the
 5 mitigation of air pollutants.”;

6 (4) by inserting after paragraph (13) (as so re-
 7 designated) the following:

8 “(14) IMPACTED COMMUNITY.—The term ‘im-
 9 pacted community’ means—

10 “(A) residents of an adjacent coastal State
 11 who may be impacted, including through eco-
 12 logical harm, economic disruption, or social dis-
 13 placement, by—

14 “(i) the permitting of a deepwater
 15 port; or

16 “(ii) a spill, leak, or other disaster at
 17 a deepwater port; and

18 “(B) workers who may be impacted, and
 19 labor organizations and worker advocacy orga-
 20 nizations representing workers who may be im-
 21 pacted, by—

22 “(i) the permitting of a deepwater
 23 port; or

24 “(ii) a spill, leak, or other disaster at
 25 a deepwater port.

1 “(15) INDIAN TRIBE.—The term ‘Indian Tribe’
 2 has the meaning given the term in section 4 of the
 3 Indian Self-Determination and Education Assistance
 4 Act (25 U.S.C. 5304).”; and

5 (5) by inserting after paragraph (16) (as so re-
 6 designated) the following:

7 “(17) LOW-INCOME COMMUNITY.—The term
 8 ‘low-income community’ means a census block group
 9 in which 30 percent or more of the population are
 10 individuals with an annual household income equal
 11 to, or less than, the greater of—

12 “(A) an amount equal to 80 percent of the
 13 median income of the area in which the house-
 14 hold is located, as reported by the Department
 15 of Housing and Urban Development; and

16 “(B) 200 percent of the Federal poverty
 17 line.”.

18 **SEC. 3. CONDITIONS FOR ISSUANCE OF A LICENSE FOR**
 19 **THE OWNERSHIP, CONSTRUCTION, AND OP-**
 20 **ERATION OF A DEEPWATER PORT.**

21 (a) IN GENERAL.—Section 4(c) of the Deepwater
 22 Port Act of 1974 (33 U.S.C. 1503(c)) is amended—

23 (1) in paragraph (3), by striking “and environ-
 24 mental quality” and inserting “, protection of the

environment, and protection of environmental justice communities and impacted communities”; and

(2) in paragraph (8), by striking “State” and all that follows through “approves” and inserting “State, and the governing body of each Indian Tribe, within which there are impacted communities, approves”.

(b) LIMITS ON LIABILITY.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended—

(1) in paragraph (1)(C)—

(A) in clause (i)—

(i) in subclause (I), by striking “\$22,000,000” and inserting “\$70,000,000”; and

(ii) in subclause (II), by striking “\$16,000,000” and inserting “\$60,000,000”; and

(B) in clause (ii)—

(i) in subclause (I), by striking “\$6,000,000” and inserting “\$32,000,000”; and

(ii) in subclause (II), by striking “\$4,000,000” and inserting “\$26,000,000”; and

1 (2) in paragraph (2)—

2 (A) by striking “\$950” and inserting
3 “\$4,000”; and

4 (B) by striking “\$800,000” and inserting
5 “\$2,000,000”.

6 (c) FINANCIAL RESPONSIBILITY REQUIREMENTS.—

7 Section 1016(c)(1) of the Oil Pollution Act of 1990 (33
8 U.S.C. 2716(c)(1)) is amended—

9 (1) in subparagraph (B)—

10 (A) in clause (i), by striking
11 “\$35,000,000” and inserting “\$105,000,000”;
12 and

13 (B) in clause (ii), by striking
14 “\$10,000,000” and inserting “\$70,000,000”;
15 and

16 (2) in subparagraph (C), by striking
17 “\$150,000,000” and inserting “\$300,000,000”.

18 **SEC. 4. OUTREACH TO IMPACTED COMMUNITIES, PUBLIC**
19 **COMMENT, AND PUBLIC HEARINGS.**

20 Section 5(g) of the Deepwater Port Act of 1974 (33
21 U.S.C. 1504(g)) is amended—

22 (1) by striking “(g) A license” and inserting the
23 following:

24 “(g) OUTREACH, PUBLIC NOTICE, PUBLIC COM-
25 MENT, AND PUBLIC HEARINGS.—

1 “(1) IN GENERAL.—A license”;

2 (2) in paragraph (1) (as so designated)—

3 (A) in the first sentence, by striking “pub-
4 lic notice and public hearings” and inserting
5 “public notice, comment, and hearings”; and

6 (B) in the second sentence, by striking “At
7 least” and inserting the following:

8 “(2) OUTREACH.—The Secretary shall conduct
9 active and ongoing outreach to impacted commu-
10 nities, especially those that are also environmental
11 justice communities, including through representa-
12 tive civil, business, environmental, neighborhood,
13 health, education, labor, and other organizations.

14 “(3) PUBLIC NOTICE, COMMENT, AND HEAR-
15 INGS.—

16 “(A) NOTICE.—Notice of a public com-
17 ment period or public hearing shall be provided
18 through multiple communication methods acces-
19 sible to an impacted community, which may in-
20 clude—

21 “(i) electronic media;

22 “(ii) newspapers;

23 “(iii) radio;

24 “(iv) direct mailings;

25 “(v) canvassing; and

1 “(vi) other outreach methods particu-
 2 larly targeted at environmental justice
 3 communities.

4 “(B) PUBLIC COMMENT PERIODS.—All
 5 public comment periods associated with a pro-
 6 posed deepwater port project shall be 90 days
 7 or longer.

8 “(C) PUBLIC HEARINGS.—

9 “(i) NOTICE.—Notice of a public
 10 hearing shall be provided at least 30 days
 11 before the date of the hearing.

12 “(ii) REQUIREMENT.—At least”; and
 13 (3) in paragraph (3) (as so designated)—

14 (A) in subparagraph (C) (as so des-
 15 ignated)—

16 (i) in clause (ii) (as so designated), in
 17 the second sentence, by striking “Any in-
 18 terested” and inserting the following:

19 “(iii) PARTICIPATION.—Any inter-
 20 ested”;

21 (ii) in clause (iii) (as so designated),
 22 in the second sentence, by striking “After
 23 hearings in each adjacent coastal State”
 24 and inserting the following:

25 “(iv) ADJUDICATORY HEARING.—

1 “(I) IN GENERAL.—After all
2 hearings under clause (ii)”;

3 (iii) in clause (iv) (as so designated)—

4 (I) in subclause (I) (as so des-
5 ignated), in the second sentence, by
6 striking “The record” and inserting
7 the following:

8 “(II) USE OF RECORD.—The
9 record”; and

10 (II) in subclause (II) (as so des-
11 ignated), in the second sentence, by
12 striking “Hearings held” and insert-
13 ing the following:

14 “(v) CONSOLIDATION OF HEARINGS.—

15 “(I) INTERAGENCY CONSOLIDA-
16 TION.—Hearings held”; and

17 (iv) in clause (v)(I) (as so designated),
18 in the second sentence, by striking “All
19 public” and inserting the following:

20 “(II) CONSOLIDATION WITHIN
21 APPLICATION AREAS.—All public”;

22 and

23 (B) by adding at the end the following:

24 “(D) DOCUMENTS.—All documents made
25 available for public review shall be translated

1 into each language spoken by impacted popu-
2 lations.”.

3 **SEC. 5. NATIONAL INTEREST DETERMINATION.**

4 Section 5(i)(3) of the Deepwater Port Act of 1974
5 (33 U.S.C. 1504(i)(3)) is amended—

- 6 (1) by redesignating subparagraphs (C) and
7 (D) as subparagraphs (D) and (E), respectively; and
8 (2) by inserting after subparagraph (B) the fol-
9 lowing:

10 “(C) Public opinion and the impact of the
11 proposed deepwater port on impacted commu-
12 nities and, especially, environmental justice
13 communities, as determined through public
14 comment and hearings under subsection (g).”.

15 **SEC. 6. ENVIRONMENTAL REVIEW CRITERIA.**

16 Section 6 of the Deepwater Port Act of 1974 (33
17 U.S.C. 1505) is amended—

- 18 (1) in subsection (a)—
19 (A) in paragraph (3), by inserting “recre-
20 ation,” after “fishing,”;
21 (B) in paragraph (6)—
22 (i) by inserting “, safety,” after
23 “health”; and
24 (ii) by striking “and” at the end;

1 (C) by redesignating paragraphs (1)
 2 through (5), (6), and (7) as subparagraphs (A)
 3 through (E), (G), and (N), respectively, and in-
 4 denting appropriately;

5 (D) by inserting after subparagraph (E)
 6 (as so redesignated) the following:

7 “(F) the effect on air quality from all ac-
 8 tivities related to operation and construction of
 9 the deepwater port;”;

10 (E) by inserting after subparagraph (G)
 11 (as so redesignated) the following:

12 “(H) the health and climate impact on—

13 “(i) impacted communities; and

14 “(ii) environmental justice commu-
 15 nities nationwide;

16 “(I) the effect on—

17 “(i) national policy goals; and

18 “(ii) the commitment of the United
 19 States to transition away from fossil fuels
 20 to clean renewable energy;

21 “(J) the effect on threatened and endan-
 22 gered species, their critical habitat, and their
 23 ability to adapt to a changing environment;

24 “(K) compliance with the National Envi-
 25 ronmental Policy Act of 1969 (42 U.S.C. 4321

et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

“(L) the effect of all upstream and downstream activities on all outcomes described in subparagraphs (A) through (K);

“(M) the cumulative effect, on all outcomes described in subparagraphs (A) through (K), of all activities relating to the deepwater port combined with the cumulative effect of all activities relating to all deepwater ports proposed, under construction, or operating in the same geographic region; and”; and

(F) in the matter preceding subparagraph (A) (as so redesignated), by striking “Act. Such criteria” and inserting the following: “Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) USE OF CRITERIA.—The criteria established pursuant to paragraph (1)”; and

(G) in the matter preceding paragraph (2) (as so designated), by striking “The Secretary” and inserting the following:

1 “(1) IN GENERAL.—The Secretary”; and

2 (2) in subsection (b)—

3 (A) by striking “The Secretary” and in-
4 serting the following:

5 “(1) IN GENERAL.—The Secretary”; and

6 (B) by adding at the end the following:

7 “(2) REQUIREMENT.—Not later than 1 year
8 after the date of enactment of the NO SPILLS Act
9 of 2024, the Secretary, in consultation with the Ad-
10 ministrator of the Environmental Protection Agency,
11 the Administrator of the National Oceanic and At-
12 mospheric Administration, and any other Federal
13 departments or agencies having jurisdiction over any
14 aspect of the construction or operation of a deep-
15 water port, shall update the criteria established pur-
16 suant to subsection (a).”.

17 **SEC. 7. PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-**
18 **MENT.**

19 The Deepwater Port Act of 1974 (33 U.S.C. 1501
20 et seq.) is amended by inserting after section 6 the fol-
21 lowing:

1 **“SEC. 7. PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-**
2 **MENT FOR PROJECTS IN THE GULF OF MEX-**
3 **ICO.**

4 “(a) DEFINITION OF PROGRAMMATIC ENVIRON-
5 MENTAL IMPACT STATEMENT.—The term ‘programmatic
6 environmental impact statement’ means an environmental
7 impact statement (as defined in section 111 of the Na-
8 tional Environmental Policy Act of 1969 (42 U.S.C.
9 4336e)) that is a programmatic environmental document
10 (as defined in that section).

11 “(b) PROGRAMMATIC EIS FOR THE GULF OF MEX-
12 ICO.—Not later than 1 year after the date of enactment
13 of the NO SPILLS Act of 2024, the Secretary shall pre-
14 pare, in accordance with the National Environmental Pol-
15 icy Act of 1969 (42 U.S.C. 4321 et seq.) and this Act,
16 a programmatic environmental impact statement to assess
17 the impacts, including with respect to climate change, of
18 all deepwater port projects in the Gulf of Mexico proposed,
19 pending, or approved on or after the date of enactment
20 of the NO SPILLS Act of 2024.

21 “(c) PROHIBITION.—Notwithstanding any other pro-
22 vision of law, beginning on the date of enactment of this
23 Act, the Secretary may not issue a license or permit for
24 a new deepwater port under this or any other Act until
25 the date on which the programmatic environmental impact
26 statement required under subsection (b) is completed.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.”.

4 **SEC. 8. PROHIBITION OF LIQUEFIED NATURAL GAS RE-**
5 **SEARCH IN MARITIME ENVIRONMENTAL AND**
6 **TECHNICAL ASSISTANCE PROGRAM.**

7 Section 50307 of title 46, United States Code, is
8 amended by adding at the end the following:

9 “(f) PROHIBITION OF LIQUEFIED NATURAL GAS RE-
10 SEARCH.—No funds made available under this section
11 may be used for liquefied natural gas research.”.

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