

Legislative Bulletin.....May 10, 2011

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H.R. 1229—Putting the Gulf of Mexico Back to Work Act

**H.R. 1229—Putting the Gulf of Mexico Back to Work Act
(Rep. Hastings, R-WA)**

Order of Business: The bill is scheduled to be considered on Tuesday, May 10, 2011, under a structured rule ([H.Res.245](#)) that allows for one hour of debate, the consideration of 11 amendments made in order under the rule, and allows for one motion to recommit. The rule also directs the Clerk to add the text of the House passed version of H.R. 1230 to the end of H.R. 1229 after its passage.

Summary: H.R. 1229 would establish statutory deadlines on the Department of the Interior to approve permits to dill for oil and natural gas in the Gulf of Mexico. The bill would also establish other procedural reforms and place limits on judicial review of civil actions involving energy projects in the Gulf of Mexico. Specifically, the bill amends the Outer Continental Shelf Lands Act to require a lessee operating under an exploration plan to obtain a new permit before drilling any well, and a new permit before drilling any well of a design that is significantly different than the design for which an existing permit was issued. The bill also requires the Secretary of Interior to ensure all critical safety system requirements - including blowout prevention, oil spill response, and containment plans - are met before issuing any permit.

The bill requires the Secretary of Interior to decide within thirty days after receiving an application whether to approve or deny an application for a permit in the Gulf of Mexico. The bill provides the Secretary with the opportunity to extend the decision by fifteen days twice to reach a decision, if he or she provides written notice to applicant in the form of a letter with explanations for the delay. If the Secretary denies a claim, he or she must provide in writing clear and comprehensive reasons why the application was not accepted and an opportunity to remedy any deficiencies. If the Secretary fails to reach a decision after 60 days of receiving an application, it is deemed approved.

The bill addresses permit applications under existing leases by requiring the Secretary to reissue permits in the Gulf of Mexico that were approved before the Obama moratorium was imposed on May 27, 2010. The bill also provides an extension for applications of OCS leases that are defined as not producing on April 30, 2010, were suspended from operations after the moratorium established by the former Minerals Management Service on May 30, 2010, were suspended under the moratorium imposed by the Secretary of Interior on July 12, 2010, or a lease that would expire before December 31, 2011.

The bill also addresses judicial review by placing all covered energy projects in the Gulf of Mexico under the jurisdiction of the [5th Circuit](#), unless there is no proper venue in a court within that circuit. The bill limits civil action from occurring unless it is filed within 60 days of the last federal agency action on a permit and requires expedition in the hearing process.

Additionally, bill prohibits a court from issuing “prospective relief” unless the court finds that “such relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation.” Finally, the bill prohibits payments from the federal government to be used for the payment of attorney’s fees, expenses, and other court costs.

Additional Background: H.R. 1229 is the second of three bills the House will be considering as part of the launch of the Speaker’s [American Energy Initiative](#). On April 20, 2010 an explosion occurred on the Deepwater Horizon oil drilling rig in the Gulf of Mexico that killed eleven workers and caused the released of oil for several weeks. After the spill, the Obama Administration responded by placing a moratorium on all shallow-water and deepwater drilling throughout the Gulf of Mexico. In October, the Administration “officially” lifted the moratorium, however, they continued to delay the the permitting approval process, imposing a *de facto* moratorium on the Gulf of Mexico.

According the Natural Resources Committee, since October, the Administration has issued only 10 permits for deepwater drilling in the Gulf of Mexico through the middle of April 2011. “Of these 10, only two were a permit for new deepwater exploration; seven permits were simply reissued for projects that had previously been approved prior to the Deepwater Horizon incident. This means that 10 months later, over 40 projects that were approved and underway remain stalled.” Additional background on the Obama Permatoruim:

- Although the Interior Department lifted its explicit moratorium on shallow and deepwater drilling instated after the Deepwater Horizon spill, it has maintained a *de facto* moratorium by slow-walking the issuing of permits. Interior’s “permatorium” is so egregious that a federal judge held Interior in [contempt of court](#) on February 3, 2011.
- The U.S.’s second largest shallow-water drilling company, Seahawk, filed for bankruptcy in February, citing a lack of permits. ([CNN](#))
- The Interior Department has also interfered with the drilling process on land. In 2009, it [delayed](#) and [disincentivized](#) commercial oil shale leasing in the West, and is currently [reconsidering](#) Bush Administration rules for development of oil shale production which will further delay that production.
- The Obama Administration permatorium has created a backlog of, at times, [more than 100](#) deepwater drilling permit applications in the Gulf, which is responsible for more than 25% of domestic oil production. According to [independent analysis](#), the number of deepwater permits approved monthly has dropped by 78% from the historical average.
- According to the [EIA](#), production in the Gulf is expected to drop by 220,000 barrels per day, which leads to [\\$4.7 million](#) in lost federal government royalty revenue daily. If the Obama Administration continues its policies and the projections hold for this year, the permatorium will cost at least \$1.7 billion in government revenue. Other potential losses include [\\$1](#)

[billion](#) in lease sale revenue, and millions in rent payments by lease holders. ([NCPA](#))

- The *de facto* moratorium has caused at least 13 drilling rigs to leave the Gulf of Mexico, with more to follow. This will lead to major reductions in production and thousands of lost jobs. Each drilling rig that leaves costs [180-200 direct employees](#), along with hundreds of support jobs and jobs in surrounding communities. ([Shallow Water Energy Coalition](#)).

Committee Action: The bill was introduced on March 29, 2011, and referred to the Committee on Natural Resources. On April 23, 2011, the full Committee held a mark-up and ordered the bill to be reported by a vote of [29-16](#).

Administration Position: A Statement of Administration Policy is not available at press time.

Cost to Taxpayers: According to CBO, “changes in existing lease terms would reduce offsetting receipts (an increase in direct spending) in 2013 by about \$10 million. Such costs would be offset by higher sales proceeds in subsequent years, resulting in no significant net effect over the 2012-2021 period.”

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? According to Committee Report [112-67](#), the bill “does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.”

Constitutional Authority: According to the bill sponsor, Article IV, Section 3, of the United States Constitution allows for consideration of H.R. 1229.

“The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.”

Outside Organizations in Support the Bill: (Courtesy of Resources Committee)
U.S. Chamber, ATR, NTU, Americans for Prosperity, CAGW, ALG, NFIB, 60 Plus Association, American Trucking Association, National ocean Industries Association, Offshore Marine Services Association, Shallow Water Energy Coalition.

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