



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources Republican Staff; Ashley Nichols (Ashley.Nichols@mail.house.gov) and Rebecca Konolige (Rebecca.Konolige@mail.house.gov)
Date: May 10, 2021
Subject: Legislative Hearing on Six Bills: “Protecting Coastal Communities and Ocean Resources from Offshore Drilling”

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing, titled “Protecting Coastal Communities and Ocean Resources from Offshore Drilling,” on H.R. 570 (Rep. Donald McEachin), H.R. 2643 (Rep. Julia Brownley), H.R. 2836 (Rep. Kathy Castor), H.R. ___ (Rep. Frank Pallone), H.R. ___ (Rep. Mike Levin), and H.R. ___ (Rep. Jared Huffman) on **Thursday, May 13, 2021, at 1:00 p.m. EDT** online via Cisco WebEx.

Member offices are requested to notify Rebecca Konolige (Rebecca.Konolige@mail.house.gov) by **4:30 p.m. on Monday, May 10, 2021**, if their Member intends to participate. Member office are also requested to indicate whether their Member plans to attend in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee’s electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (EverettWinnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- Four out of six of the bills under consideration at this hearing would place permanent moratoria on mineral development in various planning areas of the Outer Continental Shelf (OCS). This would take domestic energy resources off the table, increasing our dependence on foreign oil imports, precluding job creation, and preventing the generation of billions of dollars in revenue for the Treasury, Gulf states, and critical conservation programs.
- As both Committee Democrats and the current Administration consider severely restricting America’s offshore oil and gas production, it is important to take into account the economic, conservation, and geopolitical benefits offshore production provides to the United States.



- Offshore drilling supports bipartisan programs such as the Land and Water Conservation Fund, and enables the Gulf states to fund important local environmental efforts such as wetlands restoration and coastal resiliency.
- There is a clearly established process in law for states to weigh in on where the U.S. should conduct offshore energy development. Sweeping legislative withdrawals bypass this process.
- The planning process to develop the next National OCS Program (commonly referred to as the “five year program”) under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., OCSLA) should be allowed to weigh the best use of each area of the Gulf – with due consideration given to the needs of the military, fishing and tourism activities, and the hydrocarbon potential of these resources that are owned by the American public.

II. WITNESSES

- Staff is in the process of inviting witnesses and will update Member offices when witnesses are confirmed.

III. BACKGROUND

H.R. 570 (McEachin)

This bill requires oil and gas operators to report to the Secretary of the Interior any “critical system” failures at offshore facilities within 30 days of the failure. While this bill attempts to prevent disasters such as the Deepwater Horizon incident from reoccurring, it ignores the new practices developed by the industry to avoid such incidents in the future.

In response to the Deepwater Horizon incident, the Obama Administration issued the “Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control” rule, or “Well Control Rule,” in 2016.¹ This rule was created to help protect against blowouts during active oil and gas production. The Trump Administration finalized a revised version of the Well Control Rule in 2019.² The Obama-era regulations were unnecessarily burdensome to oil and gas production, and the new rule revised certain requirements in response to stakeholder feedback while maintaining stringent environmental and safety standards. Additionally, this new rule corrected errors identified during the rollout of the original rulemaking.

Committee Democrats have criticized the Trump Administration for revising the Well Control Rule, and continue to criticize the Bureau of Safety and Environmental Enforcement (BSEE) for granting what they call “waivers” to oil companies in order to comply with the Well Control Rule. In reality, BSEE is not granting “waivers,” but rather approving “alternative compliance” measures. Instituted under the Obama Administration,

¹ 83 FR 22128, <https://www.govinfo.gov/content/pkg/FR-2018-05-11/pdf/2018-09305.pdf>

² <https://www.doi.gov/pressreleases/bsee-finalizes-improved-blowout-preventer-and-well-control-regulations>

these alternative compliance measures are granted to operators who can successfully demonstrate they have a method of addressing particular safety reequipments which meet or exceed the original regulatory standards. Not only did this practice start under the Obama Administration, but they approved these measures at a higher daily rate than the Trump Administration (four per day under Obama and 2.3 per day under Trump according to BSEE).³

H.R. 2643 (Brownley)

This bill directs the Bureau of Ocean and Energy Management (BOEM) and BSEE to: finalize regulations for the inspection of offshore pipelines by third parties and installation of leak detection systems on offshore pipelines; study the environmental risks associated with decommissioning oil and gas pipelines; and assess new fees on offshore pipeline operators. This bill responds to a Government Accountability Office (GAO) report released in March 2021 titled “Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning.”⁴

According to GAO, approximately 40,000 miles of oil and gas pipelines have been installed on the OCS since the 1940s, with approximately 8,600 miles of offshore pipelines active today.⁵ BSEE is responsible for the oversight of active pipelines and their decommissioning. Following a review of BSEE’s management of offshore oil and gas pipelines, GAO reported that in their view, BSEE’s oversight process is insufficient. In 2007, BSEE issued a proposed rule to revise the oversight and pipeline decommissioning process, but this rulemaking was never finalized. The GAO found that since the 1960s, over 97 percent – about 18,000 miles – of pipelines were left on the Gulf of Mexico seafloor, rather than being removed following decommissioning. The report recommends that BSEE finalize updated pipeline regulations to address risks associated with pipeline decommissioning and expand oversight of active offshore pipelines.⁶

H.R. 2836 (Castor)

This bill prohibits oil and gas preleasing, leasing, and related activities in the Eastern Gulf of Mexico, a portion of the South Atlantic planning area, and the Straits of Florida planning area. The Florida congressional delegation overwhelmingly opposes oil and gas drilling off their coast. When the Trump Administration issued a new National OCS Plan for 2019-2024, Florida’s inclusion quickly became a point of contention between the Florida delegation and the Administration. On September 8, 2020, the South Atlantic and Straits of Florida planning areas were withdrawn by Presidential Memorandum for ten years starting July 1, 2022.⁷

³ Stephen Lee. Bloomberg Law. House Democrats Want Answers on Interior’s Oil and Gas Waivers. February 27, 2019. <https://news.bloomberglaw.com/energy/house-democrats-want-answers-on-interiors-oil-and-gas-waivers?context=article-related>

⁴ <https://www.gao.gov/products/gao-21-293>

⁵ Id.

⁶ Id.

⁷ <https://www.govinfo.gov/content/pkg/DCPD-202000659/pdf/DCPD-202000659.pdf>

Unlike the Gulf states of Texas, Louisiana, Mississippi, and Alabama, which have a revenue sharing structure for oil and gas lease sales within their respective OCS areas, Florida does not have an authorized revenue sharing program.⁸ The Gulf of Mexico Energy Security Act (Public Law 109-432, GOMESA), which established revenue sharing for the Gulf states in 2006, also imposed a moratorium on oil and gas leasing in the Eastern Gulf of Mexico planning area.⁹ Under GOMESA, offshore leasing is banned off the east coast of Florida through June 2022. The portions of the Central and Eastern planning areas that are currently under moratoria were further withdrawn until June 30, 2032 by Presidential Memorandum on September 8, 2020.¹⁰

The Eastern Gulf has a high hydrocarbon potential and ongoing oil and gas operations exist nearby. Many oil and gas operators advocate for shrinking the area under moratorium or eliminating it altogether following its expiration in 2022. However, Democrats and many Florida Republicans are actively seeking to extend the moratorium for 10 or more years or permanently. Opponents fear that drilling off the coast of Florida will threaten fishing and tourism industries, while interfering with military operations at Eglin Air Force Base in northwest Florida.

In 1983, the Department of the Interior (DOI) and the Department of Defense (DOD) signed a Memorandum of Understanding (MOU) that allows for cooperation in the event that military and planned energy leasing activities on the OCS are in conflict.¹¹ This MOU establishes that certain defense-related activities may be irreconcilable with mineral exploration, and, parcels “may...be deferred from the pending lease offering” accordingly.¹² In certain areas, energy leases will require stipulations which allow for military activity in the region.

Under the National Defense Authorization Act for Fiscal Year 2018,¹³ DOD prepared a report discussing the scope of military test and training events conducted east of the Military Mission Line (MML), located offshore Florida and Alabama in the Eastern Gulf of Mexico.¹⁴ Throughout this report, DOD reiterates, “If oil and gas development were to extend east over the MML, *without sufficient surface limiting stipulations and/or oil and gas activity restrictions mutually agreed upon by the DoD and DoI*, military flexibility in the region would be lost and test and training activities would be severely affected [emphasis added].”¹⁵ This conditional statement conveys that, with DOI and industry cooperation, multiple uses of the Eastern Gulf of Mexico remain possible.

⁸ Bureau of Ocean Energy Management. Gulf of Mexico Energy Security (GOMESA). <https://www.boem.gov/Revenue-Sharing/>

⁹ Bureau of Ocean Energy Management. Gulf of Mexico Energy Security Act (GOMESA) Areas. <https://www.boem.gov/GOMESA-Map/>

¹⁰ <https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-withdrawal-certain-areas-united-states-outer-continental-shelf-leasing-disposition/>

¹¹ Memorandum Agreement Between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf. July 20, 1983.

¹² Memorandum Agreement Between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf. July 20, 1983.

¹³ Public Law 115-91

¹⁴ Preserving Military Readiness in the Eastern Gulf of Mexico. Office of the Secretary of Defense. May 2018.

¹⁵ Preserving Military Readiness in the Eastern Gulf of Mexico. Office of the Secretary of Defense. May 2018.

H.R. (Pallone)

This bill places a permanent moratorium on mineral development in the Mid-Atlantic, South Atlantic, North Atlantic, and Straits of Florida planning areas. Ten oil and gas lease sales were held in the Atlantic between 1976 and 1983, but they were all ultimately abandoned as they were determined to not be economically viable.¹⁶ Currently, there are no active oil and gas leases in the Atlantic region.¹⁷ However, technological advances since then may grant new economic potential to previously non-commercial resource areas. The question of where, and under what circumstances, the Atlantic OCS should be available for oil and gas development was complicated by withdrawals under the Obama Administration.¹⁸ President Trump reversed this in Executive Order 13795,¹⁹ but on September 25, 2020, the Trump Administration issued a Presidential Memorandum withdrawing the Mid-Atlantic Planning Area from energy leasing for ten years starting July 1, 2022.²⁰

H.R. (Levin)

This bill places a permanent moratorium on oil and gas leasing in the Southern California planning area of the OCS. California hosted early 20th century offshore oil production, but the Santa Barbara oil spill of 1969 changed energy production politics off the West Coast.²¹ Shortly after this spill, California placed a moratorium on new oil and gas leases in state waters.²² Although the federal government has control over the federal OCS on the west coast, strong regional resistance remains. Today, the Pacific OCS Region has 32 active leases encompassing 158,956 acres, all off the coast of Southern California.²³

H.R. (Huffman)

This bill places a permanent moratorium on offshore drilling in the Washington/Oregon, Northern California, and Central California planning areas. Currently, the only active oil and gas leases off the west coast are in the Southern California planning area. However, permanently closing off an area for production does not account for future technological advancements that may make previously undeveloped areas economically viable.

¹⁶ US Bureau of Ocean Energy Management. Atlantic Oil and Gas Information. <https://www.boem.gov/Atlantic-Oil-and-Gas-Information/>

¹⁷ Id.

¹⁸ “Western Caucus Members Reject Obama’s Unilateral Offshore Drilling Ban, Pledge to Work with Trump to Immediately Overturn.” December 20, 2016. <https://gosar.house.gov/news/documentsingle.aspx?DocumentID=2336>

¹⁹ Federal Register. “Implementing an America-First Offshore Energy Strategy.” April 28, 2017. <https://www.federalregister.gov/documents/2017/05/03/2017-09087/implementing-an-america-first-offshore-energy-strategy>

²⁰ <https://www.govinfo.gov/content/pkg/DCPD-202000726/pdf/DCPD-202000726.pdf>

²¹ Christine Mai-Duc. LA Times. “The 1969 Santa Barbara oil spill that changed oil and gas exploration forever.” May 20, 2015. <https://www.latimes.com/local/lanow/la-me-ln-santa-barbara-oil-spill-1969-20150520-htmlstory.html>

²² California State Lands Commission. Oil and Gas. <https://www.slc.ca.gov/oil-gas/>

²³ US Bureau of Ocean Energy Management. Managing Oil and Gas Leases – Pacific. <https://www.boem.gov/Managing-Oil-and-Gas-Leases-Pacific>

IV. MAJOR PROVISIONS

H.R. 570

- Requires operators to report to the Secretary of the Interior any “critical system” failures at offshore oil and gas facilities within 30 days.
- Directs operators to investigate any instances of equipment failure within 120 days and provide reports of such investigations to the Secretary (to be made public on the DOI website) and to the manufacturer.
- Any design changes to a critical system as the result of a reported failure must be reported to the Secretary within 30 days.

H.R. 2643

- Directs BOEM and BSEE to finalize regulations relating to “Oil and Gas and Sulphur Operations in the Outer Continental Shelf – Pipelines and Pipeline Rights-of-Way (72 Fed. Reg. 56,442, October 3, 2007) including regulations directing inspections of offshore pipelines by third parties every 2 years and the installation of leak detection systems on offshore pipelines.
- Requires BOEM and BSEE to study the environmental risks associated with decommissioning oil and gas pipelines rather than removing them. This study must include an evaluation of pipelines decommissioned in place and those that are high risk and recommendations regarding the best uses of revenues generated by the fees authorized by this bill.
- Directs BSEE to consider whether decommissioning a pipeline will pose a threat to navigation and commercial fishing operations before issuing a permit and to continually monitor decommissioned pipelines.
- Authorizes an annual fee for operators of offshore pipelines of at least \$1,000 per mile in depths less than 500 feet and \$10,000 per mile for depths of 500 feet or more.
- Requires BSEE to remove or decommission exposed pipelines or resecure them if appropriate.
- Directs BSEE to study the risks to the environment of chemical products used in oil and gas operations offshore.

H.R. 2836

- Amends OCSLA to prohibit preleasing, leasing, or any related activity for oil and gas in any area of the Eastern Gulf of Mexico withdrawn by GOMESA, the portions of the South Atlantic planning area, and the Straits of Florida planning area.

H.R. (Pallone)

- Amends OCSLA to prohibit leasing for exploration, development, or production of oil, natural gas, or any other mineral in any of the Atlantic planning areas or the Straits of Florida planning area.

H.R. (Levin)

- Amends OCSLA to prohibit leasing for exploration, development, or production of oil or natural gas in the Southern California planning area.

H.R. (Huffman)

- Amends OCSLA to prohibit leasing for exploration, development, or production of oil or natural gas in the Washington/Oregon, Northern California, or Central California planning areas.

V. COST

A Congressional Budget Office score for the legislation in the 117th Congress has not been completed.

VI. ADMINISTRATION POSITION

Unknown.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

- H.R. 2836 (Castor) [Ramseyer](#)
- H.R. ____ (Levin) [Ramseyer](#)
- H.R. ____ (Huffman) [Ramseyer](#)
- H.R. ____ (Pallone) [Ramseyer](#)