U.S. Senate
Republican Policy
Committee

Legislative Notice

Jon Kyl, Chairman

347 Russell Senate Office Building
Washington, DC 20510
202-224-2946
http://rpc.senate.gov

No. 50 July 25, 2006

# S. 3711 – Gulf of Mexico Energy Security Act of 2006

Calendar No. 529

*Read the second time on July 21, 2006, and placed on the Senate Legislative Calendar under General Orders; no written report.*

## NOTEWORTHY

- On Monday, the Majority Leader filed a cloture petition on the motion to proceed to S. 3711, the Gulf of Mexico Energy Security Act of 2006. As per Senate rules, a vote on cloture on the motion will occur on Wednesday. The Majority Leader has announced his intention to hold the vote prior to the 11:00 a.m. Joint Meeting of Congress.

- Americans are facing high energy costs due to supply problems for both oil and natural gas, which are having an adverse effect on the nation's economy. Opening up the Outer Continental Shelf (OCS) to energy development would increase U.S. energy supplies, which in turn would help reduce energy prices.

- In April 2006, the Senate Energy Committee reported S. 2253, a bipartisan bill cosponsored by Chairman Domenici and Ranking Member Bingaman, by a vote of 16-5 (with 1 "present" vote), requiring the Secretary of the Interior to offer for oil and gas leasing 3.6-million acres of Original Lease Sale 181.

- Concerns over S. 2253 prompted additional negotiations, culminating in a new bill, S. 3711, which was introduced by Chairman Domenici on July 20 with 10 cosponsors, including Senator Landrieu (D-LA), the Senator who had voted "present" on reporting S. 2253.

- S. 3711 represents a bipartisan agreement among Gulf State Senators to enact legislation that would increase domestic supplies of oil and natural gas.

## Highlights

S. 3711 would:

- Require the Secretary to offer a portion of the Gulf of Mexico, including a portion of Lease Sale 181 and an area south of Lease Sale 181, for oil and gas leasing.

- Make available to U.S. consumers an additional 1.26 billion barrels of domestically produced oil and 5.83 trillion cubic feet of natural gas.

- Put into place a 125-mile buffer until [statutory] 2022 for energy development in waters off the coast of Florida in the Gulf of Mexico.

- Put some areas within Original Lease Sale 181, previously available for energy development, under moratoria.

- Extend existing moratoria on energy exploration and development in the Gulf from 2012 to 2022.

- Distribute 37.5 percent of lease sale revenues (by a formula to be established by the Secretary of the Interior) to Alabama, Louisiana, Mississippi, and Texas. These revenues must be dedicated to coastal protection, restoration, and mitigation.

- Distribute 12.5 percent of lease sale revenues to the stateside Land and Water Conservation fund, which provides matching grants to States and local governments for the acquisition and development of public outdoor recreation areas and facilities.

- Retain 50 percent of lease sale revenues in the General Treasury.

## Background

The following background information is drawn from two RPC policy papers issued last month and titled, "Revisiting Energy Development in the Gulf of Mexico," and "Evaluating the Risks of Opening an Area to Energy Development."[1]

## Evaluating the Need For Energy Development in the OCS

Americans are facing high energy costs due to supply problems for both oil and natural gas, which are having an adverse effect on the nation's economy. Crude oil prices, for example,

[1]RPC, "Revisiting Energy Development in the Gulf of Mexico," June 21, 2006: http://rpc.senate.gov/_files/June2006GulfEnergyPG.pdf; and RPC, "Evaluating the Risks of Opening an Area to Energy Development," June 27, 2006: http://rpc.senate.gov/_files/ Jun2706LeaseSalePG.pdf

have hovered around $70 per barrel since April and recently reached $77 per barrel. As a result, American consumers have been faced with high gasoline prices, sometimes exceeding $3 per gallon on average.

As high as gasoline prices have been, the high price of natural gas may be having a greater impact on the economy. Throughout most of the 1980s and 1990s, the wholesale price (commonly referred to as the "city gate" price) of natural gas hovered around $3 per thousand cubic feet. By 2004, wholesale prices exceeded $6, and by the end of 2005, they exceeded $10.[2] Since then, the price has moderated somewhat, but it is still high at $6.19 per thousand cubic feet.[3] In 2005, natural gas consumers spent $200 billion on natural gas, which is four times as much as was spent in 1999, the last time natural gas traded within its historic price band (the yearly average wholesale price during the 1980s and 1990s was between $2.78 and $3.95).[4]

High natural gas prices have led directly to job losses, particularly in the manufacturing sector. The U.S. chemical industry, whose products are found in 96 percent of all U.S. manufactured goods, has been hit hard by high natural gas prices. The industry uses natural gas as both an energy input and as a key ingredient in its products (accounting for more than 10 percent of total U.S. consumption). It has been estimated that, from 2000 to 2005, the industry lost $50 billion in business to overseas competition, and reduced U.S. jobs by 100,000.[5] In the same time frame, the National Association of Manufacturers estimates that, overall, the United States lost 2.9 million manufacturing jobs, due in large part to high natural gas prices.[6]

Opening up the OCS to energy development would increase U.S. energy supplies, which in turn would help reduce energy prices. To the extent that energy development would add to the world supply of oil, it would reduce the world price for oil. More importantly, developing domestic natural gas resources would substantially reduce natural gas prices, thereby lowering Americans' heating and electricity bills. It would also help halt job losses in the nation's manufacturing industry and contribute to robust economic growth within that industry and the economy as a whole.

## History of Moratoria on the OCS

The Outer Continental Shelf (OCS), as a whole, is estimated to contain approximately 60 percent of the remaining undiscovered oil in the U.S., or 75 billion barrels of technically recoverable oil. It also contains as much as half of the remaining undiscovered natural gas, or

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[2]U.S. Energy Information Administration (EIA), Natural Gas Navigator: http://tonto.eia.doe.gov/dnav/ng/hist/n3050us3m.htm

[3]EIA, *Natural Gas Weekly Update*, June 8, 2006. See also EIA chart at: http://tonto.eia.doe.gov/dnav/ng/hist/n9190us3m.htm.

[4]Jack N. Gerard, American Chemistry Council, Testimony before the Senate Subcommittee on Clean Air, Climate Change and Nuclear Safety, February 9, 2006.

[5]Jack N. Gerard, February 9, 2006.

[6]Jack N. Gerard, February 9, 2006.

362 trillion cubic feet of natural gas.[7] However, much of the OCS, including the U.S. waters off the coasts of New England, California, the Eastern Gulf of Mexico, the Mid-Atlantic, South Atlantic, Alaska's North Aleutian Basin, and the Pacific Northwest have been put off limits by Congressional moratoria or Presidential withdrawal.

Although Congress had enacted moratoria on Interior Department appropriations bills beginning in 1982, the areas covered by the moratoria varied from year to year. The initial action to remove most of the OCS from energy development activities on a more permanent basis began in 1990 when President George H.W. Bush issued an Executive Order prohibiting lease sales off the East and West coasts for 10 years. In 1998, President Clinton, in a memorandum to the Secretary of the Interior, withdrew from leasing through June 30, 2012, those areas of the OCS put under Congressional moratoria in the Department of the Interior and Related Agencies Appropriations Act of 1998. Those areas included those previously put under moratoria by President Bush, as well as the North Aleutian Basin, the eastern Gulf of Mexico, and the Mid-Atlantic and South Atlantic.[8] Not included in either of these Bush or Clinton acts was the Lease Sale 181 area.

## History of Lease Sale 181

In November 1996, President Clinton's Secretary of the Interior, Bruce Babbitt, adopted a five-year leasing program (1997-2002) to start the multi-step process to allow for eventual energy exploration and development in the Original Lease Sale 181 area. The Secretary's decision was made after extensive consultations by the federal government with coastal states, including the State of Florida (which, among the Gulf Coast states, has traditionally offered the strongest opposition to energy activities off its coasts).[9]

In June 2001, after President George W. Bush came into office, a Final Environmental Impact Statement was completed for the full 181 area, giving the lease owners the green light to begin development activities. However, within weeks, the U.S. House of Representatives passed an amendment to the FY2002 Interior Appropriations bill (H.R. 2217) to prevent the use of funds to execute a final lease agreement. The amendment passed by a vote of 247-164, but was eventually stripped out in conference. However, the strong opposition demonstrated by the House vote convinced the Administration to offer a compromise proposal to adjust the lease sale area from 5.9 million acres to just 1.5 million, such that every point of the proposed area would be at least 100 miles from the coast of Florida.[10]

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[7]Energy Information Administration, Moratorium on Offshore Drilling (1990), January 7, 2005: http://www.eia.doe.gov/oil_gas/natural_gas/analysis_publications/ngmajorleg/moratorium.html.

[8]U.S. Department of the Interior, Minerals Management Service, *Leasing Oil and Natural Gas Resources: Outer Continental Shelf*, February 13, 2006.

[9]U.S. Senate Committee on Energy and Natural Resources, Report (109-240) to Accompany S. 2253, *Oil and Gas Leasing in the 181 Area of the Gulf of Mexico*, filed April 7, 2006.

[10]U.S. Senate Committee on Energy and Natural Resources, Report (109-240), April 7, 2006.

In April 2006, the Senate Energy Committee reported S. 2253, a bipartisan bill cosponsored by Chairman Domenici and Ranking Member Bingaman, by a vote of 16-5 (with 1 "present" vote). It required the Secretary of the Interior to offer for oil and gas leasing, within a year of enactment, 3.6-million acres of Original Lease Sale 181 that were not subject to any moratoria or Presidential withdrawal. Concerns over S. 2253 prompted additional negotiations, culminating in a new bill, S. 3711, which was introduced by Energy Committee Chairman Domenici on July 20 with 10 cosponsors, including Senator Landrieu (D-LA), the Senator who had voted "present" on reporting S. 2253.

The Senate Energy and Natural Resources Committee estimated that the area that would have been made available for energy development under S. 2253 contains 930 billion barrels of technically recoverable oil and 6.03 trillion cubic feet of technically recoverable natural gas.[11] This new bill would make available an area for energy development containing 1.26 billion barrels of technically recoverable oil and 5.83 trillion cubic feet of technically recoverable natural gas, according to the Committee (see map below).

## Evaluating the Risks of Energy Development in the OCS

As with virtually any economic activity, energy development in the OCS carries risk. A major oil spill, for example, theoretically could occur and could reach the U.S. coast, thereby imposing major costs on the affected state. Such a spill could also inflict significant, even irreversible, harm on certain marine species. Nobody denies these possibilities; nor should the mere possibility of harm (no matter how small) justify inaction. Policy makers attempt to weigh risks and benefits – they evaluate the *likelihood* of harm and then weigh the potential costs of action against the costs of inaction. When framed in this way, sensible decisions can be made on the acceptable level of risk.

An actual analysis of the last 30 years of experience with offshore exploration and production activities shows that any harms are likely to be small in size and cost, and are unlikely to pose a significant threat to the survival of any species populations. Due to advances in exploration and extraction technology, major oil spills associated with U.S. offshore oil and gas production have been virtually eliminated. Indeed, since 1980, there has not been a single, significant oil spill from a U.S. exploration and production platform.[12] The last oil spill to reach U.S. shores occurred 37 years ago, in 1969, in California's Santa Barbara Channel.[13] Further, there is no documented evidence of any oil spill occurring in U.S. waters more than 12 miles from the shore reaching the shore.[14] Moreover, only 2 percent of total petroleum inputs into the U.S. marine environment originates from offshore oil and gas development activities. Rather, fully 63 percent of total petroleum inputs into the U.S. marine environment comes from *natural*

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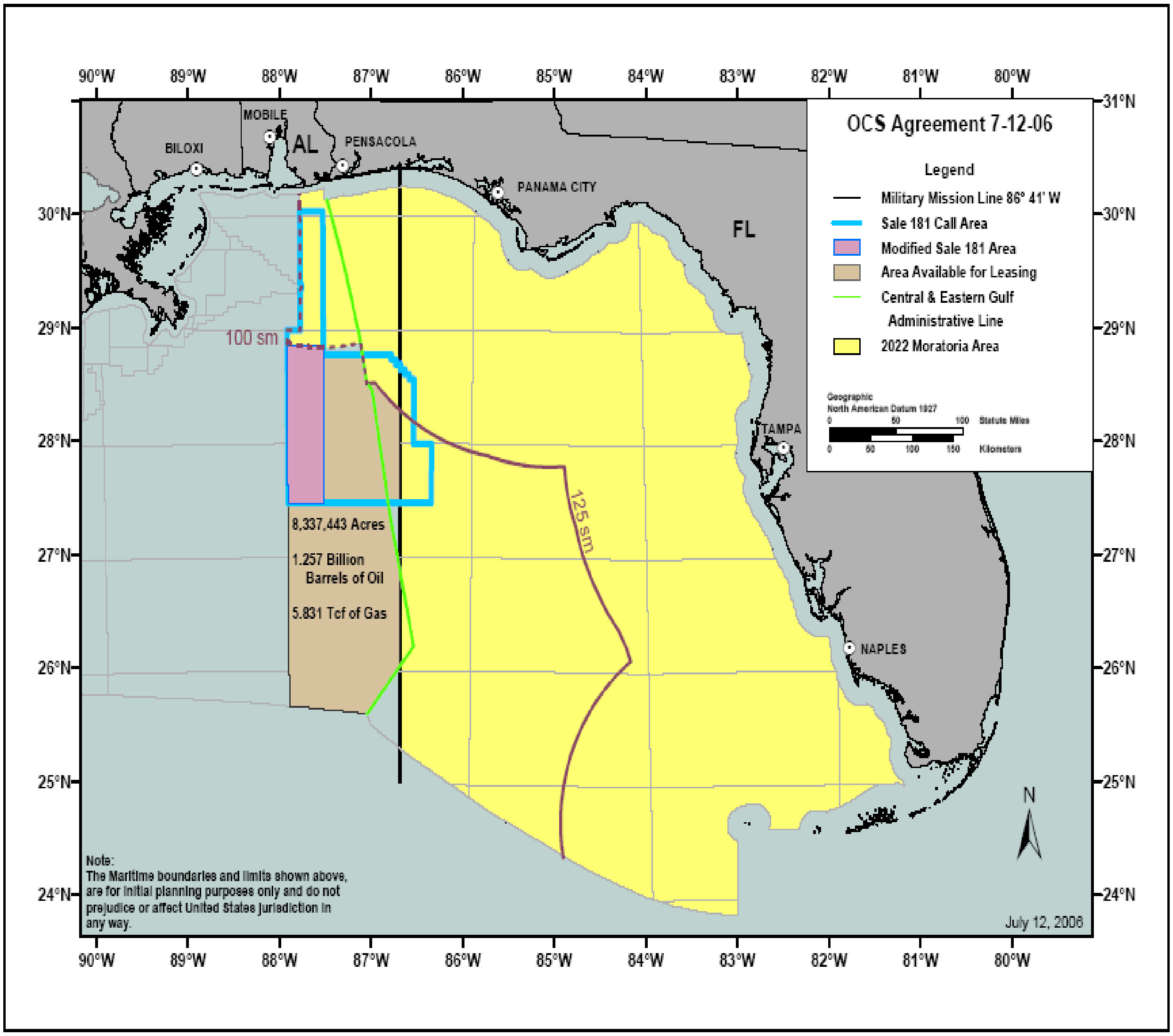
[11]U.S. Senate Committee on Energy and Natural Resources, Report (109-240), April 7, 2006.

[12]Timothy Parker, Dominion Exploration & Production, Inc., Testimony on behalf of the energy extraction industry before the Senate Committee on Energy and Natural Resources, February 16, 2006.

[13]Timothy Parker, February 16, 2006.

[14]Timothy Parker, February 16, 2006.

*seeps* on the ocean floor.[15] This strongly suggests that the risk associated with deepwater energy development is very low.




Source: Senate Energy and Natural Resources Committee

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[15]National Research Council, *Oil in the Sea III: Inputs, Fates, and Effects*, Washington, D.C., National Academies Press, 2003.

## Bill Provisions

[Note: This Notice includes a map that details the area that would be made available for energy development in the deep waters of the Gulf of Mexico under this bill.]

***Section 1 – Title: Gulf of Mexico Energy Security Act of 2006***

***Section 2 – Definitions***

***Section 3 – Offshore Oil and Gas Leasing in 181 Area and 181 South Area of Gulf of Mexico***

This section requires the Secretary of the Interior to offer the 181 Area (that is, the tan area within the blue border on the map above) for oil and gas leasing not later than 1 year after the date of enactment of this Act. It also directs the Secretary to offer the 181 South Area (tan area outside blue border), previously under moratorium, for leasing as soon as practicable.

***Section 4 – Moratorium on Oil and Gas Leasing in Certain Areas of Gulf of Mexico***

This section expands the moratorium on oil and gas leasing to include areas previously available for leasing in the Sale 181 Call Area (the full area within the blue border, sometimes referred to as "Original Lease Sale 181") and extends moratorium until June 30, 2022. The moratoria apply to:

- any area east of the Military Mission Line in the Gulf of Mexico;
- any area in the Eastern Planning Area (east of the green line) that is within 125 miles of the coastline of the State of Florida; or
- any area in the Central Planning Area (west of the green line) that is within 100 miles of the coastline of the State of Florida (the yellow area, both inside and outside the 181 area, west of the green line).

This section provides for oil and gas development east of the Military Mission Line after June 30, 2022, though the Secretary of Defense retains authority to veto leasing in these areas.

It also provides that owners of existing oil and gas leases within the areas newly under moratorium may exchange those leases for a bonus or royalty credit that may only be used in the Gulf of Mexico; that the value of the lease to be exchanged will be equal to the amount of the bonus bid and any rent paid for the lease; and that within a year of enactment, the Secretary shall promulgate regulations to govern the lease exchange process.

***Section 5 – Disposition of Qualified Outer Continental Shelf Revenues From 181 Area, 181 South Area, and 2002-2007 Planning Areas of Gulf of Mexico.***

This section provides that 50 percent of revenues derived from lease sale revenues in the OCS be deposited into the general fund of the Treasury and 50 percent shall be deposited into a special account in the Treasury, 75 percent of which (i.e., 37.5 percent of the total) will be disbursed to Gulf producing States and 25 percent of which (i.e., 12.5 percent of the total) will be disbursed to the stateside Land and Water Conservation fund.

The 37.5 percent of total OCS revenues reserved for Gulf producing States shall be distributed according to a formula established by the Secretary of the Interior. The formula will distribute the funds in amounts that are inversely proportional to the distance 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. In other words, the further away a Gulf producing State is from the leased tract, the less money it gets. Each Gulf producing State shall receive a minimum allocation of 10 percent in each fiscal year.

Beginning in 2017, the same allocation formula will apply to the 181 Area and the 181 South Area. For leases entered into for the 2002-2007 planning area, starting in 2017 revenues shall be allocated to Gulf producing States in amounts that are inversely proportional to the distance between the points on the coastline of Gulf producing States that are closest to the geographic center of each *historical* lease site and the geographic center of the *historical* lease site, as determined by the Secretary. Again, the minimum allocation for Gulf producing States in each fiscal year is 10 percent. Historical lease sites include all leases entered into by the Secretary in the 2002-2007 planning area from October 1, 1982 to December 31, 2015. The ending date will be extended every five years beginning on January 1, 2022. For each of the fiscal years 2016 through 2055, the amount to be distributed from Continental Shelf revenues shall not exceed $500 million.

Twenty percent of the share disbursed to each Gulf producing State shall be paid by the Secretary to the coastal political subdivisions of the Gulf producing States to be allocated according to an existing formula.

Gulf producing States shall use the amount received under this section only for one or more of the following purposes:

- coastal protection;
- mitigation and damage to fish, wildlife, or natural resources;
- implementation of a federally approved marine, coastal, or comprehensive conservation management plan;
- mitigation of OCS activities through funding of onshore infrastructure projects; and
- planning assistance and the administrative costs of this section (no more than 3 percent).

## Cost

The Congressional Budget Office estimates that S. 3711 would reduce direct spending by $926 billion through 2016.

## Administration Position

A Statement of Administration Policy (SAP) on the bill was not available at press time.