

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1229) TO AMEND THE OUTER CONTINENTAL SHELF LANDS ACT TO FACILITATE THE SAFE AND TIMELY PRODUCTION OF AMERICAN ENERGY RESOURCES FROM THE GULF OF MEXICO, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1230) TO REQUIRE THE SECRETARY OF THE INTERIOR TO CONDUCT CERTAIN OFFSHORE OIL AND GAS LEASE SALES, AND FOR OTHER PURPOSES

MAY 4, 2011.—Referred to the House Calendar and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 245]

The Committee on Rules, having had under consideration House Resolution 245, by a record vote of 9 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1229, the Putting the Gulf of Mexico Back to Work Act, under a structured rule. The resolution provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment recommended by the Committee on Natural Resources now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole. The resolution provides that the bill as amended shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those amendments to H.R. 1229 printed in Part A of this report. The resolution provides that each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in Part A of this report are

waived. The resolution provides one motion to recommit the bill with or without instructions.

The resolution further provides for consideration of H.R. 1230, the Restarting American Offshore Leasing Now Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. The resolution waives all points of order against consideration of the bill and provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution makes in order only those amendments to H.R. 1230 printed in Part B of this report. The resolution provides that each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in Part B of this report are waived. The resolution provides one motion to recommit the bill with or without instructions.

Finally, the resolution directs the Clerk to, in the engrossment of H.R. 1229, add the text of H.R. 1230, as passed by the House, as new matter at the end of H.R. 1229. The resolution also directs the Clerk to make conforming modifications in the engrossment.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 1229 includes a waiver of Section 302(f) of the Congressional Budget Act, which prohibits the consideration of legislation that exceeds a committee's allocation of new entitlement authority. This budgetary violation will be cured when, pursuant to the resolution, H.R. 1230 is added as new matter at the end of H.R. 1229. In accordance to clause 10(b) of rule XXI, the provisions of H.R. 1230 will offset the breach in allocation of entitlement authority for a total net reduction in direct spending of \$34 million over the 2011–2021 period. The waiver of all points of order against consideration of H.R. 1229 also includes a waiver of Section 303(a) of the Congressional Budget Act, which prohibits the consideration of legislation, as reported, providing new budget authority, change in revenues, change in the public debt, new entitlement authority, or new credit authority for a fiscal year until the budget resolution for that year has been agreed to. The waiver of all points of order against consideration of H.R. 1229 also includes a waiver of clause 3(c)(4) of rule XIII, which requires the inclusion of general performance goals and objectives in a committee report.

Although the rule waives all points of order against provisions in the H.R. 1229, as amended, the Committee is not aware of any points of order against its provisions. The waiver is prophylactic in nature.

Although the rule waives all points of order against consideration of H.R. 1230, the Committee is not aware of any points of order against consideration of the bill. The waiver of all points of order against consideration of H.R. 1230 is prophylactic in nature.

Although the rule waives all points of order against provisions in the H.R. 1230, the Committee is not aware of any points of order against its provisions. The waiver is prophylactic in nature.

Although the rule waives all points of order against the amendments printed in Part A and Part B of this report, the Committee is not aware of any points of order against such amendments. The waivers are prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 88

Motion by Mr. McGovern to amend the rule to add a new section at the end of rule to provide for the immediate consideration, upon the adoption of the rule, of amendment #1, offered by Reps. McGovern (MA), Blumenauer (OR) and Welch (VT) as a standalone bill under an open rule. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Reed	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 89

Motion by Mr. McGovern to amend the rule to H.R. 1230 to make in order and provide the appropriate waivers for amendment #10, offered by Rep. Markey (MA), which would require that companies bidding on new leases pursuant to H.R. 1230 first renegotiate any royalty-free leases they own. This amendment would raise more than \$2 billion over 10 years. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Reed	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 90

Motion by Mr. Polis to amend the rule to report an open rule for consideration of H.R. 1229 and H.R. 1230. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea

Majority Members	Vote	Minority Members	Vote
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Reed	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 91

Motion by Mr. Sessions to report one rule for the consideration of both H.R. 1229 and H.R. 1230, each under a structured process. Adopted: 9–3

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Yea	Mr. McGovern	Nay
Ms. Foxx	Yea	Mr. Hastings of Florida	Nay
Mr. Bishop of Utah	Yea	Mr. Polis	Nay
Mr. Woodall	Yea		
Mr. Nugent	Yea		
Mr. Scott of South Carolina	Yea		
Mr. Webster	Yea		
Mr. Reed	Yea		
Mr. Dreier, Chairman	Yea		

SUMMARY OF AMENDMENTS PRINTED IN PART A

1. Polis (CO): Would require safety review of permits to take into consideration all applicable safety, environmental and fisheries laws. (10 minutes)

2. Garamendi (CA): Would implement the Commission’s recommendation by requiring that in reviewing a drilling permit, the Secretary consult with an independent drilling safety organization not affiliated with the oil industry trade association. (10 minutes)

3. Markey (MA): Would implement basic offshore drilling safety reforms recommended by the independent BP spill commission. The Commission found that the root causes of the BP spill were “systematic” and could have been prevented. The Markey amendment would set specific new minimum standards for blow-out preventers, cementing and well design. (10 minutes)

4. Hanabusa (HI): Would state that the Secretary shall not issue an offshore drilling permit without certifying that the applicant has calculated a worst-case discharge scenario for the proposed drilling operations; and has demonstrated to the satisfaction of the Secretary that the applicant possesses the capability and technology to respond immediately and effectively to such worst-case discharge scenario. (10 minutes)

5. Jackson Lee (TX): Would ensure a reasonable period for review of applications and eliminate the language that could result in the automatic approval of applications. (10 minutes)

6. Holt (NJ): Would strike a provision in the underlying bill that would “deem” drilling permits approved after 60 days even if the necessary safety and environmental reviews have not be completed. Would leave in place a timeline for approving drilling permits, but prevents permits from being “deemed” approved before the safety review has been completed. (10 minutes)

7. Polis (CO): Would lift timeline requirements if the agency lacks an adequate budget or lacks staff expertise to properly review permits. (10 minutes)

8. Hastings, Alcee (FL): Would require a detailed description of the extent to which and by when any oil found on the leased property will decrease the price of crude oil and at the pump for hard-working Americans. (10 minutes)

9. Deutch (FL): Would strike section 202 of H.R. 1229, so that states outside of the 5th Circuit can have their courts hear civil actions relating to energy projects in the Gulf of Mexico. (10 minutes)

10. Polis (CO): Would amend bill to emphasize quality of court decisions instead of speed of court decisions. (10 minutes)

11. Hastings, Alcee (FL): Would strike Section 207, the limitation on attorneys' fees. (10 minutes)

SUMMARY OF AMENDMENTS PRINTED IN PART B

1. Holt (NJ): Would remove provisions in the bill that would "deem" the safety and environmental review done in 2007, prior to the BP spill, sufficient for new offshore oil and gas leasing. The amendment would allow lease sales to go forward, but require new environmental and safety reviews, following the BP spill. (10 minutes)

2. Connolly (VA), Moran (VA), Sarbanes (MD): Would ensure that Lease Sale 220 does not interfere with Naval or other DOD operations. (10 minutes)

PART A—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, strike "and" after the semicolon at line 4, strike the period at line 6 and insert "; and", and after line 6 insert the following new subparagraph:

"(C) all requirements of all applicable statutes and regulations, including the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, and any law protecting fishing and recreation jobs.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GARAMENDI OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 6, insert the following (and redesignate accordingly):

"(3) CONSULTATION WITH INDEPENDENT SAFETY ORGANIZATION.—In making any determination under paragraph (2), the Secretary shall consult with one or more independent safety organizations that are not affiliated with the American Petroleum Institute.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 6, insert the following (and redesignate accordingly):

“(3) OTHER SAFETY AND ENVIRONMENTAL REQUIREMENTS.—The regulations required under paragraph (1) shall ensure that the proposed drilling operations meet requirements for—

“(A) third-party certification of safety systems related to well control, such as blowout preventers;

“(B) performance of blowout preventers, including quantitative risk assessment standards, subsea testing, and secondary activation methods;

“(C) independent third-party certification of well casing and cementing programs and procedures;

“(D) mandatory safety and environmental management systems by operators on the outer Continental Shelf;

“(E) procedures and technologies to be used during drilling operations to minimize the risk of ignition and explosion of hydrocarbons; and

“(F) ensuring compliance with other applicable environmental and natural resource conservation laws, including the response plan requirements of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)).

“(4) REGULATORY STANDARDS FOR BLOWOUT PREVENTERS, WELL DESIGN, AND CEMENTING.—

“(A) IN GENERAL.—In promulgating regulations under this subsection related to blowout preventers, well design, and cementing, the Secretary shall ensure that such regulations include the minimum standards included in subparagraphs (B), (C), and (D), unless, after notice and an opportunity for public comment, the Secretary determines that a standard required under this subsection would be less effective in ensuring safe operations than an available alternative technology or practice. Such regulations shall require independent third-party certification, pursuant to subparagraph (E), of blowout preventers, well design, and cementing programs and procedures prior to the commencement of drilling operations. Such regulations shall also require recertification by an independent third-party certifier, pursuant to subparagraph (E), of a blowout preventer upon any material modification to the blowout preventer or well design and of a well design upon any material modification to the well design.

“(B) BLOWOUT PREVENTERS.—Subject to subparagraph (A), regulations issued under this subsection for blowout preventers shall include at a minimum the following requirements:

“(i) Two sets of blind shear rams appropriately spaced to prevent blowout preventer failure if a drill pipe joint or drill tool is across one set of blind shear rams during a situation that threatens loss of well control.

“(ii) Redundant emergency backup control systems capable of activating the relevant components of a

blowout preventer, including when the communications link or other critical links between the drilling rig and the blowout preventer are destroyed or inoperable.

“(iii) Regular testing of the emergency backup control systems, including testing during deployment of the blowout preventer.

“(iv) As appropriate, remotely operated vehicle intervention capabilities for secondary control of all subsea blowout preventer functions, including adequate hydraulic capacity to activate blind shear rams, casing shear rams, and other critical blowout preventer components.

“(v) Technologies to prevent a blowout preventer failure if the drill pipe is moved out of position due to a situation that poses a threat of loss of well control.

“(C) WELL DESIGN.—Subject to subparagraph (A), regulations issued under this subsection for well design standards shall include at a minimum the following requirements:

“(i) In connection with the installation of the final casing string, the installation of at least two independent, tested mechanical barriers, in addition to a cement barrier, across each flow path between hydrocarbon bearing formations and the blowout preventer.

“(ii) That wells shall be designed so that a failure of one barrier does not significantly increase the likelihood of another barrier’s failure.

“(iii) That the casing design is appropriate for the purpose for which it is intended under reasonably expected wellbore conditions.

“(iv) The installation and verification with a pressure test of a lockdown device at the time the casing is installed in the wellhead.

“(D) CEMENTING.—Subject to subparagraph (A), regulations issued under this subsection for cementing standards shall include at a minimum the following requirements:

“(i) Adequate centralization of the casing to ensure proper distribution of cement.

“(ii) A full circulation of drilling fluids prior to cementing.

“(iii) The use of an adequate volume of cement to prevent any unintended flow of hydrocarbons between any hydrocarbon-bearing formation zone and the wellhead.

“(iv) Cement bond logs for all cementing jobs intended to provide a barrier to hydrocarbon flow.

“(v) Cement bond logs or such other integrity tests as the Secretary may prescribe for cement jobs other than those identified in clause (iv).

“(E) INDEPENDENT THIRD-PARTY CERTIFICATION.—The Secretary shall issue regulations that establish appropriate standards for the approval of independent third-party certifiers capable of exercising certification functions for blowout preventers, well design, and cementing. For

any certification required for regulations related to blowout preventers, well design, or cementing, the operator shall use a qualified independent third-party certifier chosen by the Secretary. The costs of any certification shall be borne by the operator. The regulations issued under this subparagraph shall require the following:

“(i) Prior to the commencement of drilling through a blowout preventer at any covered well, the operator shall obtain a written and signed certification from an independent third party approved and assigned by the appropriate Federal official pursuant to paragraph (3) that the third party—

“(I) conducted or oversaw a detailed physical inspection, design review, system integration test, and function and pressure testing of the blowout preventer; and

“(II) in the third-party certifier’s best professional judgment, determined that—

“(aa) the blowout preventer is designed for the specific drilling conditions, equipment, and location where it will be installed and for the specific well design;

“(bb) the blowout preventer and all of its components and control systems will operate effectively and as designed when installed;

“(cc) each blind shear ram or casing shear ram will function effectively under likely emergency scenarios and is capable of shearing the drill pipe or casing, as applicable, that will be used when installed;

“(dd) emergency control systems will function under the conditions in which they will be installed; and

“(ee) the blowout preventer has not been compromised or damaged from any previous service.

“(ii) Not less than once every 180 days after commencement of drilling through a blowout preventer at any covered well, or upon implementation of any material modification to the blowout preventer or well design at such a well, the operator shall obtain a written and signed recertification from an independent third party approved and assigned by the appropriate Federal official pursuant to paragraph (3) that the requirements in subclause (II) of clause (i) continue to be met with the systems as deployed. Such recertification determinations shall consider the results of tests required by the appropriate Federal official, including testing of the emergency control systems of a blowout preventer.

“(iii) Certifications under clause (i), recertifications under clause (i), and results of and data from all tests conducted pursuant to this paragraph shall be promptly submitted to the appropriate Federal official and made publicly available.

“(5) RULEMAKING DOCKETS.—

“(A) ESTABLISHMENT.—Not later than the date of proposal of any regulation under this subsection, the Secretary shall establish a publicly available rulemaking docket for such regulation.

“(B) DOCUMENTS TO BE INCLUDED.—The Secretary shall include in the docket—

“(i) all written comments and documentary information on the proposed rule received from any person in the comment period for the rulemaking, promptly upon receipt by the Secretary;

“(ii) the transcript of each public hearing, if any, on the proposed rule, promptly upon receipt from the person who transcribed such hearing; and

“(iii) all documents that become available after the proposed rule is published and that the Secretary determines are of central relevance to the rulemaking, by as soon as possible after their availability.

“(C) PROPOSED AND DRAFT FINAL RULE AND ASSOCIATED MATERIAL.—The Secretary shall include in the docket—

“(i) each draft proposed rule submitted by the Secretary to the Office of Management and Budget for any interagency review process prior to proposal of such rule, all documents accompanying such draft, all written comments thereon by other agencies, and all written responses to such written comments by the Secretary, by no later than the date of proposal of the rule; and

“(ii) each draft final rule submitted by the Secretary for such review process before issuance of the final rule, all such written comments thereon, all documents accompanying such draft, and all written responses thereto, by no later than the date of issuance of the final rule.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HANABUSA OF HAWAII OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, after line 6, insert the following (and redesignate the succeeding paragraph accordingly):

“(3) WORST-CASE DISCHARGE SCENARIO CERTIFICATION.—The Secretary shall not issue a permit under paragraph (1) without certifying that the applicant—

“(A) has calculated a worst-case discharge scenario for the proposed drilling operations; and

“(B) has demonstrated to the satisfaction of the Secretary that the applicant possesses the capability and technology to respond immediately and effectively to such worst-case discharge scenario.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, line 9, strike “30” and insert “60”.

Page 4, line 12, strike “15” and insert “30”.

Page 5, strike lines 5 through 9 and insert closing quotation marks and a following period.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOLT OF NEW JERSEY OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, strike lines 5 through 9 and insert closing quotation marks and a following period.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, strike the closing quotation marks and second period at line 9, and after line 9 insert the following new subparagraph:

“(D) This paragraph shall not apply before the date the Secretary publishes a determination that the agency or bureau of the Department of the Interior that administers this section has been given adequate staff and budget resources to properly review and process every application for a permit under this subsection in order to ensure that no application is processed without thorough review.”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, line 9, before the closing quotation marks insert the following:

“(4) ESTIMATIONS REQUIRED IN PERMIT APPLICATIONS.—The Secretary shall require that each application for a permit to drill a well include detailed estimations of—

“(A) the amount of oil and gas that is expected—

“(i) to be found in the area where the well is drilled, in the case of an exploration well; or

“(ii) to be produced by the well, in the case of a production well; and

“(B) the amount by which crude oil prices and consumer prices would be reduced as a result of oil and gas found or produced by the well, and by when the reductions would occur.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DEUTCH OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, beginning at line 1, strike section 202 (and redesignate the succeeding sections accordingly).

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, line 11, strike “**EXPEDITION**” and insert “**QUALITY ABOVE SPEED**”.

Page 9, line 14, strike “expeditiously” and insert “justly”.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, beginning at line 3, strike section 207.

PART B—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HOLT OF NEW JERSEY OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, beginning at line 6, amend sections 2 and 3 to read as follows:

SEC. 2. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.

The Secretary of the Interior shall conduct offshore oil and gas lease sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable after compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 3. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 218 IN THE WESTERN GULF OF MEXICO.

The Secretary of the Interior shall conduct offshore oil and gas lease sale 218 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable after compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Page 5, beginning at line 1, amend section 5 to read as follows:

SEC. 5. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.

The Secretary of the Interior shall conduct offshore oil and gas lease sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable after compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Page 5, beginning at line 15, strike section 6.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONNOLLY OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, beginning at line 19, strike “if the President, through the Secretary of Defense, determines that drilling activity on that tract would create an unreasonable conflict” and insert “until the President, in consultation with the Secretary of Defense, certifies that drilling activity on that tract would not create a conflict”.