

105TH CONGRESS
2D SESSION

S. 2225

To amend the Outer Continental Shelf Lands Act to prohibit new leasing activities in certain areas off the coast of Florida, and to permit exploration, production, or drilling activities on existing leases only if adequate studies are performed, to require adequate information and analyses for development and production activities, and to allow states full review of development and production activities.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 1998

Mr. GRAHAM (for himself and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Outer Continental Shelf Lands Act to prohibit new leasing activities in certain areas off the coast of Florida, and to permit exploration, production, or drilling activities on existing leases only if adequate studies are performed, to require adequate information and analyses for development and production activities, and to allow states full review of development and production activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Florida Coast Protec-
3 tion Act of 1998”.

4 **SEC. 2. LEASING ACTIVITY OFF THE COAST OF FLORIDA.**

5 (a) PROHIBITION.—Section 8 of the Outer Continen-
6 tal Shelf Lands Act (43 U.S.C. 1337) is amended—

7 (1) in subsection (a)(1), by striking “The Sec-
8 retary” and inserting “Except as provided in sub-
9 section (p), the Secretary”; and

10 (2) by adding at the end the following:

11 “(p) LEASING ACTIVITY OFF THE COAST OF FLOR-
12 IDA.—

13 “(1) DEFINITIONS.—In this subsection:

14 “(A) ADEQUATE.—The term ‘adequate’, in
15 reference to information means, as defined by
16 the National Research Council reports described
17 in paragraph (2)(E)—

18 “(i) sufficiently complete so as to pro-
19 vide for appropriate breadth and depth of
20 basic scientific information in all relevant
21 disciplines needed to understand the envi-
22 ronmental risks associated with OCS deci-
23 sions; and

24 “(ii) of sufficient scientific quality to
25 be repeatable, reliable, and valid in meas-
26 urements and analyses with appropriate

1 subjects methods of inquiry and interpreta-
2 tion that reflect the state of good practice
3 in each scientific field.

4 Methods of inquiry and interpretation must re-
5 flect the state of good practice in each scientific
6 field.

7 “(B) COVERED AREA.—The term ‘covered
8 area’ means—

9 “(i) Eastern Gulf of Mexico Planning
10 Area (as established by the Secretary)
11 which is adjacent to the State of Florida
12 as defined by 43 U.S.C. 1333(a)(2)(A);

13 “(ii) the Straits of Florida Planning
14 Area (as established by the Secretary); and

15 “(iii) the South Atlantic Planning
16 Area (as established by the Secretary)
17 which is adjacent to the State of Florida
18 as defined by 43 U.S.C. 1333 (a)(2)(A);

19 within 100 miles off the coast of Florida.

20 “(C) JOINT TASK FORCE.—The term ‘joint
21 task force’ means the Joint Federal-State Outer
22 Continental Shelf Task Force established by
23 paragraph (3)(C).

24 “(D) PRELEASING ACTIVITY.—

1 “(i) IN GENERAL.—The term
2 ‘preleasing activity’ means an activity re-
3 lating to a lease that is conducted before
4 a lease sale is held.

5 “(ii) INCLUSIONS.—The term
6 ‘preleasing activity’ includes—

7 “(I) the scheduling of a lease
8 sale;

9 “(II) the issuance of a request
10 for industry interest;

11 “(III) the issuance of a call for
12 information or a nomination;

13 “(IV) the identification of an
14 area for prospective leasing;

15 “(V) the publication of a draft or
16 final environmental impact statement
17 or a notice of sale; and

18 “(VI) the performance of any
19 form of rotary drilling in a prospective
20 lease area.

21 “(iii) EXCLUSIONS.—The term
22 ‘preleasing activity’ does not include an en-
23 vironmental, geologic, geophysical, eco-
24 nomic, engineering, or other scientific anal-
25 ysis, study, or evaluation.

“(E) REPORT OF THE NATIONAL RE-
 SEARCH COUNCIL OF THE NATIONAL ACADEMY
 OF SCIENCES.—The term ‘report of the Na-
 tional Research Council’ means—

“(i) the report entitled ‘The Adequacy
 of Environmental Information for Outer
 Continental Shelf Oil and Gas Decisions:
 Florida and California’ issued in 1989 by
 the National Research Council’s Commit-
 tee to Review the Outer Continental Shelf
 Environmental Studies Program and sup-
 ported by the President’s Outer Continen-
 tal Shelf Leasing and Development Task
 Force through Department of the Interior
 Contract No. 1435000130495; and

“(ii) parts I, II, and III of the docu-
 ment entitled ‘Assessment of the United
 States Outer Continental Shelf Environ-
 mental Studies Program’ issued in 1990
 and 1992 by the committee referred to in
 subclause (I), with support from Depart-
 ment of the Interior Contract No. 14-12-
 001030342.

“(2) PROHIBITION OF PRELEASING ACTIVITIES
 AND LEASE SALES.—The Secretary shall not con-

duct any preleasing activity or hold a lease sale under this Act in a covered area.

“(3) ACTIVITIES IN EXISTING LEASE AREAS.—

“(A) IN GENERAL.—With respect to a lease in a covered area entered into before the date of an enactment of this subsection, the Secretary may approve or permit an exploration, production, or drilling activity in the lease area only if—

“(i) all assessments, studies, and research required for the area under subparagraph (B) have been completed;

“(ii) all such assessments, studies, and research have been peer reviewed, by qualified scientists, as provided for and supervised by the joint task force; and

“(iii) the Secretary submits to Congress and the Governor of the State of Florida a report, which has been approved by the joint task force, certifying that the available physical oceanographic, ecological, and socioeconomic information, and other information pertaining to the environment, endangered and threatened species, and marine mammals, is adequate to

1 enable the Secretary to carry out the re-
 2 sponsibilities of the Secretary in the area
 3 under the Outer Continental Shelf Lands
 4 Act (43 U.S.C. 1331 et seq.) and other
 5 laws, with a minimal level of uncertainty,
 6 with respect to the proposed exploration,
 7 production, or drilling activity.

8 “(B) ASSESSMENTS, STUDIES, AND RE-
 9 SEARCH.—The assessments, studies, and re-
 10 search referred to in subparagraph (A) are as
 11 follows:

12 “(i) EASTERN GULF OF MEXICO
 13 PLANNING AREA.—With respect to the
 14 area described in paragraph (1)(B)(I):

15 “(I) The Assessment of the His-
 16 torical, Social, and Economic Impacts
 17 of Outer Continental Shelf Develop-
 18 ment on Gulf Coast Communities, to
 19 be conducted by the Minerals Manage-
 20 ment Service.

21 “(II) The series of studies identi-
 22 fied as the Northeastern Gulf of Mex-
 23 ico Coastal and Marine Ecosystem
 24 Program, to be conducted by the Bio-

1 logical Resources Division of the
2 United States Geological Survey.

3 “(III) Any additional physical
4 oceanographic studies identified and
5 recommended by the Northeast Gulf
6 of Mexico Physical Oceanography
7 Workshop conducted by the Minerals
8 Management Service in conjunction
9 with Florida State University and
10 identified in the workshop proceedings
11 OCS Study MMS 94–0044.

12 “(IV) Any additional studies or
13 research in the area identified by the
14 joint physical oceanographic/ecological
15 workshop to be held by the Minerals
16 Management Service in conjunction
17 with the University of West Florida in
18 August 1998.

19 “(V) Any additional studies or
20 research in the area needed to acquire
21 information on a subject on which a
22 report of the National Research Coun-
23 cil found available information to be
24 less than adequate.

1 “(VI) Any additional physical
 2 oceanographic, ecological, or socio-
 3 economic or other environmental stud-
 4 ies, endangered and threatened spe-
 5 cies surveys, or marine mammal sur-
 6 veys requested by the Governor of the
 7 State of Florida and recommended by
 8 the joint task force to minimize the
 9 uncertainty about the effects of the
 10 proposed preleasing activity, leasing,
 11 or exploration, production, or drilling
 12 activity on the marine environment,
 13 the coastal environment, and the
 14 human environment of the State of
 15 Florida, including any such request
 16 for the expansion of assessments, du-
 17 ties, or research described in sub-
 18 clauses (I) through (V).

19 “(ii) STRAITS OF FLORIDA PLANNING
 20 AREA.—With respect to the area described
 21 in paragraph (1)(B)(ii):

22 “(I) An assessment of the Social
 23 and Economic Impacts of Outer Con-
 24 tinental Shelf oil and gas activities on
 25 Florida’s coastal communities.

1 “(II) Any additional studies or
2 research in the area needed to acquire
3 information on a subject on which a
4 report of the National Research Coun-
5 cil found available information to be
6 less than adequate.

7 “(III) Any additional physical
8 oceanographic, ecological, or socio-
9 economic or other environmental stud-
10 ies, endangered and threatened spe-
11 cies surveys, or marine mammal sur-
12 veys requested by the Governor of the
13 State of Florida and recommended by
14 the joint task force to minimize the
15 uncertainty about the effects of the
16 proposed preleasing activity, leasing,
17 or exploration, production, or drilling
18 activity on the marine environment,
19 the coastal environment, and the
20 human environment of the State of
21 Florida.

22 “(iii) SOUTH ATLANTIC PLANNING
23 AREA.—With respect to the area described
24 in paragraph (1)(B)(iii):

1 “(I) An assessment of the social
2 and economic impacts of Outer Con-
3 tinental Shelf oil and gas activities on
4 Florida’s coastal communities.

5 “(II) Any additional studies or
6 research in the area needed to acquire
7 information on a subject on which a
8 report of the National Research Coun-
9 cil found available information to be
10 less than adequate.

11 “(III) Any additional physical
12 oceanographic, ecological, or socio-
13 economic or other environmental stud-
14 ies, endangered and threatened spe-
15 cies surveys, or marine mammal sur-
16 veys requested by the Governor of the
17 State of Florida and recommended by
18 the joint task force to minimize the
19 uncertainty about the effects of the
20 proposed preleasing activity, leasing,
21 or exploration, production, or drilling
22 activity on the marine environment,
23 the coastal environment, and the
24 human environment of the State of
25 Florida.

1 “(C) JOINT TASK FORCE.—

2 “(i) ESTABLISHMENT.—There is es-
3 tablished a Joint Federal-State Outer Con-
4 tinental Shelf Task Force for the purpose
5 of carrying out the responsibilities assigned
6 to the joint task force under this para-
7 graph in the areas described in subpara-
8 graph (B).

9 “(ii) RESPONSIBILITIES.—The re-
10 sponsibilities of the Joint Federal-State
11 Outer Continental Shelf Task Force shall
12 be—

13 “(I) to ensure the acquisition and
14 consideration of adequate information
15 in all relevant disciplines needed to
16 understand the environmental risks
17 associated with OCS activities and for
18 the protection of marine, coastal, and
19 human environments of the State of
20 Florida; and

21 “(II) to provide recommenda-
22 tions, with the assistance of the OCS
23 Scientific Committee, on the ade-
24 quacy, types, and methodologies of as-
25 sessments, studies, and research need-

1 ed to enable the Secretary to carry
2 out the responsibilities of the Sec-
3 retary in the areas under the Outer
4 Continental Shelf Lands Act (43
5 U.S.C. 1331 et seq.) and other laws,
6 with a minimal level of uncertainty;

7 “(III) to facilitate the resolution
8 of conflicts between the State of Flor-
9 ida and the Minerals Management
10 Service or other Federal agency re-
11 garding OCS activities and environ-
12 mental studies;

13 “(IV) to assist the Minerals Man-
14 agement Service and other Federal
15 agencies in coordinating research; and

16 “(V) to participate in the review
17 of, and assist in obtaining review by,
18 qualified scientists of all assessments,
19 studies and research required by this
20 subsection.

21 “(ii) MEMBERSHIP.—The joint task
22 force shall consist of—

23 “(I) 1 representative, at the as-
24 sistant secretary level or equivalent, of
25 each of—

1 “(aa) the Environmental
2 Protection Agency;

3 “(bb) the Minerals Manage-
4 ment Service;

5 “(cc) the National Oceanic
6 and Atmospheric Administration;

7 “(dd) the United States
8 Fish and Wildlife Service;

9 “(ee) the National Marine
10 Fisheries Service; and

11 “(ff) the Biological Re-
12 sources Division of the United
13 States Geological Survey;

14 “(II) 6 representatives of the
15 State of Florida, appointed by the
16 Governor of the State; and

17 “(III) 3 members appointed by
18 the Secretary of Commerce from a list
19 of individuals nominated by the Na-
20 tional Academy of Sciences who are
21 professional scientists in the fields of
22 physical oceanography, marine ecol-
23 ogy, and social science.

24 “(iii) COMPENSATION.—

1 “(I) IN GENERAL.—Members of
2 the joint task force appointed under
3 clause (ii)(III) may be compensated at
4 a rate to be fixed by the Secretary of
5 Commerce, but not in excess of the
6 maximum rate of pay payable for a
7 position classified above GS–15 under
8 section 5108 of title 5, United States
9 Code, for each day that the member
10 spends performing the duties of the
11 joint task force.

12 “(II) TRAVEL AND TRANSPOR-
13 TATION EXPENSES.—Members of the
14 joint task force appointed under
15 clause (ii)(III), while performing offi-
16 cial duties under this Act, shall re-
17 ceive compensation for travel and
18 transportation expenses under section
19 5703 of title 5, United States Code.

20 “(D) OIL AND GAS EXPLORATION.—Ap-
21 proval of the first exploration plan submitted
22 after the date of enactment of this subsection
23 under section 11 and any other exploration plan
24 deemed significant by the Secretary and each
25 affected State in each of the covered areas shall

1 be subject to the requirement of the preparation
 2 of a detailed statement submitted under section
 3 102(2)(C) of the National Environmental Policy
 4 Act of 1969 (42 U.S.C. 4332(2)(C)).”.

5 (b) OIL AND GAS DEVELOPMENT AND PRODUC-
 6 TION.—

7 (1) DEVELOPMENT AND PRODUCTION PLAN.—
 8 Section 25(c) of the Outer Continental Shelf Lands
 9 Act (43 U.S.C. 1351(c)) is amended—

10 (A) by striking “and” at the end of para-
 11 graph (5);

12 (B) by redesignating paragraph (6) as
 13 paragraph (8); and

14 (C) by inserting after paragraph (5) the
 15 following:

16 “(6) thorough descriptions of the area affected
 17 by the proposed development and production activi-
 18 ties and analyses of the primary, secondary, and cu-
 19 mulative effects of such development and production
 20 on the ocean, coastal, land, human, air, social, and
 21 economic resources of the affected area; and

22 “(7) specific information in the necessary detail
 23 for inclusion in permit applications for all permits
 24 needed to conduct development and production ac-
 25 tivities whether issued by the Secretary or another

1 Federal or State agency, including air quality per-
 2 mits, water quality permits, applications for permit
 3 to drill, applications for the approval of the installa-
 4 tion of a lease term pipeline or for the granting of
 5 a right-of-way; and platform applications.”.

6 (2) CONCURRENCE BY THE STATE.—Section
 7 25(d) of the Outer Continental Shelf Lands Act (43
 8 U.S.C. 1351(d)) is amended—

9 (A) by striking “The Secretary shall not”
 10 and inserting the following:

11 “(d) CONCURRENCE BY THE STATE.—The Secretary
 12 shall not approve any Development and Production Plan
 13 or Development Operations Coordination Document or”;
 14 and

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

16 “(2) UNAVAILABILITY OF INFORMATION.—
 17 Should any of the information required in subsection
 18 (c) not be available for inclusion in the plan for de-
 19 velopment and production activities at the time that
 20 the plan is submitted to the Secretary and subse-
 21 quently to a State for which the activities described
 22 in the plan affects any land use or water use in the
 23 coastal State with a coastal zone management pro-
 24 gram approved pursuant to section 306 of the
 25 Coastal Zone Management Act of 1972 (16 U.S.C.

1 1455), the State’s consistency response to the con-
 2 sistency certification that accompanied the plan shall
 3 be considered to be preliminary and provisional, sub-
 4 ject to the receipt and review of the complete infor-
 5 mation identified under paragraph (1). When the in-
 6 formation required under paragraph (1) is developed
 7 and submitted to the Secretary or developed by the
 8 Secretary, each affected State shall be afforded the
 9 opportunity to complete its consistency review and
 10 response.”.

11 (3) MAJOR FEDERAL ACTION.—Section
 12 25(e)(1) of the Outer Continental Shelf Lands Act
 13 (43 U.S.C. 1351 (e)(1)) is amended—

14 (A) by inserting before “At least” the fol-
 15 lowing: “The Secretary shall consult with and
 16 obtain the concurrence of each affected State in
 17 determining if the approval of a development
 18 and production plan constitutes to be a major
 19 Federal action for purposes of the National En-
 20 vironmental Policy Act of 1969 (42 U.S.C.
 21 4321 et seq.).”; and

22 (B) by adding at the end the following
 23 “(3) On a finding by the Secretary, in consulta-
 24 tion with each affected State, that the approval of
 25 a development and production plan is a major Fed-

1 eral action subject to the procedures under the Na-
2 tional Environmental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.), the Secretary shall ensure that each
4 affected State for which the development and pro-
5 duction plan affects any land use or water use in the
6 coastal zone of the State with a coastal zone man-
7 agement program approved pursuant to section 306
8 of the Coastal Zone Management Act of 1972 (16
9 U.S.C. 1455), receives the final environmental im-
10 pact statement 6 months prior to determining con-
11 currence or objection to the coastal zone consistency
12 certification which must accompany the environ-
13 mental impact statement pursuant to section
14 307(c)(3)(B) of the Coastal Zone Management Act
15 of 1972 (16 U.S.C. 1456(c)(3)(B)). Coastal states
16 for which a development and production plan that
17 has been determined to be a major Federal action
18 for purpose of the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.), and that af-
20 fects any land use or water use of a State without
21 an approved coastal zone management program
22 must receive the final environmental impact state-
23 ment 3 months prior to submission of comments and
24 recommendations under subsection (g).”.

1 (4) APPROVAL OR DISAPPROVAL.—Section
 2 25(h)(1) of the Outer Continental Shelf Lands Act
 3 (43 U.S.C. 1351(h)(1)) is amended in the first sen-
 4 tence—

5 (A) by striking “within sixty days” follow-
 6 ing “the Secretary shall,”;

7 (B) by striking “sixty days”;

8 (C) by inserting after “modifications of the
 9 plan” the following: “, and after receipt of con-
 10 currence or objection by a State with respect to
 11 the consistency certification accompanying the
 12 environmental impact statement pursuant to
 13 section 307(c)(3)(B) of that Act (16 U.S.C.
 14 1456(c)(3)(B)) unless the Secretary of Com-
 15 merce makes the finding authorized by section
 16 307(c)(3)(B)(iii) of that Act (16 U.S.C.
 17 1456(c)(3)(B)(iii)), whichever is later”; and

18 (D) by inserting after require “modifica-
 19 tions of the plan” the following: “within 60
 20 days.”.

21 (5) APPLICATION OF SECTION.—Section 25(l)
 22 of the Outer Continental Shelf Lands Act (3 U.S.C.
 23 1351(l)) is amended by striking “may” and inserting
 24 “shall”.

○