

108TH CONGRESS  
1ST SESSION

# H. R. 39

To establish and implement a competitive oil and gas leasing program that will result in an environmentally sound and job creating program for the exploration, development, and production of the oil and gas resources of the Coastal Plain, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To establish and implement a competitive oil and gas leasing program that will result in an environmentally sound and job creating program for the exploration, development, and production of the oil and gas resources of the Coastal Plain, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Arctic Coastal Plain  
5 Domestic Energy Security Act of 2003”.

6 **SEC. 2. DEFINITIONS.**

7       In this Act:

10 (2) SECRETARY.—The term “Secretary”, except  
11 as otherwise provided, means the Secretary of the  
12 Interior or the Secretary’s designee.

13 SEC. 3. LEASING PROGRAM FOR LANDS WITHIN THE  
14 COASTAL PLAIN.

15 (a) IN GENERAL.—The Secretary shall take such ac-  
16 tions as are necessary—

24 (2) to administer the provisions of this Act  
25 through regulations, lease terms, conditions, restric-

1       tions, prohibitions, stipulations, and other provisions  
2       that ensure the oil and gas exploration, development,  
3       and production activities on the Coastal Plain will  
4       result in no significant adverse effect on fish and  
5       wildlife, their habitat, subsistence resources, and the  
6       environment, and including, in furtherance of this  
7       goal, by requiring the application of the best com-  
8       mercially available technology for oil and gas explo-  
9       ration, development, and production to all explo-  
10      ration, development, and production operations  
11      under this Act in a manner that ensures the receipt  
12      of fair market value by the public for the mineral re-  
13      sources to be leased.

14      (b) REPEAL.—Section 1003 of the Alaska National  
15      Interest Lands Conservation Act of 1980 (16 U.S.C.  
16      3143) is repealed.

17      (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-  
18      TAIN OTHER LAWS.—

19           (1) COMPATIBILITY.—For purposes of the Na-  
20       tional Wildlife Refuge System Administration Act of  
21       1966, the oil and gas leasing program and activities  
22       authorized by this section in the Coastal Plain are  
23       deemed to be compatible with the purposes for which  
24       the Arctic National Wildlife Refuge was established,

1 and that no further findings or decisions are re-  
2 quired to implement this determination.

3 (2) ADEQUACY OF THE DEPARTMENT OF THE  
4 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT  
5 STATEMENT.—The “Final Legislative Environ-  
6 mental Impact Statement” (April 1987) on the  
7 Coastal Plain prepared pursuant to section 1002 of  
8 the Alaska National Interest Lands Conservation  
9 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
10 of the National Environmental Policy Act of 1969  
11 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
12 quirements under the National Environmental Policy  
13 Act of 1969 that apply with respect to actions au-  
14 thorized to be taken by the Secretary to develop and  
15 promulgate the regulations for the establishment of  
16 a leasing program authorized by this Act before the  
17 conduct of the first lease sale.

18 (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
19 TIONS.—Before conducting the first lease sale under  
20 this Act, the Secretary shall prepare an environ-  
21 mental impact statement under the National Envi-  
22 ronmental Policy Act of 1969 with respect to the ac-  
23 tions authorized by this Act that are not referred to  
24 in paragraph (2). Notwithstanding any other law,  
25 the Secretary is not required to identify nonleasing

1       alternative courses of action or to analyze the envi-  
2       ronmental effects of such courses of action. The Sec-  
3       retary shall only identify a preferred action for such  
4       leasing and a single leasing alternative, and analyze  
5       the environmental effects and potential mitigation  
6       measures for those two alternatives. The identifica-  
7       tion of the preferred action and related analysis for  
8       the first lease sale under this Act shall be completed  
9       within 18 months after the date of the enactment  
10      of this Act. The Secretary shall only consider public  
11      comments that specifically address the Secretary's  
12      preferred action and that are filed within 20 days  
13      after publication of an environmental analysis. Not-  
14      withstanding any other law, compliance with this  
15      paragraph is deemed to satisfy all requirements for  
16      the analysis and consideration of the environmental  
17      effects of proposed leasing under this Act.

18      (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
19      ITY.—Nothing in this Act shall be considered to expand  
20      or limit State and local regulatory authority.

21      (e) SPECIAL AREAS.—

22           (1) IN GENERAL.—The Secretary, after con-  
23           sultation with the State of Alaska, the city of  
24           Kaktovik, and the North Slope Borough, may des-  
25           ignate up to a total of 45,000 acres of the Coastal

1 Plain as a Special Area if the Secretary determines  
2 that the Special Area is of such unique character  
3 and interest so as to require special management  
4 and regulatory protection. The Secretary shall des-  
5 ignate as such a Special Area the Sadlerochit Spring  
6 area, comprising approximately 4,000 acres as de-  
7 picted on the map referred to in section 2(1).

8 (2) MANAGEMENT.—Each such Special Area  
9 shall be managed so as to protect and preserve the  
10 area's unique and diverse character including its  
11 fish, wildlife, and subsistence resource values.

12 (3) EXCLUSION FROM LEASING OR SURFACE  
13 OCCUPANCY.—The Secretary may exclude any Spe-  
14 cial Area from leasing. If the Secretary leases a Spe-  
15 cial Area, or any part thereof, for purposes of oil  
16 and gas exploration, development, production, and  
17 related activities, there shall be no surface occu-  
18 pancy of the lands comprising the Special Area.

19 (4) DIRECTIONAL DRILLING.—Notwithstanding  
20 the other provisions of this subsection, the Secretary  
21 may lease all or a portion of a Special Area under  
22 terms that permit the use of horizontal drilling tech-  
23 nology from sites on leases located outside the area.

24 (f) LIMITATION ON CLOSED AREAS.—The Sec-  
25 retary's sole authority to close lands within the Coastal

1 Plain to oil and gas leasing and to exploration, develop-  
2 ment, and production is that set forth in this Act.

3 (g) REGULATIONS.—

4 (1) IN GENERAL.—The Secretary shall pre-  
5 scribe such regulations as may be necessary to carry  
6 out this Act, including rules and regulations relating  
7 to protection of the fish and wildlife, their habitat,  
8 subsistence resources, and environment of the Coast-  
9 al Plain, by no later than 15 months after the date  
10 of the enactment of this Act.

11 (2) REVISION OF REGULATIONS.—The Sec-  
12 retary shall periodically review and, if appropriate,  
13 revise the rules and regulations issued under sub-  
14 section (a) to reflect any significant biological, envi-  
15 ronmental, or engineering data that come to the Sec-  
16 retary's attention.

17 **SEC. 4. LEASE SALES.**

18 (a) IN GENERAL.—Lands may be leased pursuant to  
19 this Act to any person qualified to obtain a lease for depos-  
20 its of oil and gas under the Mineral Leasing Act (30  
21 U.S.C. 181 et seq.).

22 (b) PROCEDURES.—The Secretary shall, by regula-  
23 tion, establish procedures for—

24 (1) receipt and consideration of sealed nomina-  
25 tions for any area in the Coastal Plain for inclusion

1       in, or exclusion (as provided in subsection (c)) from,  
2       a lease sale;

3               (2) the holding of lease sales after such nomina-  
4       tion process; and

5               (3) public notice of and comment on designa-  
6       tion of areas to be included in, or excluded from, a  
7       lease sale.

8       (c) LEASE SALE BIDS.—Bidding for leases under  
9       this Act shall be by sealed competitive cash bonus bids.

10       (d) ACREAGE MINIMUM IN FIRST SALE.—In the first  
11       lease sale under this Act, the Secretary shall offer for lease  
12       those tracts the Secretary considers to have the greatest  
13       potential for the discovery of hydrocarbons, taking into  
14       consideration nominations received pursuant to subsection  
15       (b)(1), but in no case less than 200,000 acres.

16       (e) TIMING OF LEASE SALES.—The Secretary  
17       shall—

18               (1) conduct the first lease sale under this Act  
19       within 22 months after the date of the enactment of  
20       this Act; and

21               (2) conduct additional sales so long as sufficient  
22       interest in development exists to warrant, in the Sec-  
23       retary's judgment, the conduct of such sales.

1 **SEC. 5. GRANT OF LEASES BY THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary may grant to the  
3 highest responsible qualified bidder in a lease sale con-  
4 ducted pursuant to section 4 any lands to be leased on  
5 the Coastal Plain upon payment by the lessee of such  
6 bonus as may be accepted by the Secretary.

7 (b) SUBSEQUENT TRANSFERS.—No lease issued  
8 under this Act may be sold, exchanged, assigned, sublet,  
9 or otherwise transferred except with the approval of the  
10 Secretary. Prior to any such approval the Secretary shall  
11 consult with, and give due consideration to the views of,  
12 the Attorney General.

13 **SEC. 6. LEASE TERMS AND CONDITIONS.**

14 (a) IN GENERAL.—An oil or gas lease issued pursu-  
15 ant to this Act shall—

16 (1) provide for the payment of a royalty of not  
17 less than 12½ percent in amount or value of the  
18 production removed or sold from the lease, as deter-  
19 mined by the Secretary under the regulations appli-  
20 cable to other Federal oil and gas leases;

21 (2) provide that the Secretary may close, on a  
22 seasonal basis, portions of the Coastal Plain to ex-  
23 ploratory drilling activities as necessary to protect  
24 caribou calving areas and other species of fish and  
25 wildlife;

10 (4) provide that the lessee may not delegate or  
11 convey, by contract or otherwise, the reclamation re-  
12 sponsibility and liability to another person without  
13 the express written approval of the Secretary;

14 (5) provide that the standard of reclamation for  
15 lands required to be reclaimed under this Act shall  
16 be, as nearly as practicable, a condition capable of  
17 supporting the uses which the lands were capable of  
18 supporting prior to any exploration, development, or  
19 production activities, or upon application by the les-  
20 see, to a higher or better use as approved by the  
21 Secretary;

22 (6) contain terms and conditions relating to  
23 protection of fish and wildlife, their habitat, and the  
24 environment as required pursuant to section 3(a)(2);

10 (8) prohibit the export of oil produced under  
11 the lease; and

12 (9) contain such other provisions as the Sec-  
13 retary determines necessary to ensure compliance  
14 with the provisions of this Act and the regulations  
15 issued under this Act.

16 (b) PROJECT LABOR AGREEMENTS.—The Secretary,  
17 as a term and condition of each lease under this Act and  
18 in recognizing the Government's proprietary interest in  
19 labor stability and in the ability of construction labor and  
20 management to meet the particular needs and conditions  
21 of projects to be developed under the leases issued pursu-  
22 ant to this Act and the special concerns of the parties to  
23 such leases, shall require that the lessee and its agents  
24 and contractors negotiate to obtain a project labor agree-  
25 ment for the employment of laborers and mechanics on

1 production, maintenance, and construction under the  
2 lease.

3 **SEC. 7. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

4 (a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD**  
5 **TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—

6 The Secretary shall, consistent with the requirements of  
7 section 3, administer the provisions of this Act through  
8 regulations, lease terms, conditions, restrictions, prohibi-  
9 tions, stipulations, and other provisions that—

10 (1) ensure the oil and gas exploration, develop-  
11 ment, and production activities on the Coastal Plain  
12 will result in no significant adverse effect on fish  
13 and wildlife, their habitat, and the environment; and  
14 (2) require the application of the best commer-  
15 cially available technology for oil and gas explo-  
16 ration, development, and production on all new ex-  
17 ploration, development, and production operations.

18 (b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—

19 The Secretary shall also require, with respect to any pro-  
20 posed drilling and related activities, that—

21 (1) a site-specific analysis be made of the prob-  
22 able effects, if any, that the drilling or related activi-  
23 ties will have on fish and wildlife, their habitat, and  
24 the environment;

8 (c) REGULATIONS TO PROTECT COASTAL PLAIN

## 9 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,

10 AND THE ENVIRONMENT.—Before implementing the leas-  
11 ing program authorized by this Act, the Secretary shall  
12 prepare and promulgate regulations, lease terms, condi-  
13 tions, restrictions, prohibitions, stipulations, and other  
14 measures designed to ensure that the activities undertaken  
15 on the Coastal Plain under this Act are conducted in a  
16 manner consistent with the purposes and environmental  
17 requirements of this Act.

18 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
19 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
20 proposed regulations, lease terms, conditions, restrictions,  
21 prohibitions, and stipulations for the leasing program  
22 under this Act shall require compliance with all applicable  
23 provisions of Federal and State environmental law and  
24 shall also require the following:

19 (A) the Secretary determines, after afford-  
20 ing an opportunity for public comment and re-  
21 view, that special circumstances exist necessi-  
22 tating that exploration activities be conducted  
23 at other times of the year; and

24 (B) the Secretary finds that such explo-  
25 ration will have no significant adverse effect on

1           the fish and wildlife, their habitat, and the envi-  
2           ronment of the Coastal Plain.

3           (4) Design safety and construction standards  
4           for all pipelines and any access and service roads,  
5           that—

6                   (A) minimize, to the maximum extent pos-  
7                   sible, adverse effects upon the passage of mi-  
8                   gratory species such as caribou; and

9                   (B) minimize adverse effects upon the flow  
10                  of surface water by requiring the use of cul-  
11                  verts, bridges, and other structural devices.

12           (5) Prohibitions on public access and use on all  
13           pipeline access and service roads.

14           (6) Stringent reclamation and rehabilitation re-  
15           quirements, consistent with the standards set forth  
16           in this Act, requiring the removal from the Coastal  
17           Plain of all oil and gas development and production  
18           facilities, structures, and equipment upon completion  
19           of oil and gas production operations, except that the  
20           Secretary may exempt from the requirements of this  
21           paragraph those facilities, structures, or equipment  
22           that the Secretary determines would assist in the  
23           management of the Arctic National Wildlife Refuge  
24           and that are donated to the United States for that  
25           purpose.

## 5 (9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on  
use of explosives.

14 (12) Avoidance or reduction of air traffic-re-  
15 lated disturbance to fish and wildlife.

23 (14) Fuel storage and oil spill contingency plan-  
24 ning.

(15) Research, monitoring, and reporting requirements.

3 (16) Field crew environmental briefings.

4 (17) Avoidance of significant adverse effects  
5 upon subsistence hunting, fishing, and trapping by  
6 subsistence users.

7 (18) Compliance with applicable air and water  
8 quality standards.

12 (20) Reasonable stipulations for protection of  
13 cultural and archeological resources.

14 (21) All other protective environmental stipula-  
15 tions, restrictions, terms, and conditions deemed  
16 necessary by the Secretary.

17 (e) CONSIDERATIONS.—In preparing and promul-  
18 gating regulations, lease terms, conditions, restrictions,  
19 prohibitions, and stipulations under this section, the Sec-  
20 retary shall consider the following:

5 (3) The land use stipulations for exploratory  
6 drilling on the KIC-ASRC private lands that are set  
7 forth in Appendix 2 of the August 9, 1983, agree-  
8 ment between Arctic Slope Regional Corporation and  
9 the United States.

10 (f) FACILITY CONSOLIDATION PLANNING.—

19 (A) Avoiding unnecessary duplication of fa-  
20 cilities and activities.

21 (B) Encouraging consolidation of common  
22 facilities and activities.

23 (C) Locating or confining facilities and ac-  
24 tivities to areas that will minimize impact on

1                   fish and wildlife, their habitat, and the environment.  
2

3                   (D) Utilizing existing facilities wherever  
4                   practicable.

5                   (E) Enhancing compatibility between wild-  
6                   life values and development activities.

7 **SEC. 8. EXPEDITED JUDICIAL REVIEW.**

8                   (a) FILING OF COMPLAINT.—

9                   (1) DEADLINE.—Subject to paragraph (2), any  
10                   complaint seeking judicial review of any provision of  
11                   this Act or any action of the Secretary under this  
12                   Act shall be filed in any appropriate district court of  
13                   the United States—

14                   (A) except as provided in subparagraph  
15                   (B), within the 90-day period beginning on the  
16                   date of the action being challenged; or

17                   (B) in the case of a complaint based solely  
18                   on grounds arising after such period, within 90  
19                   days after the complainant knew or reasonably  
20                   should have known of the grounds for the com-  
21                   plaint.

22                   (2) VENUE.—Any complaint seeking judicial re-  
23                   view of an action of the Secretary under this Act  
24                   may be filed only in the United States Court of Ap-  
25                   peals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this Act, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this Act and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this Act shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

13 (b) LIMITATION ON OTHER REVIEW.—Actions of the  
14 Secretary with respect to which review could have been  
15 obtained under this section shall not be subject to judicial  
16 review in any civil or criminal proceeding for enforcement.

## 17 SEC. 9. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

18 (a) EXEMPTION.—Title XI of the Alaska National In-  
19 terest Lands Conservation Act of 1980 (16 U.S.C. 3161  
20 et seq.) shall not apply to the issuance by the Secretary  
21 under section 28 of the Mineral Leasing Act (30 U.S.C.  
22 185) of rights-of-way and easements across the Coastal  
23 Plain for the transportation of oil and gas.

24 (b) TERMS AND CONDITIONS.—The Secretary shall  
25 include in any right-of-way or easement referred to in sub-

1 section (a) such terms and conditions as may be necessary  
2 to ensure that transportation of oil and gas does not result  
3 in a significant adverse effect on the fish and wildlife, sub-  
4 sistence resources, their habitat, and the environment of  
5 the Coastal Plain, including requirements that facilities be  
6 sited or designed so as to avoid unnecessary duplication  
7 of roads and pipelines.

8 (c) REGULATIONS.—The Secretary shall include in  
9 regulations under section 3(g) provisions granting rights-  
10 of-way and easements described in subsection (a) of this  
11 section.

12 **SEC. 10. CONVEYANCE.**

13 In order to maximize Federal revenues by removing  
14 clouds on title to lands and clarifying land ownership pat-  
15 terns within the Coastal Plain, the Secretary, notwith-  
16 standing the provisions of section 1302(h)(2) of the Alas-  
17 ka National Interest Lands Conservation Act (16 U.S.C.  
18 3192(h)(2)), shall convey—

19 (1) to the Kaktovik Inupiat Corporation the  
20 surface estate of the lands described in paragraph 1  
21 of Public Land Order 6959, to the extent necessary  
22 to fulfill the Corporation's entitlement under section  
23 12 of the Alaska Native Claims Settlement Act (43  
24 U.S.C. 1611) in accordance with the terms and con-  
25 ditions of the Agreement between the Department of

1 the Interior, the United States Fish and Wildlife  
2 Service, the Bureau of Land Management, and the  
3 Kaktovik Inupiat Corporation effective January 22,  
4 1993; and

5 (2) to the Arctic Slope Regional Corporation  
6 the remaining subsurface estate to which it is enti-  
7 tled pursuant to the August 9, 1983, agreement be-  
8 tween the Arctic Slope Regional Corporation and the  
9 United States of America.

10 **SEC. 11. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
11 **NITY SERVICE ASSISTANCE.**

12 (a) **FINANCIAL ASSISTANCE AUTHORIZED.—**

13 (1) **IN GENERAL.**—The Secretary may use  
14 amounts available from the Coastal Plain Local Gov-  
15 ernment Impact Aid Assistance Fund established by  
16 subsection (d) to provide timely financial assistance  
17 to entities that are eligible under paragraph (2) and  
18 that are directly impacted by the exploration for or  
19 production of oil and gas on the Coastal Plain under  
20 this Act.

21 (2) **ELIGIBLE ENTITIES.**—The North Slope  
22 Borough, Kaktovik, and other boroughs, municipal  
23 subdivisions, villages, and any other community or-  
24 ganized under Alaska State law shall be eligible for  
25 financial assistance under this section.

1       (b) USE OF ASSISTANCE.—Financial assistance

2 under this section may be used only for—

3           (1) planning for mitigation of the potential ef-  
4       fects of oil and gas exploration and development on  
5       environmental, social, cultural, recreational and sub-  
6       sistence values;

7           (2) implementing mitigation plans and main-  
8       taining mitigation projects; and

9           (3) developing, carrying out, and maintaining  
10      projects and programs that provide new or expanded  
11      public facilities and services to address needs and  
12      problems associated with such effects, including fire-  
13      fighting, police, water, waste treatment, medivac,  
14      and medical services.

15       (c) APPLICATION.—

16           (1) IN GENERAL.—Any community that is eligi-  
17      ble for assistance under this section may submit an  
18      application for such assistance to the Secretary, in  
19      such form and under such procedures as the Sec-  
20      retary may prescribe by regulation.

21           (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
22      community located in the North Slope Borough may  
23      apply for assistance under this section either directly  
24      to the Secretary or through the North Slope Bor-  
25      ough.

6 (d) ESTABLISHMENT OF FUND.—

18 (4) LIMITATION ON DEPOSITS.—The total  
19 amount in the fund may not exceed \$10,000,000.

20 (5) INVESTMENT OF BALANCES.—The Sec-  
21 retary of the Treasury shall invest amounts in the  
22 fund in interest bearing government securities.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
24 vide financial assistance under this section there is author-  
25 ized to be appropriated to the Secretary from the Coastal

- 1 Plain Local Government Impact Aid Assistance Fund
- 2 \$5,000,000 for each fiscal year.

○