

111TH CONGRESS
1ST SESSION

H. R. 3616

To expedite the exploration and development of oil and gas from Federal lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2009

Ms. FALLIN introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To expedite the exploration and development of oil and gas from Federal lands, 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 “Federal Exploration
5 and Production Reform Act of 2009”.

6 **SEC. 2. REVIEW OF OUTER CONTINENTAL SHELF EXPLO-**
7 **RATION PLANS.**

8 Subsections (c) and (d) of section 11 of the Outer
9 Continental Shelf Lands Act (43 U.S.C. 1340) are amend-
10 ed to read as follows:

1 “(c) PLAN REVIEW; PLAN PROVISIONS.—

2 “(1) Except as otherwise provided in this Act,
3 prior to commencing exploration pursuant to any oil
4 and gas lease issued or maintained under this Act,
5 the holder thereof shall submit an exploration plan
6 (hereinafter in this section referred to as a ‘plan’) to
7 the Secretary for review which shall include all infor-
8 mation and documentation required under para-
9 graphs (2) and (3). The Secretary shall review the
10 plan for completeness within 10 days of submission.
11 If the Secretary finds that the plan is not complete,
12 the Secretary shall notify the lessee with a detailed
13 explanation and require such modifications of such
14 plan as are necessary to achieve completeness. The
15 Secretary shall have 10 days to review a modified
16 plan for completeness. Such plan may apply to more
17 than one lease held by a lessee in any one region of
18 the outer Continental Shelf, or by a group of lessees
19 acting under a unitization, pooling, or drilling agree-
20 ment, and the lessee shall certify that such plan is
21 consistent with the terms of the lease and is con-
22 sistent with all statutory and regulatory require-
23 ments in effect on the date of issuance of the lease,
24 and any regulations promulgated under this Act to
25 the conservation of resources after the date of the

1 lease issuances. The Secretary shall have 30 days
2 from the date the plan is deemed complete to con-
3 duct a review of the plan. If the Secretary finds the
4 plan is not consistent with the lease and all such
5 statutory and regulatory requirements, the Secretary
6 shall notify the lessee with a detailed explanation of
7 such modifications of such plan as are necessary to
8 achieve compliance. The Secretary shall have 30
9 days to review any modified plan submitted by the
10 lessee. The lessee shall not take any action under
11 the exploration plan within the 30-day review period,
12 or thereafter until the plan has been modified to
13 achieve compliance as so notified.

14 “(2) An exploration plan submitted under this
15 subsection shall include, in the degree of detail
16 which the Secretary may by regulation require—

17 “(A) a schedule of anticipated exploration
18 activities to be undertaken;

19 “(B) a description of equipment to be used
20 for such activities;

21 “(C) the general location of each well to be
22 drilled; and

23 “(D) such other information deemed perti-
24 nent by the Secretary.

1 “(3) The Secretary may, by regulation, require
 2 that such plan be accompanied by a general state-
 3 ment of development and production intentions
 4 which shall be for planning purposes only and which
 5 shall not be binding on any party.

6 “(d) PLAN REVISIONS; CONDUCT OF EXPLORATION
 7 ACTIVITIES.—

8 “(1) If a significant revision of an exploration
 9 plan under this subsection is submitted to the Sec-
 10 retary, the process to be used for the review of such
 11 revision shall be the same as set forth in subsection
 12 (c) of this section.

13 “(2) All exploration activities pursuant to any
 14 lease shall be conducted in accordance with an explo-
 15 ration plan or a revised plan which has been sub-
 16 mitted to and reviewed by the Secretary.”.

17 **SEC. 3. REVIEW OF OUTER CONTINENTAL SHELF DEVELOP-**
 18 **MENT AND PRODUCTION PLANS.**

19 Section 25 of the Outer Continental Shelf Lands Act
 20 (43 U.S.C. 1351(a)) is amended to read as follows:

21 **“SEC. 25. REVIEW OF OUTER CONTINENTAL SHELF DEVEL-**
 22 **OPMENT AND PRODUCTION PLANS.**

23 “(a) DEVELOPMENT AND PRODUCTION PLANS; SUB-
 24 MISSION TO SECRETARY; STATEMENT OF FACILITIES AND

1 OPERATION; SUBMISSION TO GOVERNORS OF AFFECTED
2 STATES AND LOCAL GOVERNMENTS.—

3 “(1) Prior to development and production pur-
4 suant to an oil and gas lease issued on or after Sep-
5 tember 18, 1978, for any area of the outer Conti-
6 nental Shelf, or issued or maintained prior to Sep-
7 tember 18, 1978, for any area of the outer Conti-
8 nental Shelf, with respect to which no oil or gas has
9 been discovered in paying quantities prior to Sep-
10 tember 18, 1978, the lessee shall submit a develop-
11 ment and production plan (hereinafter in this sec-
12 tion referred to as a ‘plan’) to the Secretary for re-
13 view.

14 “(2) A plan shall be accompanied by a state-
15 ment describing all facilities and operations, other
16 than those on the outer Continental Shelf, proposed
17 by the lessee and known by the lessee (whether or
18 not owned or operated by such lessee) that will be
19 constructed or utilized in the development and pro-
20 duction of oil or gas from the lease area, including
21 the location and site of such facilities and oper-
22 ations, the land, labor, material, and energy require-
23 ments associated with such facilities and operations,
24 and all environmental and safety safeguards to be
25 implemented.

1 “(3) Except for any privileged or proprietary
2 information (as such term is defined in regulations
3 issued by the Secretary), the Secretary, within 30
4 days after receipt of a plan and statement, shall—

5 “(A) submit such plan and statement to
6 the Governor of any affected State, and upon
7 request to the executive of any affected local
8 government; and

9 “(B) make such plan and statement avail-
10 able to any appropriate interstate regional enti-
11 ty and the public.

12 “(b) DEVELOPMENT AND PRODUCTION ACTIVITIES
13 IN ACCORDANCE WITH PLAN AS LEASE REQUIREMENT.—
14 After enactment of the Federal Exploration and Produc-
15 tion Reform Act of 2008, no oil and gas lease may be
16 issued pursuant to this Act in any region of the outer Con-
17 tinental Shelf, unless such lease requires that development
18 and production activities be carried out in accordance with
19 a plan that complies with the requirements of this section.
20 This section shall also apply to leases that do not have
21 an approved development and production plan as of the
22 date of enactment of the Federal Exploration and Produc-
23 tion Reform Act of 2008.

24 “(c) SCOPE AND CONTENTS OF PLAN.—A plan may
25 apply to more than one oil and gas lease, and shall set

1 forth, in the degree of detail established by regulations
2 issued by the Secretary—

3 “(1) the general work to be performed;

4 “(2) a description of all facilities and operations
5 located on the outer Continental Shelf that are pro-
6 posed by the lessee or known by the lessee (whether
7 or not owned or operated by such lessee) to be di-
8 rectly related to the proposed development, including
9 the location and size of such facilities and oper-
10 ations, and the land, labor, material, and energy re-
11 quirements associated with such facilities and oper-
12 ations;

13 “(3) the environmental safeguards to be imple-
14 mented on the outer Continental Shelf and how such
15 safeguards are to be implemented;

16 “(4) all safety standards to be met and how
17 such standards are to be met;

18 “(5) an expected rate of development and pro-
19 duction and a time schedule for performance; and

20 “(6) such other relevant information as the Sec-
21 retary may by regulation require.

22 “(d) COMPLETENESS REVIEW OF THE PLAN.—

23 “(1) Prior to commencing any activity under a
24 development and production plan pursuant to any oil
25 and gas lease issued or maintained under this Act,

1 the lessee shall certify that the plan is consistent
2 with the terms of the lease and that it is consistent
3 with all statutory and regulatory requirements in ef-
4 fect on the date of issuance of the lease, and any
5 regulations promulgated under this Act related to
6 the conservation of resources after the date of lease
7 issuance. The plan shall include all required infor-
8 mation and documentation required under sub-
9 section (c).

10 “(2) The Secretary shall review the plan for
11 completeness within 30 days of submission. If the
12 Secretary finds that the plan is not complete, the
13 Secretary shall notify the lessee with a detailed ex-
14 planation of such modifications of such plan as are
15 necessary to achieve completeness. The Secretary
16 shall have 30 days to review a modified plan for
17 completeness.

18 “(e) REVIEW FOR CONSISTENCY OF THE PLAN.—

19 “(1) After a determination that a plan is com-
20 plete, the Secretary shall have 120 days to conduct
21 a review of the plan, to ensure that it is consistent
22 with the terms of the lease, and that it is consistent
23 with all such statutory and regulatory requirements
24 applicable to the lease. The review shall ensure that
25 the plan is consistent with lease terms, and statutory

1 and regulatory requirements applicable to the lease,
2 related to national security or national defense, in-
3 cluding any military operating stipulations or other
4 restrictions. The Secretary shall seek the assistance
5 of the Department of Defense in the conduct of the
6 review of any plan prepared under this section for
7 a lease containing military operating stipulations or
8 other restrictions and shall accept the assistance of
9 the Department of Defense in the conduct of the re-
10 view of any plan prepared under this section for any
11 other lease when the Secretary of Defense requests
12 an opportunity to participate in the review. If the
13 Secretary finds that the plan is not consistent, the
14 Secretary shall notify the lessee with a detailed ex-
15 planation of such modifications of such plan as are
16 necessary to achieve consistency.

17 “(2) The Secretary shall have 120 days to re-
18 view a modified plan.

19 “(3) The lessee shall not conduct any activities
20 under the plan during any 120-day review period, or
21 thereafter until the plan has been modified to
22 achieve compliance as so notified.

23 “(4) After review by the Secretary provided for
24 by this section, a lessee may operate pursuant to the

1 plan without further review or approval by the Sec-
2 retary.

3 “(f) REVIEW OF REVISION OF THE APPROVED
4 PLAN.—The lessee may submit to the Secretary any revi-
5 sion of a plan if the lessee determines that such revision
6 will lead to greater recovery of oil and natural gas, im-
7 prove the efficiency, safety, and environmental protection
8 of the recovery operation, is the only means available to
9 avoid substantial economic hardship to the lessee, or is
10 otherwise not inconsistent with the provisions of this Act,
11 to the extent such revision is consistent with protection
12 of the human, marine, and coastal environments. The
13 process to be used for the review of any such revision shall
14 be the same as that set forth in subsections (d) and (e).

15 “(g) CANCELLATION OF LEASE ON FAILURE TO
16 SUBMIT PLAN OR COMPLY WITH A PLAN.—Whenever the
17 owner of any lease fails to submit a plan in accordance
18 with regulations issued under this section, or fails to com-
19 ply with a plan, the lease may be canceled in accordance
20 with sections 5(c) and (d). Termination of a lease because
21 of failure to comply with a plan, including required modi-
22 fications or revisions, shall not entitle a lessee to any com-
23 pensation.

24 “(h) PRODUCTION AND TRANSPORTATION OF NAT-
25 URAL GAS; SUBMISSION OF PLAN TO FEDERAL ENERGY

1 REGULATORY COMMISSION; IMPACT STATEMENT.—If any
2 development and production plan submitted to the Sec-
3 retary pursuant to this section provides for the production
4 and transportation of natural gas, the lessee shall contem-
5 poraneously submit to the Federal Energy Regulatory
6 Commission that portion of such plan that relates to the
7 facilities for transportation of natural gas. The Secretary
8 and the Federal Energy Regulatory Commission shall
9 agree as to which of them shall prepare an environmental
10 impact statement pursuant to the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable
12 to such portion of such plan, or conduct studies as to the
13 effect on the environment of implementing it. Thereafter,
14 the findings and recommendations by the agency pre-
15 paring such environmental impact statement or con-
16 ducting such studies pursuant to such agreement shall be
17 adopted by the other agency, and such other agency shall
18 not independently prepare another environmental impact
19 statement or duplicate such studies with respect to such
20 portion of such plan, but the Federal Energy Regulatory
21 Commission, in connection with its review of an applica-
22 tion for a certificate of public convenience and necessity
23 applicable to such transportation facilities pursuant to sec-
24 tion 7 of the Natural Gas Act (15 U.S.C. 717f), may pre-
25 pare such environmental studies or statement relevant to

1 certification of such transportation facilities as have not
 2 been covered by an environmental impact statement or
 3 studies prepared by the Secretary. The Secretary, in con-
 4 sultation with the Federal Energy Regulatory Commis-
 5 sion, shall promulgate rules to implement this subsection,
 6 but the Federal Energy Regulatory Commission shall re-
 7 tain sole authority with respect to rules and procedures
 8 applicable to the filing of any application with the Com-
 9 mission and to all aspects of the Commission's review of,
 10 and action on, any such application.”.

11 **SEC. 4. REGULATION OF ONSHORE SURFACE-DISTURBING**
 12 **ACTIVITIES.**

13 (a) Section 17(g) of the Mineral Leasing Act (30
 14 U.S.C. 226(g)) is amended to read as follows:

15 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-
 16 TIES.—

17 “(1) REGULATION OF SURFACE-DISTURBING
 18 ACTIVITIES.—The Secretary of the Interior, or for
 19 National Forest lands, the Secretary of Agriculture,
 20 shall regulate all surface-disturbing activities con-
 21 ducted pursuant to any lease issued under this Act,
 22 and shall determine reclamation and other actions as
 23 required in the interest of conservation of surface re-
 24 sources.

1 “(2) SUBMISSION OF EXPLORATION PLAN; COM-
2 PLETION REVIEW; COMPLIANCE REVIEW.—

3 “(A) Prior to beginning oil and gas explo-
4 ration activities, a lessee shall submit an explo-
5 ration plan to the Secretary of the Interior for
6 review.

7 “(B) The Secretary shall review the plan
8 for completeness within 10 days of submission.

9 “(C) In the event the exploration plan is
10 determined to be incomplete, the Secretary shall
11 notify the lessee in writing and specify the
12 items or information needed to complete the ex-
13 ploration plan.

14 “(D) The Secretary shall have 10 days to
15 review any modified exploration plan submitted
16 by the lessee.

17 “(E) To be deemed complete, an explo-
18 ration plan shall include, in the degree of detail
19 to be determined by the Secretary by rule or
20 regulation—

21 “(i) a drilling plan containing a de-
22 scription of the drilling program;

23 “(ii) the surface and projected com-
24 pletion zone location;

25 “(iii) pertinent geologic data;

1 “(iv) expected hazards, and proposed
2 mitigation measures to address such haz-
3 ards;

4 “(v) a schedule of anticipated explo-
5 ration activities to be undertaken;

6 “(vi) a description of equipment to be
7 used for such activities;

8 “(vii) a certification from the lessee
9 stating that the exploration plan complies
10 with all lease, regulatory and statutory re-
11 quirements in effect on the date of the
12 issuance of the lease and any regulations
13 promulgated after the date of lease
14 issuance related to the conservation of re-
15 sources;

16 “(viii) evidence that the lessee has se-
17 cured an adequate bond, surety, or other
18 financial arrangement prior to commence-
19 ment of any surface-disturbing activity;

20 “(ix) a plan that details the complete
21 and timely reclamation of the lease tract;
22 and

23 “(x) such other relevant information
24 as the Secretary may by regulation require.

1 “(F) Upon a determination that the explo-
2 ration plan is complete, the Secretary shall have
3 30 days from the date the plan is deemed com-
4 plete to conduct a review of the plan.

5 “(G) If the Secretary finds the exploration
6 plan is not consistent with all statutory and
7 regulatory requirements described in subpara-
8 graph (E)(vii), the Secretary shall notify the
9 lessee with a detailed explanation of such modi-
10 fications of the exploration plan as are nec-
11 essary to achieve compliance.

12 “(H) The lessee shall not take any action
13 under the exploration plan within a 30-day re-
14 view period, or thereafter until the plan has
15 been modified to achieve compliance as so noti-
16 fied.

17 “(I) After review by the Secretary provided
18 by this subsection, a lessee may operate pursu-
19 ant to the plan without further review or ap-
20 proval by the Secretary.

21 “(3) PLAN REVISIONS; CONDUCT OF EXPLO-
22 RATION ACTIVITIES.—

23 “(A) If a significant revision of an explo-
24 ration plan under this subsection is submitted
25 to the Secretary, the process to be used for the

1 review of such revision shall be the same as set
2 forth in paragraph (1) of this subsection.

3 “(B) All exploration activities pursuant to
4 any lease shall be conducted in accordance with
5 an exploration plan that has been submitted to
6 and reviewed by the Secretary or a revision of
7 such plan.

8 “(4) SUBMISSION OF DEVELOPMENT AND PRO-
9 Duction PLAN; COMPLETENESS REVIEW; COMPLI-
10 ANCE REVIEW.—

11 “(A) Prior to beginning oil and gas devel-
12 opment and production activities, a lessee shall
13 submit a development and exploration plan to
14 the Secretary of the Interior. Upon submission,
15 such plans shall be subject to a review for com-
16 pleteness.

17 “(B) The Secretary shall review the plan
18 for completeness within 30 days of submission.

19 “(C) In the event a development and pro-
20 duction plan is determined to be incomplete, the
21 Secretary shall notify the lessee in writing and
22 specify the items or information needed to com-
23 plete the plan.

24 “(D) The Secretary shall have 30 days to
25 review for completeness any modified develop-

1 ment and production plan submitted by the les-
2 see.

3 “(E) To be deemed complete, a develop-
4 ment and production plan shall include, in the
5 degree of detail to be determined by the Sec-
6 retary by rule or regulation—

7 “(i) a drilling plan containing a de-
8 scription of the drilling program;

9 “(ii) the surface and projected com-
10 pletion zone location;

11 “(iii) pertinent geologic data;

12 “(iv) expected hazards, and proposed
13 mitigation measures to address such haz-
14 ards;

15 “(v) a statement describing all facili-
16 ties and operations proposed by the lessee
17 and known by the lessee (whether or not
18 owned or operated by such lessee) that
19 shall be constructed or utilized in the de-
20 velopment and production of oil or gas
21 from the leases areas, including the loca-
22 tion and site of such facilities and oper-
23 ations, the land, labor, material, and en-
24 ergy requirements associated with such fa-
25 cilities and operations;

1 “(vi) the general work to be per-
2 formed;

3 “(vii) the environmental safeguards to
4 be implemented in connection with the de-
5 velopment and production and how such
6 safeguards are to be implemented;

7 “(viii) all safety standards to be met
8 and how such standards are to be met;

9 “(ix) an expected rate of development
10 and production and a time schedule for
11 performance;

12 “(x) a certification from the lessee
13 stating that the development and produc-
14 tion plan complies with all lease, regu-
15 latory, and statutory requirements in effect
16 on the date of issuance of the lease, and
17 any regulations promulgated after the date
18 of lease issuance related to the conserva-
19 tion of resources;

20 “(xi) evidence that the lessee has se-
21 cured an adequate bond, surety, or other
22 financial arrangement prior to commence-
23 ment of any surface-disturbing activity;

1 “(xii) a plan that details the complete
2 and timely reclamation of the lease tract;
3 and

4 “(xiii) such other relevant information
5 as the Secretary may by regulation require.

6 “(F) Upon a determination that the devel-
7 opment and production plan is complete, the
8 Secretary shall have 120 days from the date the
9 plan is deemed complete to conduct a review of
10 the plan.

11 “(G) If the Secretary finds the develop-
12 ment and production plan is not consistent with
13 all statutory and regulatory requirements de-
14 scribed in subparagraph (E)(x), the Secretary
15 shall notify the lessee with a detailed expla-
16 nation of such modifications of the development
17 and production plan as are necessary to achieve
18 compliance.

19 “(H) The lessee shall not take any action
20 under the development and production plan
21 within a 120-day review period, or thereafter
22 until the plan has been modified to achieve
23 compliance as so notified.

24 “(5) PLAN REVISIONS; CONDUCT OF DEVELOP-
25 MENT AND PRODUCTION ACTIVITIES.—

1 “(A) If a significant revision of a develop-
2 ment and production plan under this subsection
3 is submitted to the Secretary, the process to be
4 used for the review of such revision shall be the
5 same as set forth in paragraph (4) of this sub-
6 section.

7 “(B) All development and production ac-
8 tivities pursuant to any lease shall be conducted
9 in accordance with a development and produc-
10 tion plan that has been submitted to and re-
11 viewed by the Secretary or a revision of such
12 plan.

13 “(6) CANCELLATION OF LEASE ON FAILURE TO
14 SUBMIT PLAN OR COMPLY WITH APPROVED PLAN.—
15 Whenever the owner of any lease fails to submit a
16 plan in accordance with regulations issued under
17 this section, or fails to comply with a plan, the lease
18 may be canceled in accordance with section 31. Ter-
19 mination of a lease because of failure to comply with
20 a plan, including required modifications or revisions,
21 shall not entitle a lessee to any compensation.”.

22 (b) Section 17(p) of the Mineral Leasing Act (30
23 U.S.C. 226(p)) is repealed.

○