

113TH CONGRESS
2D SESSION

S. 2408

To authorize the exploration, leasing, development, and production of oil and gas in and from the western portion of the Coastal Plain of the State of Alaska without surface occupancy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2014

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the exploration, leasing, development, and production of oil and gas in and from the western portion of the Coastal Plain of the State of Alaska without surface occupancy, 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 “No Surface Occupancy
5 Western Arctic Coastal Plain Domestic Energy Security
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1 (1) COASTAL PLAIN.—The term “Coastal
2 Plain” means the area described in appendix I to
3 part 37 of title 50, Code of Federal Regulations.

4 (2) FINAL STATEMENT.—The term “Final
5 Statement” means the final legislative environmental
6 impact statement on the Coastal Plain, dated April
7 1987, and prepared pursuant to—

8 (A) section 1002 of the Alaska National
9 Interest Lands Conservation Act (16 U.S.C.
10 3142); and

11 (B) section 102(2)(C) of the National En-
12 vironmental Policy Act of 1969 (42 U.S.C.
13 4332(2)(C)).

14 (3) MAP.—The term “map” means the map en-
15 titled “Arctic National Wildlife Refuge”, dated Sep-
16 tember 2005, and prepared by the United States Ge-
17 ological Survey.

18 (4) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior or the designee of the
20 Secretary.

21 (5) WESTERN COASTAL PLAIN.—The term
22 “Western Coastal Plain” means that area of the
23 Coastal Plain—

1 (A) that borders the land of the State of
 2 Alaska to the west and State of Alaska offshore
 3 waters of the Beaufort Sea on the north; and

4 (B) from which oil and gas can be pro-
 5 duced through the use of horizontal drilling or
 6 other subsurface technology from sites outside
 7 or underneath the surface of the Coastal Plain.

8 **SEC. 3. LEASING PROGRAM FOR LAND WITHIN THE WEST-**
 9 **ERN COASTAL PLAIN.**

10 (a) IN GENERAL.—

11 (1) AUTHORIZATION.—There is authorized the
 12 exploration, leasing, development, and production of
 13 oil and gas from the Western Coastal Plain.

14 (2) ACTIONS.—The Secretary shall take such
 15 actions as are necessary—

16 (A) to establish and implement, in accord-
 17 ance with this Act, a competitive oil and gas
 18 leasing program that will result in an environ-
 19 mentally sound program for the exploration, de-
 20 velopment, and production of the oil and gas re-
 21 sources of the Western Coastal Plain; and

22 (B) to administer this Act through regula-
 23 tions, lease terms, conditions, restrictions, pro-
 24 hibitions, stipulations, and other provisions
 25 that—

1 (i) ensure the oil and gas exploration,
 2 development, and production activities on
 3 the Western Coastal Plain will result in no
 4 significant adverse effect on fish and wild-
 5 life, fish and wildlife habitat, subsistence
 6 resources, and the environment;

7 (ii) prohibit surface occupancy of the
 8 Western Coastal Plain during oil and gas
 9 development and production; and

10 (iii) require the application of the best
 11 commercially available technology for oil
 12 and gas exploration, development, and pro-
 13 duction to all exploration, development,
 14 and production operations under this Act
 15 in a manner that ensures the receipt of
 16 fair market value by the public for the
 17 mineral resources to be leased.

18 (b) COMPLIANCE WITH REQUIREMENTS UNDER
 19 CERTAIN OTHER LAWS.—

20 (1) COMPATIBILITY.—For purposes of the Na-
 21 tional Wildlife Refuge System Administration Act of
 22 1966 (16 U.S.C. 668dd et seq.)—

23 (A) the oil and gas preleasing and leasing
 24 program and activities authorized by this sec-
 25 tion in the Western Coastal Plain shall be con-

1 sidered to be compatible with the purposes for
2 which the Arctic National Wildlife Refuge was
3 established; and

4 (B) no further findings or decisions shall
5 be required to implement that program and
6 those activities.

7 (2) ADEQUACY OF THE LEGISLATIVE ENVIRON-
8 MENTAL IMPACT STATEMENT OF THE DEPARTMENT
9 OF THE INTERIOR.—The Final Statement shall be
10 considered to satisfy the requirements of the Na-
11 tional Environmental Policy Act of 1969 (42 U.S.C.
12 4321 et seq.) that apply with respect to preleasing
13 activities, including exploration programs and ac-
14 tions authorized to be taken by the Secretary to de-
15 velop and promulgate the regulations for the estab-
16 lishment of a leasing program authorized by this Act
17 before the conduct of the first lease sale.

18 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
19 TIONS.—

20 (A) IN GENERAL.—Prior to conducting the
21 first lease sale pursuant to this Act, the Sec-
22 retary shall prepare an environmental impact
23 statement in accordance with the National En-
24 vironmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.) with respect to the activities au-

1 thorized by this Act that are not covered by
2 paragraph (2).

3 (B) IDENTIFICATION AND ANALYSIS.—

4 Notwithstanding any other provision of law, in
5 carrying out this paragraph, the Secretary shall
6 not—

7 (i) identify nonleasing alternative
8 courses of action; or

9 (ii) analyze the environmental effect
10 of those courses of action.

11 (C) IDENTIFICATION OF PREFERRED AC-

12 TION.—Not later than 1 year after the date of
13 enactment of this Act, the Secretary shall iden-
14 tify only a preferred action and a single leasing
15 alternative for the first lease sale conducted
16 pursuant to this Act.

17 (D) EFFECT OF NONCOMPLIANCE.—Not-

18 withstanding any other provision of law, compli-
19 ance with this paragraph shall be considered to
20 satisfy any provision of law or other require-
21 ment that requires analysis and consideration of
22 the environmental effects of leasing with respect
23 to the leasing conducted pursuant to this Act.

1 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
 2 ITY.—Nothing in this Act expands or limits any State or
 3 local regulatory authority.

4 (d) REGULATIONS.—Not later than 1 year after the
 5 date of enactment of this Act, in consultation with the
 6 State of Alaska, the North Slope Borough, Alaska, and
 7 the Arctic Slope Regional Corporation, the Secretary shall
 8 promulgate such regulations as are necessary to carry out
 9 this Act.

10 **SEC. 4. LEASE SALES.**

11 (a) QUALIFIED LESSEES.—Land may be leased
 12 under this Act to any person qualified to obtain a lease
 13 for deposits of oil and gas under the Mineral Leasing Act
 14 (30 U.S.C. 181 et seq.).

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

17 (1) receipt and consideration of sealed nomina-
 18 tions for any area in the Western Coastal Plain for
 19 inclusion in a lease sale;

20 (2) the holding of lease sales after the nomina-
 21 tion process described in paragraph (1); and

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

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

3 (d) ACREAGE MINIMUM IN FIRST SALE.—For the
 4 first lease sale under this Act, the Secretary shall offer
 5 for lease those tracts the Secretary considers to have the
 6 greatest potential for the discovery of hydrocarbons, tak-
 7 ing into consideration nominations received pursuant to
 8 subsection (b)(1), but in no case less than 200,000 acres.

9 (e) TIMING OF LEASE SALES.—The Secretary
 10 shall—

11 (1) not later than 18 months after the date of
 12 enactment of this Act, conduct the first lease sale
 13 under this Act;

14 (2) not later than 1 year after the date on
 15 which the first lease sale is conducted under para-
 16 graph (1), conduct a second lease sale under this
 17 Act; and

18 (3) conduct additional sales at appropriate in-
 19 tervals if sufficient interest in exploration or devel-
 20 opment exists to warrant the conduct of the addi-
 21 tional sales.

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

23 (a) IN GENERAL.—On payment by a lessee of such
 24 bonus as may be accepted by the Secretary, the Secretary
 25 shall grant to the highest responsible qualified bidder in

1 a lease sale conducted pursuant to section 4 a lease for
2 any land on the Western Coastal Plain.

3 (b) SUBSEQUENT TRANSFERS.—

4 (1) IN GENERAL.—No lease issued under this
5 Act may be sold, exchanged, assigned, sublet, or oth-
6 erwise transferred except with the approval of the
7 Secretary.

8 (2) CONDITION FOR APPROVAL.—Before grant-
9 ing any approval under paragraph (1), the Secretary
10 shall consult with, and give due consideration to the
11 opinion of, the Attorney General.

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

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

15 (1) provide for the payment of a royalty of not
16 less than 12½ percent of the quantity or value of
17 the production removed or sold from the lease, as
18 determined by the Secretary in accordance with reg-
19 ulations applicable to other Federal oil and gas
20 leases;

21 (2) provide that the Secretary, after consulta-
22 tion with the State of Alaska, North Slope Borough,
23 Alaska, and the Arctic Slope Regional Corporation,
24 may close, on a seasonal basis, such portions of the
25 Western Coastal Plain to exploratory drilling activi-

1 ties as are necessary to protect caribou calving areas
2 and other species of fish and wildlife;

3 (3) require that each lessee of land within the
4 Western Coastal Plain shall be fully responsible and
5 liable for the reclamation of land within the Western
6 Coastal Plain and any other Federal land that is ad-
7 versely affected in connection with exploration activi-
8 ties conducted under the lease and within the West-
9 ern Coastal Plain by the lessee or by any of the sub-
10 contractors or agents of the lessee;

11 (4) provide that the lessee may not delegate or
12 convey, by contract or otherwise, the reclamation re-
13 sponsibility and liability described in paragraph (3)
14 to another person without the express written ap-
15 proval of the Secretary;

16 (5) contain terms and conditions relating to
17 protection of fish and wildlife, fish and wildlife habi-
18 tat, subsistence resources, and the environment as
19 required under section 3(a)(2); and

20 (6) provide that each lessee, and each agent
21 and contractor of a lessee, shall use the best efforts
22 of the lessee to provide a fair share of employment
23 and contracting for Alaska Natives and Alaska Na-
24 tive Corporations from throughout the State, as de-

1 terminated by the level of obligation previously agreed
2 to in the Federal Agreement.

3 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
4 as a term and condition of each lease under this Act, and
5 in recognizing the proprietary interest of the Federal Gov-
6 ernment in labor stability and in the ability of construction
7 labor and management to meet the particular needs and
8 conditions of projects to be developed under the leases
9 issued pursuant to this Act (including the special concerns
10 of the parties to those leases), shall require that each les-
11 see, and each agent and contractor of a lessee, under this
12 Act negotiate to obtain a project labor agreement for the
13 employment of laborers and mechanics on production,
14 maintenance, and construction under the lease.

15 **SEC. 7. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, of the amount of bonus, rental, and royalty
18 revenues from oil and gas leasing and operations author-
19 ized by this Act—

20 (1) 50 percent shall be paid to the State of
21 Alaska; and

22 (2) the balance shall be deposited in the Treas-
23 ury of the United States.

1 (b) PAYMENTS TO ALASKA.—Payments to the State
2 of Alaska under this section shall be made on a monthly
3 basis.

4 **SEC. 8. CONVEYANCE.**

5 Notwithstanding section 1302(h)(2) of the Alaska
6 National Interest Lands Conservation Act (16 U.S.C.
7 3192(h)(2)), to remove any cloud on title to land, and to
8 clarify land ownership patterns in the Coastal Plain, the
9 Secretary shall—

10 (1) to the extent necessary to fulfill the entitle-
11 ment of the Kaktovik Inupiat Corporation under sec-
12 tions 12 and 14 of the Alaska Native Claims Settle-
13 ment Act (43 U.S.C. 1611, 1613), as determined by
14 the Secretary, convey to that Corporation the sur-
15 face estate of the land described in paragraph (1) of
16 Public Land Order 6959, in accordance with the
17 terms and conditions of the agreement between the
18 Secretary, the United States Fish and Wildlife Serv-
19 ice, the Bureau of Land Management, and the
20 Kaktovik Inupiat Corporation, dated January 22,
21 1993; and

22 (2) convey to the Arctic Slope Regional Cor-
23 poration the remaining subsurface estate to which
24 that Corporation is entitled under the agreement be-

- 1 tween that corporation and the United States, dated
- 2 August 9, 1983.

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