



115TH CONGRESS
2D SESSION

S. _____

To empower States to manage the development and production of oil and gas on available Federal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO (for himself, Mr. HOEVEN, Mr. ENZI, Mr. LEE, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To empower States to manage the development and production of oil and gas on available Federal land, 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 "Opportunities for the
5 Nation and States to Harness Onshore Resources for En-
6 ergy Act" or the "ONSHORE Act".

1 **SEC. 2. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
2 **MITTING ON AVAILABLE FEDERAL LAND.**

3 (a) IN GENERAL.—The Mineral Leasing Act (30
4 U.S.C. 181 et seq.) is amended—

5 (1) by redesignating section 44 as section 47;

6 and

7 (2) by adding after section 43 the following:

8 **“SEC. 44. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
9 **MITTING ON AVAILABLE FEDERAL LAND.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) APD.—The term ‘APD’ means a permit—

12 “(A) that grants authority to drill for oil
13 and gas; and

14 “(B) for which an application has been re-
15 ceived that includes—

16 “(i) a drilling plan;

17 “(ii) a surface use plan of operations
18 described in section 3162.3–1(f) of title 43,
19 Code of Federal Regulations (or a suc-
20 cessor regulation);

21 “(iii) evidence of bond coverage; and

22 “(iv) such other information as may
23 be required by applicable orders and no-
24 tices.

1 “(2) AVAILABLE FEDERAL LAND.—The term
2 ‘available Federal land’ means any Federal land
3 that—

4 “(A) is located within the boundaries of a
5 State;

6 “(B) is not held by the United States in
7 trust for the benefit of a federally recognized
8 Indian Tribe or a member of a federally recog-
9 nized Indian Tribe;

10 “(C) is not a unit of the National Park
11 System;

12 “(D) is not a unit of the National Wildlife
13 Refuge System, other than a unit of the Na-
14 tional Wildlife Refuge System for which oil and
15 gas drilling is allowed under law;

16 “(E) is not a congressionally approved wil-
17 derness area under the Wilderness Act (16
18 U.S.C. 1131 et seq.); and

19 “(F) has been identified as land available
20 for lease, or has been leased, for the explo-
21 ration, development, and production of oil and
22 gas—

23 “(i) by the Bureau of Land Manage-
24 ment under—

1 “(I) a resource management plan
2 under the Federal Land Policy and
3 Management Act of 1976 (43 U.S.C.
4 1701 et seq.); or

5 “(II) an integrated activity plan
6 with respect to the National Petro-
7 leum Reserve—Alaska; or

8 “(ii) by the Forest Service under a
9 National Forest management plan under
10 the Forest and Rangeland Renewable Re-
11 sources Planning Act of 1974 (16 U.S.C.
12 1600 et seq.).

13 “(3) DRILLING PLAN.—The term ‘drilling plan’
14 means a plan described in section 3162.3–1(e) of
15 title 43, Code of Federal Regulations (or a successor
16 regulation).

17 “(4) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of the Interior.

19 “(5) STATE APPLICANT.—The term ‘State ap-
20 plicant’ means a State that submits an application
21 under subsection (c).

22 “(6) STATE PROGRAM.—The term ‘State pro-
23 gram’ means a program in a State under which the
24 State may—

1 “(A) issue APDs or approve drilling plans,
2 as applicable, on available Federal land; and

3 “(B) impose sanctions for violations of
4 State laws, regulations, or any condition of an
5 issued APD or approved drilling plan, as appli-
6 cable.

7 “(7) SUNDRY NOTICE.—The term ‘sundry no-
8 tice’ means a written request—

9 “(A) to perform work not covered under an
10 APD or drilling plan; or

11 “(B) for a change to operations covered
12 under an APD or drilling plan.

13 “(b) AUTHORIZATIONS.—

14 “(1) IN GENERAL.—On receipt of an applica-
15 tion under subsection (c), the Secretary may dele-
16 gate to a State exclusive authority—

17 “(A) to issue an APD on available Federal
18 land; or

19 “(B) to approve drilling plans on available
20 Federal land.

21 “(2) SUNDRY NOTICES.—On request of a State
22 for which authority is delegated under paragraph
23 (1), the authority delegated may include the author-
24 ity to approve sundry notices.

25 “(3) INSPECTION AND ENFORCEMENT.—

1 “(A) IN GENERAL.—On request of a State
2 for which authority is delegated under para-
3 graph (1), the authority delegated may include
4 the authority to inspect and enforce an APD or
5 drilling plan, as applicable.

6 “(B) EFFECT.—A delegation of authority
7 under paragraph (1)(A) shall not affect the
8 ability of the Secretary to collect inspection fees
9 under subsection (d) of section 108 of the Fed-
10 eral Oil and Gas Royalty Management Act of
11 1982 (30 U.S.C. 1718).

12 “(c) STATE APPLICATION PROCESS.—

13 “(1) SUBMISSION OF APPLICATION.—A State
14 seeking a delegation of authority under subpara-
15 graph (A) or (B) of subsection (b)(1) shall submit
16 to the Secretary an application at such time, in such
17 manner, and containing such information as the Sec-
18 retary may require, including—

19 “(A) a description of the State program
20 that the State proposes to administer under
21 State law; and

22 “(B) a statement from the Governor or at-
23 torney general of the State that demonstrates
24 that the laws of the State provide adequate au-
25 thority to carry out the State program.

1 “(2) DEADLINE FOR APPROVAL OR DIS-
2 APPROVAL.—Not later than 180 days after the date
3 on which an application under paragraph (1) is re-
4 ceived, the Secretary shall approve or disapprove the
5 application.

6 “(3) REQUIREMENTS FOR APPROVAL.—

7 “(A) IN GENERAL.—The Secretary may
8 approve an application received under para-
9 graph (1) only if the Secretary determines
10 that—

11 “(i) the State applicant would be at
12 least as effective as the Secretary in
13 issuing APDs or in approving drilling
14 plans, as applicable;

15 “(ii) the State program of the State
16 applicant—

17 “(I) complies with this Act; and

18 “(II) provides for the termination
19 or modification of an issued APD or
20 approved drilling plan, as applicable,
21 for cause, including for—

22 “(aa) the violation of any
23 condition of the issued APD or
24 approved drilling plan;

1 “(C) PUBLIC NOTICE.—Before approving
2 an application received under paragraph (1),
3 the Secretary shall—

4 “(i) provide public notice of the appli-
5 cation;

6 “(ii) solicit public comment for the
7 application; and

8 “(iii) hold a public hearing for the ap-
9 plication in the State.

10 “(4) DISAPPROVAL.—If the Secretary dis-
11 approves an application submitted under paragraph
12 (1), the Secretary shall provide to the State appli-
13 cant written notification of—

14 “(A) the reasons for the disapproval, in-
15 cluding any information, data, or analysis on
16 which the disapproval is based; and

17 “(B) any revisions or modifications nec-
18 essary to obtain approval.

19 “(5) RESUBMITTAL OF APPLICATION.—A State
20 may resubmit an application under paragraph (1) at
21 any time.

22 “(6) STATE MEMORANDA OF UNDER-
23 STANDING.—Before a State submits an application
24 under paragraph (1), the Secretary, on request of a
25 State, may enter into a memorandum of under-

1 standing with the State regarding the proposed
2 State program—

3 “(A) to describe the Federal and State re-
4 sponsibilities for oil and gas regulations;

5 “(B) to provide technical assistance; and

6 “(C) to share best management practices.

7 “(d) ADMINISTRATIVE FEES FOR APDS.—

8 “(1) IN GENERAL.—A State for which authority
9 has been delegated under subsection (b)(1)(A) may
10 collect a fee for each application for an APD that
11 is submitted to the State.

12 “(2) NO COLLECTION OF FEE BY SEC-
13 RETARY.—The Secretary may not collect a fee from
14 the applicant or from the State for an application
15 for an APD that is submitted to a State for which
16 authority has been delegated under subsection
17 (b)(1)(A).

18 “(3) FEE AMOUNT.—The fee collected under
19 paragraph (1) shall be less than or equal to the
20 amount of the fee collected by the Secretary under
21 section 35(d)(2) from States for which authority has
22 not been delegated under subsection (b)(1)(A).

23 “(4) USE.—A State shall use 100 percent of
24 the fees collected under this subsection for the ad-

1 ministration of the approved State program of the
2 State.

3 “(e) VOLUNTARY TERMINATION OF AUTHORITY.—

4 “(1) IN GENERAL.—After providing written no-
5 tice to the Secretary, a State may voluntarily termi-
6 nate any authority delegated to the State under sub-
7 section (b)(1) on expiration of the 60-day period be-
8 ginning on the date on which the Secretary receives
9 the written notice.

10 “(2) RESUMPTION BY SECRETARY.—On termi-
11 nation of the authority delegated to a State under
12 paragraph (1), the Secretary shall resume any ac-
13 tivities for which authority was delegated to the
14 State under subsection (b)(1).

15 “(f) APPEAL OF DENIAL OF APPLICATION FOR APD
16 OR APPLICATION FOR APPROVAL OF DRILLING PLAN.—

17 “(1) IN GENERAL.—If a State for which the
18 Secretary has delegated authority under subsection
19 (b)(1) denies an application for an APD or an appli-
20 cation for approval of a drilling plan, the applicant
21 may appeal the decision to the Office of Hearings
22 and Appeals of the Department of the Interior.

23 “(2) FEE ALLOWED.—The Secretary may
24 charge an applicant a fee for an appeal under para-
25 graph (1).

1 “(g) FEDERAL ADMINISTRATION OF STATE PRO-
2 GRAM.—

3 “(1) NOTIFICATION.—If the Secretary has rea-
4 son to believe that a State is not administering or
5 enforcing an approved State program, the Secretary
6 shall notify the relevant State regulatory authority
7 of any possible deficiencies.

8 “(2) STATE RESPONSE.—Not later than 30
9 days after the date on which a State receives notifi-
10 cation of a possible deficiency under paragraph (1),
11 the State shall—

12 “(A) take appropriate action to correct the
13 possible deficiency; and

14 “(B) notify the Secretary of the action in
15 writing.

16 “(3) DETERMINATION.—

17 “(A) IN GENERAL.—On expiration of the
18 30-day period described in paragraph (2), the
19 Secretary shall issue public notice of any deter-
20 mination of the Secretary that—

21 “(i) a violation of all or any part of an
22 approved State program has resulted from
23 a failure of the State to administer or en-
24 force the approved State program of the
25 State; or

1 “(ii) the State has not demonstrated
2 the capability and intent of the State to
3 administer or enforce the State program of
4 the State.

5 “(B) APPEAL.—A State may appeal the
6 determination of the Secretary under subpara-
7 graph (A) in the applicable United States Dis-
8 trict Court.

9 “(C) RESUMPTION BY SECRETARY PEND-
10 ING APPEAL.—The Secretary may not resume
11 activities under paragraph (4) if an appeal
12 under subparagraph (B) is pending.

13 “(4) RESUMPTION BY SECRETARY.—Except as
14 provided in paragraph (3)(C), if the Secretary has
15 made a determination under paragraph (3)(A), the
16 Secretary shall resume any activities for which au-
17 thority was delegated to the State during the pe-
18 riod—

19 “(A) beginning on the date on which the
20 Secretary issues the public notice under para-
21 graph (3)(A); and

22 “(B) ending on the date on which the Sec-
23 retary determines that the State may admin-
24 ister or enforce, as applicable, the approved
25 State program of the State.

1 or inactive wells, but with surface use, dis-
2 turbance or reclamation;

3 “(ii) \$1,225 for each lease or unit or
4 communitization agreement with 1 to 10
5 wells, with any combination of active or in-
6 active wells;

7 “(iii) \$4,900 for each lease or unit or
8 communitization agreement with 11 to 50
9 wells, with any combination of active or in-
10 active wells; and

11 “(iv) \$9,800 for each lease or unit or
12 communitization agreement with more
13 than 50 wells, with any combination of ac-
14 tive or inactive wells.

15 “(2) ONSHORE ENERGY SAFETY FUND.—

16 “(A) IN GENERAL.—There is established in
17 the Treasury of the United States a fund to be
18 known as the ‘Onshore Energy Safety Fund’
19 (referred to in this subsection as the ‘Fund’).

20 “(B) DEPOSITS.—An amount equal to the
21 amounts collected as fees under paragraph (1)
22 shall be deposited in the Fund.

23 “(C) AVAILABILITY.—Amounts in the
24 Fund shall—

1 “(i) only be available to the extent
2 and in the amount provided in advance in
3 appropriations Acts;

4 “(ii) be used only for purposes de-
5 scribed in subparagraph (D);

6 “(iii) remain available until expended;
7 and

8 “(iv) be credited as offsetting collec-
9 tions.

10 “(D) USE OF FUNDS.—Notwithstanding
11 section 3302 of title 31, United States Code,
12 amounts deposited in the Fund shall only be
13 available for expenditure for purposes of car-
14 rying out inspections under subsection (b) in
15 those States for which the Secretary has dele-
16 gated authority under section 44(b)(1)(A) of
17 the Mineral Leasing Act.

18 “(3) PAYMENT DUE DATE.—The Secretary
19 shall require payment of any fee assessed under
20 paragraph (1) not later than 30 days after the date
21 on which the Secretary provides notice of the assess-
22 ment of the fee after the completion of an inspec-
23 tion.

24 “(4) PENALTY.—If a designated operator as-
25 sessed a fee under paragraph (1) fails to pay the full

1 amount of the fee required under this subsection,
2 the Secretary may, in addition to using any other
3 applicable enforcement authority, assess civil pen-
4 alties against the operator under section 109 in the
5 same manner as if this section were a mineral leas-
6 ing law.

7 “(5) NOTIFICATION TO STATE OF NONCOMPLI-
8 ANCE.—If, on the basis of any inspection under sub-
9 section (b), the Secretary determines that an oper-
10 ator is failing to comply with the requirements of
11 mineral leasing laws or this Act, the Secretary shall
12 notify the State of the failure to comply imme-
13 diately.”.

14 (c) EXISTING AUTHORITIES.—Section 390(a) of the
15 Energy Policy Act of 2005 (42 U.S.C. 15942(a)) is
16 amended—

17 (1) by striking “Action by the Secretary” and
18 inserting “The Secretary”;

19 (2) by striking “with respect to any of the ac-
20 tivities described in subsection (b) shall be subject to
21 a rebuttable presumption that the use of” and in-
22 serting “shall apply”; and

23 (3) by striking “would apply if the activity” and
24 inserting “for each action described in subsection (b)
25 if the action”.

1 **SEC. 3. CONVEYANCE TO CERTAIN STATES OF PROPERTY**
2 **INTEREST IN STATE SHARE OF ROYALTIES**
3 **AND OTHER PAYMENTS.**

4 (a) IN GENERAL.—Section 35 of the Mineral Leasing
5 Act (30 U.S.C. 191) is amended—

6 (1) in subsection (a), in the first sentence, by
7 striking “shall be paid into the Treasury” and in-
8 serting “shall, except as provided in subsection (e),
9 be paid into the Treasury”;

10 (2) in subsection (c)(1), by inserting “and ex-
11 cept as provided in subsection (e)” before “, any
12 rentals”; and

13 (3) by adding at the end the following:

14 “(e) CONVEYANCE TO CERTAIN STATES OF PROP-
15 ERTY INTEREST IN STATE SHARE.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, on request of a State and in lieu
18 of any payments to the State under subsection (a),
19 the Secretary of the Interior shall convey to the
20 State all right, title, and interest in and to the per-
21 centage specified in that subsection for that State
22 that would otherwise be required to be paid into the
23 Treasury under that subsection.

24 “(2) AMOUNT.—Notwithstanding any other
25 provision of law, after a conveyance to a State under
26 paragraph (1), any person shall pay directly to the

1 State any amount owed by the person for which the
2 right, title, and interest has been conveyed to the
3 State under this subsection.

4 “(3) NOTICE.—The Secretary of the Interior
5 shall promptly provide to each holder of a lease of
6 public land to which subsection (a) applies that is lo-
7 cated in a State to which right, title, and interest is
8 conveyed under this subsection notice that—

9 “(A) the Secretary of the Interior has con-
10 veyed to the State all right, title, and interest
11 in and to the amounts referred to in paragraph
12 (1); and

13 “(B) the leaseholder is required to pay the
14 amounts directly to the State.

15 “(4) REPORT.—A State that has received a
16 conveyance under this subsection shall report month-
17 ly to the Office of Natural Resources Revenue of the
18 Department of the Interior the amount paid to the
19 State pursuant to this subsection.

20 “(5) APPLICATION.—With respect to the inter-
21 est conveyed to a State under this subsection from
22 sales, bonuses, royalties (including interest charges),
23 and rentals collected under the Federal Oil and Gas
24 Royalty Management Act of 1982 (30 U.S.C. 1701
25 et seq.), this subsection shall only apply with respect

1 to States for which the Secretary has delegated any
2 authority under section 44(b)(1).”.

3 (b) ADMINISTRATIVE COSTS.—Section 35(b) of the
4 Mineral Leasing Act (30 U.S.C. 191(b)) is amended by
5 striking “In determining” and inserting “Except with re-
6 spect to States for which the Secretary has delegated any
7 authority under section 44(b)(1), in determining”.

8 (c) CONFORMING AMENDMENT.—Section 205(f) of
9 the Federal Oil and Gas Royalty Management Act of 1982
10 (30 U.S.C. 1735(f)) is amended in the seventh sentence
11 by striking “All” and inserting “Subject to subsection (e)
12 of section 35 of the Mineral Leasing Act (30 U.S.C. 191),
13 all”.

14 **SEC. 4. PERMITTING ON NON-FEDERAL SURFACE ESTATE.**

15 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
16 amended by inserting after section 44 (as added by section
17 2(a)(2)) the following:

18 **“SEC. 45. PERMITTING ON NON-FEDERAL SURFACE ESTATE.**

19 **“(a) PERMITS NOT REQUIRED FOR CERTAIN ACTIVI-**
20 **TIES ON NON-FEDERAL SURFACE ESTATE.—**The fol-
21 lowing activities conducted on non-Federal surface estate
22 shall not require a permit from the Bureau of Land Man-
23 agement and shall not be considered a major Federal ac-
24 tion under the National Environmental Policy Act of 1969
25 (42 U.S.C. 4321 et seq.):

1 “(1) Oil and gas operations for the exploration
2 for, or development or production of, oil and gas in
3 a lease or unit or communitization agreement in
4 which the United States holds a mineral ownership
5 interest of 50 percent or less.

6 “(2) Oil and gas operations that may have po-
7 tential drainage impacts, as determined by the Bu-
8 reau of Land Management, on oil and gas in which
9 the United States holds a mineral ownership inter-
10 est.

11 “(b) DOI NOTIFICATION.—The Secretary of the In-
12 terior shall provide to each State a map or list indicating
13 Federal mineral ownership within that State.

14 “(c) STATE NOTIFICATION.—Each State with an ap-
15 proved permit to drill or drilling plan that would impact
16 or extract oil and gas owned by the Federal Government
17 shall notify the Secretary of the Interior of the approved
18 permit to drill or drilling plan.

19 “(d) ROYALTIES.—Nothing in this section affects the
20 amount of royalties due to the United States under this
21 Act from the production of oil and gas.”.

1 **SEC. 5. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
2 **FRACTURING REGULATION.**

3 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
4 amended by inserting after section 45 (as added by section
5 4) the following:

6 **“SEC. 46. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
7 **FRACTURING REGULATION.**

8 “(a) IN GENERAL.—In this section:

9 “(1) HYDRAULIC FRACTURING DEFINED.—The
10 term ‘hydraulic fracturing’ means the process of cre-
11 ating small cracks or fractures in underground geo-
12 logical formations for well stimulation purposes of
13 bringing hydrocarbons into the wellbore and to the
14 surface for capture.

15 “(2) SECRETARY.—The term ‘Secretary’ means
16 the Secretary of the Interior.

17 “(b) ENFORCEMENT OF FEDERAL REGULATIONS.—
18 The Secretary shall not enforce any Federal regulation,
19 guidance, or permit requirement regarding hydraulic frac-
20 turing relating to oil, gas, or geothermal production activi-
21 ties on or under any land in any State that has regula-
22 tions, guidance, or permit requirements for that activity.

23 “(c) STATE AUTHORITY.—The Secretary shall defer
24 to State regulations, guidance, and permit requirements
25 for all activities regarding hydraulic fracturing relating to

1 oil, gas, or geothermal production activities on Federal
2 land.

3 “(d) TRANSPARENCY OF STATE REGULATIONS.—

4 “(1) IN GENERAL.—Each State shall submit to
5 the Bureau of Land Management a copy of the reg-
6 ulations of the State that apply to hydraulic frac-
7 turing operations on Federal land, including the reg-
8 ulations that require disclosure of chemicals used in
9 hydraulic fracturing operations.

10 “(2) AVAILABILITY.—The Secretary shall make
11 available to the public on the website of the Sec-
12 retary the regulations submitted under paragraph
13 (1).

14 “(e) TRIBAL AUTHORITY ON TRUST LAND.—The
15 Secretary shall not enforce any Federal regulation, guid-
16 ance, or permit requirement with respect to hydraulic frac-
17 turing on any land held in trust or restricted status for
18 the benefit of a federally recognized Indian Tribe or a
19 member of a federally recognized Indian Tribe, except
20 with the express consent of the beneficiary on whose behalf
21 the land is held in trust or restricted status.”.

22 **SEC. 6. REVIEW OF INTEGRATED ACTIVITY PLAN FOR THE**
23 **NATIONAL PETROLEUM RESERVE-ALASKA.**

24 The Secretary of the Interior shall—

1 (1) conduct a review of the National Petroleum
2 Reserve–Alaska Final Integrated Activity Plan/Envi-
3 ronmental Impact Statement, for which notice of
4 availability was published in the Federal Register on
5 December 28, 2012 (77 Fed. Reg. 76515), to deter-
6 mine which land within the National Petroleum Re-
7 serve–Alaska should be made available for oil and
8 gas leasing; and

9 (2) make available the lands described in para-
10 graph (1) for oil and gas leasing.

11 **SEC. 7. PROTESTED LEASE SALES.**

12 Section 17(b)(1)(A) of the Mineral Leasing Act (30
13 U.S.C. 226(b)(1)(A)) is amended by inserting after the
14 seventh sentence the following: “The Secretary shall re-
15 solve any protest to a lease sale within 60 days following
16 such payment.”.