

[DISCUSSION DRAFT]115TH CONGRESS
1ST SESSION**H. R.** _____

To achieve domestic energy independence by empowering States to manage the development and production of oil and gas on available Federal land, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To achieve domestic energy independence by empowering 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 Act” or
6 the “ONSHORE Act”.

1 **SEC. 2. STATE PRIMACY IN OIL AND GAS PERMITTING ON**
2 **AVAILABLE FEDERAL LAND.**

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

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

6 (2) by adding after section 43 the following new

7 section:

8 **“SEC. 44. STATE PRIMACY IN OIL AND GAS PERMITTING ON**
9 **AVAILABLE FEDERAL LAND.**

10 “(a) AUTHORIZATIONS.—Upon receipt of an applica-
11 tion under subsection (b), the Secretary may delegate to
12 a State exclusive authority—

13 “(1) to issue and enforce permits to drill on
14 available Federal land; or

15 “(2) to approve and enforce drilling plans on
16 available Federal land.

17 “(b) STATE APPLICATION PROCESS.—

18 “(1) SUBMISSION OF APPLICATION.—A State
19 may submit an application under paragraph (1) or
20 (2) of subsection (a) to the Secretary at such time
21 and in such manner as the Secretary may require.

22 “(2) CONTENT OF APPLICATION.—An applica-
23 tion submitted under this subsection shall include—

24 “(A) a description of the State regulatory
25 program that the State proposes to establish
26 and administer under State law; and

1 “(B) a statement from the attorney gen-
2 eral of such State that the laws of such State
3 provide adequate authority to carry out the
4 State regulatory program.

5 “(3) DEADLINE FOR APPROVAL OR DIS-
6 APPROVAL.—Not later than 180 days after the date
7 of receipt of an application under this subsection,
8 the Secretary shall approve or disapprove such appli-
9 cation.

10 “(4) CRITERIA FOR APPROVAL.—The Secretary
11 may approve an application received under this sub-
12 section only if the Secretary has—

13 “(A) determined that the State applicant
14 would be at least as effective as the Secretary
15 in issuing and enforcing permits to drill or in
16 approving and enforcing drilling plans, as appli-
17 cable;

18 “(B) determined that the State regulatory
19 program of the State applicant—

20 “(i) complies with this Act; and

21 “(ii) provides for the termination or
22 modification of a permit to drill or ap-
23 proval of a drilling plan, as applicable, for
24 cause, including for—

1 “(I) the violation of any condi-
2 tion of such permit or approval;

3 “(II) obtaining such permit or
4 approval by misrepresentation; or

5 “(III) failure to fully disclose in
6 an application under this subsection
7 all relevant facts;

8 “(C) determined that the State applicant
9 has sufficient administrative and technical per-
10 sonnel and sufficient funding to carry out the
11 State regulatory program;

12 “(D) provided notice to the public, solicited
13 public comment, and held a public hearing with-
14 in the State; and

15 “(E) determined that approval of the ap-
16 plication would not result in decreased royalty
17 payments to the Federal Government.

18 “(5) DISAPPROVAL.—If the Secretary dis-
19 approves an application submitted under this sub-
20 section, then the Secretary shall—

21 “(A) notify, in writing, the State applicant
22 of the reason for the disapproval and any revi-
23 sions or modifications necessary to obtain ap-
24 proval; and

1 “(B) provide any additional information,
2 data, or analysis upon which the disapproval is
3 based.

4 “(6) RESUBMITTAL OF APPLICATION.—A State
5 may resubmit an application under this subsection
6 at any time.

7 “(c) VOLUNTARY TERMINATION OF AUTHORITY.—A
8 State may voluntarily terminate the authority delegated
9 to such State under subsection (a) upon providing written
10 notice to the Secretary 60 days in advance. Upon expira-
11 tion of such 60-day period, the Secretary shall resume any
12 activities for which authority was delegated to the State.

13 “(d) APPEAL OF DENIAL OF APPLICATION FOR PER-
14 MIT TO DRILL OR APPLICATION FOR APPROVAL OF
15 DRILLING PLAN.—

16 “(1) IN GENERAL.—If a State for which the
17 Secretary has delegated authority under subsection
18 (a) denies an application for a permit to drill or an
19 application for approval of a drilling plan, the appli-
20 cant may appeal such decision to the Bureau of
21 Land Management.

22 “(2) FEE ALLOWED.—The Bureau of Land
23 Management may charge the applicant a fee for the
24 appeal described in paragraph (1).

1 “(e) FEDERAL ENFORCEMENT OF STATE REGU-
2 LATORY PROGRAM.—If the Secretary determines that a
3 State is not adequately enforcing permits to drill or drill-
4 ing plans, as applicable, then the Secretary may provide
5 for the Federal enforcement of such permits to drill or
6 drilling plans, as applicable.

7 “(f) DEFINITIONS.—In this section:

8 “(1) AVAILABLE FEDERAL LAND.—The term
9 ‘available Federal land’ means any Federal land
10 that—

11 “(A) is located within the boundaries of a
12 State;

13 “(B) is not held by the United States in
14 trust for the benefit of a federally recognized
15 Indian Tribe or a member of such an Indian
16 Tribe;

17 “(C) is not a unit of the National Park
18 System;

19 “(D) is not a unit of the National Wildlife
20 Refuge System;

21 “(E) is not a Congressionally approved wil-
22 derness area under the Wilderness Act (16
23 U.S.C.1131 et seq.); and

1 “(F) has been identified as land available
2 for lease for the exploration, development, and
3 production of oil and gas—

4 “(i) by the Bureau of Land Manage-
5 ment under—

6 “(I) a resource management plan
7 under the process provided for in the
8 Federal Land Management and Policy
9 Act of 1976 (43 U.S.C. 1701 et seq.);
10 or

11 “(II) an integrated activity plan
12 with respect to the National Petro-
13 leum Reserve in Alaska; or

14 “(ii) by the Forest Service under a
15 forest management plan under the process
16 provided for in the National Forest Man-
17 agement Act of 1976 (16 U.S.C. 1600 et
18 seq.).

19 “(2) PERMIT TO DRILL.—The term ‘permit to
20 drill’ means a permit—

21 “(A) that grants authority to drill for oil
22 and gas; and

23 “(B) for which an application has been re-
24 ceived that contains—

25 “(i) a drilling plan;

1 “(ii) a surface use plan of operations
2 described under section 3162.3–1(f), Code
3 of Federal Regulations.

4 “(iii) evidence of bond coverage; and

5 “(iv) such other information as may
6 be required by applicable orders and no-
7 tices.

8 “(3) DRILLING PLAN.—The term ‘drilling plan’
9 means a plan described under section 3162.3–1(e),
10 Code of Federal Regulations.

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

13 “(5) STATE.—The term ‘State’ means—

14 “(A) each of the several States; and

15 “(B) the District of Columbia.

16 “(6) STATE APPLICANT.—The term ‘State ap-
17 plicant’ means a State that has submitted an appli-
18 cation under subsection (b).

19 “(7) STATE REGULATORY PROGRAM.—The term
20 ‘State regulatory program’ means a program that
21 provides for a State to—

22 “(A) issue and enforce permits to drill or
23 approve and enforce drilling plans, as applica-
24 ble, on available Federal land; and

1 “(B) impose sanctions for violations of
2 State laws, regulations, or any condition of a
3 permit to drill or approved drilling plan, as ap-
4 plicable.”; and

5 (3) ADMINISTRATIVE COSTS.—Section 35(b) of
6 the Mineral Leasing Act (30 U.S.C. 191(b)) is
7 amended by striking “In determining” and inserting
8 “Except with respect to States for which the Sec-
9 retary has delegated any authority under section
10 44(a), in determining”.

11 **SEC. 3. CONVEYANCE TO CERTAIN STATES OF PROPERTY**
12 **INTEREST IN STATE SHARE OF ROYALTIES**
13 **AND OTHER PAYMENTS.**

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

16 (1) in the first sentence of subsection (a), by
17 striking “shall be paid into the Treasury” and in-
18 serting “shall, except as provided in subsection (e),
19 be paid into the Treasury”;

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

21 “(e) CONVEYANCE TO CERTAIN STATES OF PROP-
22 erty INTEREST IN STATE SHARE.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of law, on request of a State and in lieu
25 of any payments to the State under subsection (a),

1 the Secretary of the Interior shall convey to the
2 State all right, title, and interest in and to the per-
3 centage specified in that subsection for that State of
4 all amounts otherwise required to be paid into the
5 Treasury under that subsection from sales, bonuses,
6 royalties (including interest charges), and rentals for
7 all public land or deposits located in the State.

8 “(2) AMOUNT.—Notwithstanding any other
9 provision of law, after a conveyance to a State under
10 paragraph (1), any person shall pay directly to the
11 State any amount owed by the person for which the
12 right, title, and interest has been conveyed to the
13 State under this subsection.

14 “(3) NOTICE.—The Secretary of the Interior
15 shall promptly provide to each holder of a lease of
16 public land to which subsection (a) applies that are
17 located in a State to which right, title, and interest
18 is conveyed under this subsection notice that—

19 “(A) the Secretary of the Interior has con-
20 veyed to the State all right, title, and interest
21 in and to the amounts referred to in paragraph
22 (1); and

23 “(B) the leaseholder is required to pay the
24 amounts directly to the State.

1 “(4) APPLICATION.—This subsection shall
2 apply only with respect to States for which the Sec-
3 retary has delegated any authority under section
4 44(a).”; and

5 (3) in subsection (c)(1), by inserting “and ex-
6 cept as provided in subsection (e)” before “, any
7 rentals”.

8 (b) 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 by striking “All” in the
11 sixth sentence and inserting “Subject to section 35(e) of
12 the Mineral Leasing Act, all”.

13 **SEC. 4. PERMITTING ON NON-FEDERAL LAND.**

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

17 **“SEC. 45. PERMITTING ON NON-FEDERAL LAND.**

18 “(a) PERMITS NOT REQUIRED FOR CERTAIN ACTIVI-
19 TIES ON NON-FEDERAL LAND.—The following activities
20 conducted on non-Federal land shall not require a permit
21 from the Bureau of Land Management and shall not be
22 considered a major Federal action under the National En-
23 vironmental Policy Act of 1969 (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 which the United States holds an ownership interest.

4 “(2) Oil and gas operations that may have po-
5 tential drainage impacts, as determined by the Bu-
6 reau of Land Management, on oil and gas in which
7 the United States holds an ownership interest.

8 “(b) ROYALTIES.—Nothing in this section shall affect
9 the amount of royalties due to the United States under
10 this Act from the production of oil and gas.

11 “(c) APPLICATION.—This section shall only apply
12 with respect to States for which the Secretary has dele-
13 gated any authority under section 44(a).”.

14 **SEC. 5. PREFERRED OIL AND GAS LEASING AREAS.**

15 Section 202 of the Federal Land Policy and Manage-
16 ment Act (43 U.S.C. 1712) is amended by adding at the
17 end the following:

18 “(g) DESIGNATION OF PREFERRED OIL AND GAS
19 LEASING AREAS.—

20 “(1) IN GENERAL.—For each land use plan de-
21 veloped or revised under this section, the Secretary
22 shall designate in such plan any preferred oil and
23 gas leasing areas.

24 “(2) UPDATE OF EXISTING LAND USE PLANS.—

1 “(A) IN GENERAL.—Not later than one
2 year, or as soon as practicable, after the date
3 of the enactment of this Act, the Secretary shall
4 update each existing land use plan to designate
5 in such plan any preferred oil and gas leasing
6 areas.

7 “(B) PRIORITY.—The Secretary shall
8 prioritize updating land use plans for public
9 land that has the greatest potential for oil and
10 gas development.

11 “(3) REPORT TO CONGRESS.—After finalizing
12 any land use plan development or revision under this
13 section, the Secretary shall make public on the
14 website of the Secretary a report on the estimated
15 cost of closing public lands subject to such land use
16 plan to oil and gas development.

17 “(4) NEPA.—Conducting a lease sale or a
18 processing permit for oil and gas development within
19 a preferred oil and gas leasing area shall not be con-
20 sidered a major Federal action under the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 “(5) PROCEDURE.—The Secretary shall con-
24 duct lease sales and issue lease stipulations accord-
25 ing to existing land use plans and shall not base

1 leasing activities on revised land use plans until such
2 plans are finalized and approved by the Secretary.

3 “(6) DEFINITION OF PREFERRED OIL AND GAS
4 LEASING AREA.—In this subsection, the term ‘pre-
5 ferred oil and gas leasing area’ means an area that
6 is open for oil and gas leasing without a major con-
7 straint, as determined by the Bureau of Land Man-
8 agement.”.

9 **SEC. 6. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
10 **FRACTURING REGULATION.**

11 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
12 further amended by inserting after section 45 (as added
13 by this Act) the following:

14 **“SEC. 46. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
15 **FRACTURING REGULATION.**

16 “(a) IN GENERAL.—The Secretary of the Interior
17 shall not enforce any Federal regulation, guidance, or per-
18 mit requirement regarding hydraulic fracturing, or any
19 component of that process, relating to oil, gas, or geo-
20 thermal production activities on or under any land in any
21 State that has regulations, guidance, or permit require-
22 ments for that activity.

23 “(b) STATE AUTHORITY.—The Secretary of the Inte-
24 rior shall recognize and defer to State regulations, permit-
25 ting, and guidance, for all activities related to hydraulic

1 fracturing, or any component of that process, relating to
2 oil, gas, or geothermal production activities on Federal
3 land.

4 “(c) TRANSPARENCY OF STATE REGULATIONS.—

5 “(1) IN GENERAL.—Each State shall submit to
6 the Bureau of Land Management a copy of its regu-
7 lations that apply to hydraulic fracturing operations
8 on Federal land.

9 “(2) AVAILABILITY.—The Secretary of the In-
10 terior shall make available to the public on the
11 website of the Secretary the State regulations sub-
12 mitted under paragraph (1).

13 “(d) TRANSPARENCY OF STATE DISCLOSURE RE-
14 QUIREMENTS.—

15 “(1) IN GENERAL.—Each State shall submit to
16 the Bureau of Land Management a copy of any reg-
17 ulations of the State that require disclosure of
18 chemicals used in hydraulic fracturing operations on
19 Federal land.

20 “(2) AVAILABILITY.—The Secretary of the In-
21 terior shall make available to the public on the
22 website of the Secretary the State regulations sub-
23 mitted under this subsection.

24 “(e) TRIBAL AUTHORITY ON TRUST LAND.—The
25 Secretary of the Interior shall not enforce any Federal reg-

1 ulation, guidance, or permit requirement with respect to
2 the process of hydraulic fracturing, or a component of hy-
3 draulic fracturing, on any land held in trust or restricted
4 status for the benefit of a federally recognized Indian
5 Tribe or a member of such an Indian Tribe, except with
6 the express consent of the beneficiary on whose behalf
7 such land is held in trust or restricted status.

8 “(f) HYDRAULIC FRACTURING DEFINED.—In this
9 section the term ‘hydraulic fracturing’ means the process
10 by which fracturing fluids (or a fracturing fluid system)
11 are pumped into an underground geologic formation at a
12 calculated, predetermined rate and pressure to generate
13 fractures or cracks in the target formation and thereby
14 increase the permeability of the rock near the wellbore and
15 improve production of oil and gas.”

16 **SEC. 7. REVIEW OF INTEGRATED ACTIVITY PLAN FOR THE**
17 **NATIONAL PETROLEUM RESERVE IN ALASKA.**

18 The Secretary of the Interior shall conduct a review
19 of the National Petroleum Reserve in Alaska Final Inte-
20 grated Activity Plan, for which notice of availability was
21 published in the Federal Register on December 28, 2012
22 (77 Fed. Reg. 76515), to determine which lands within
23 the National Petroleum Reserve in Alaska should be made
24 available for oil and gas leasing.