



Legislative BulletinJune 19, 2012

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Amendments to H.R. 4480 - Strategic Energy Production Act of 2012

**Amendments to H.R. 4480 - Strategic Energy Production Act of 2012
(Gardner, R-CO)**

Order of Business: The legislation is expected to be considered on Wednesday, June 20, 2012, under a structured rule, H.Res. 691. The rule provides for the consideration of H.R. 4480 in the Committee of the Whole House on the state of the Union. The rule provides for 2 hours of general debate that is equally divided by the chair and ranking minority member. After debate, the legislation shall be considered for amendment under the five minute rule. The rule makes in order only those amendments that are printed in Rules Committee Report 112-540, which can be [viewed here](#). After amendment debate the Committee shall rise and report the legislation to the House. At that time, Members may demand a separate vote on any amendment that was adopted in the Committee. The rule also provides for one motion to recommit, with or without instructions. The text of the rule can be [found here](#).

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Amendments Made In Order Under the Rule:

1. **Hastings (R-WA): Managers Amendment** – The amendment would prohibit the plan established in Title I from taking effect until the Secretaries of Agriculture, Interior, and Defense concur with the elements of the plan under their jurisdiction.

The amendment also adds a section under Title VI that would direct the Secretary of the Interior to approve right-of-way corridors for the construction of 2 separate additional bridges and pipeline right-of-ways to help facilitate timely oil and gas development.

The amendment also states that the designation by the EPA of the Colville River Delta as an Aquatic Resource of National Importance shall have no force of law. The text of the amendment can be [found here](#).

2. ***Polis (D-CO)***: The amendment would prohibit any hydraulic fracturing lease under Title I from occurring within 1,000 feet of a primary or secondary school. The text of the amendment can be [found here](#).
3. ***Terry (R-NE) & Mack (R-FL)***: The amendment would direct the Federal Energy Regulatory Commission (FERC) to issue a permit, without conditions, for the construction, operation, and maintenance of the Keystone XL pipeline. FERC is directed to issue this permit within 30 days of receiving the application. If FERC does not act within 30 days, the permit shall be deemed to have been issued.

The amendment allows the pipeline route to be modified, subject to an expedited FERC approval. The text of the amendment can be [found here](#).

4. ***Quigley (D-IL)***: The amendment would prohibit the Secretary of the Interior from conducting or authorizing any leasing, exploration or development of oil and gas resources of the Outer Continental Shelf unless:
 - a. Sound science shows that those activities can proceed with minimal risk to the health of the marine environment and coastal environment;
 - b. The Secretary has a thorough understanding of the marine environment and coastal environment impacted; and
 - c. The Secretary determines that the risks are minimal and there are rigorous safety measures in place that will be enforced.

The Secretary of the Interior is further prohibited from making oil or gas leasing on the OCS available in areas that have “distinguishing ecological characteristics.” The text of the amendment can be [found here](#).

5. ***McKinley (R-WV)***: The amendment would require that the Transportation Fuels Regulatory Committee (established by Title II) consult with the National Energy Technology Laboratory. The text of the amendment can be [found here](#).
6. ***McKinley (R-WV)***: The amendment would direct that the Transportation Fuels Regulatory Committee (established by Title II) estimate the impact of certain EPA rules any matter “affecting the growth, stability, and sustainability of the Nation’s oil and gas industries, particularly relative to that of other nations.” The text of the amendment can be [found here](#).
7. ***Waxman (D-CA)***: The amendment adds a section to the end of Title II (which establishes the Transportation Fuels Regulatory Committee). The new section directs the EPA not to delay any finalization of any of the below rules, if the pollution that would be controlled by these rules is contributing to asthma attacks, bronchitis, heart attacks, cancer, birth defects, neurological damage, premature death, etc.

- “Control of Air Pollution From New Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards,” as described in the Unified Agenda of Federal Regulatory and Deregulatory Actions under Regulatory Identification Number 2060–AQ86, and any successor or substantially similar rule;
- “Any rule proposed after March 15, 2012, establishing or revising a standard of performance or emission standard under section 111 or 112 of the Clean Air Act (42 U.S.C. 7411, 7412) that is applicable to petroleum refineries; and
- “Any rule revising or supplementing the national ambient air quality standards for ozone under section 109 of the Clean Air Act (42 U.S.C. 7409).”

The text of the amendment can be [found here](#).

8. **Connolly (D-VA):** The amendment would define “public health” as:
- “Refers to the health of members of the species homo sapiens; and
 - “Does not refer to the health of corporations or any other non-living entities.”

The text of the amendment can be [found here](#).

9. **Green (D-TX):** The amendment would strike section 206 of the legislation. This section directs the Administrator of the EPA to take into consideration feasibility and cost when reviewing any national primary of secondary ambient air quality standards for ozone under the Clean Air Act. The text of the amendment can be [found here](#).

10. **Terry (R-NE):** The amendment alters the Clean Air Act to allow the EPA to waive certain fuel requirements in certain geographic areas, when there is a problem with distribution or delivery equipment that is necessary for the transportation or delivery of fuel or fuel additives. This waiver may be granted for 20 days, and it may be extended for an additional 20 days if the conditions exist. The text of the amendment can be [found here](#).

11. **Rush (D-IL):** The amendment would require the Administrator of the EPA to make a determination, within 90 days after enactment, as to whether implementation of Title II (which establishes the Transportation Fuels Regulatory Committee) is projected to lower gasoline prices or create jobs in the U.S. within 10 years.

The amendment terminates sections 205 and 206 of the underlying legislation, if the Administrator determines that implementation will not lower gasoline prices or create jobs in the U.S. The text of the amendment can be [found here](#).

12. **Holt (D-NJ):** The amendment states that the Quadrennial Federal Onshore Energy Production Strategy (created by Title III) should “seek to ensure that the percentage of onshore federal oil and gas leases under which production is not occurring is reduced during the next 4-year period. The text of the amendment can be [found here](#).
13. **Lewis (D-GA):** The underlying legislation establishes a “protest fee” of \$5,000 to accompany each protest for a lease, right of way, or application for permit to drill. This amendment states that this “shall not be construed to abridge the right of the people to petition for the redress of grievances...” The text of the amendment can be [found here](#).
14. **Amodei (R-NV):** The amendment prohibits the Secretary of the Interior from transferring any responsibility or authority under the Solid Minerals Program to the Office of Surface Mining Reclamation and Enforcement. The text of the amendment can be [found here](#).

According to the sponsor’s office: “States with primacy under the Surface Mining Control and Reclamation Act (SMCRA) are responsible for permitting and regulation coal mining and Abandoned Mine Land (AML) clean up in their states, not OSM. SMCRA expressly prohibits the co-mingling of employees of any federal agency that promotes the development or use of coal – responsibilities of the solid minerals division of the BLM. The OSM does not have offices in all of the western federal land states with hard rock mining, nor does it have any expertise in the broad range of mineral commodities regulated by the BLM. Furthermore, legislative changes to the Surface Mining Control and Reclamation Act and the Federal Land Management and Policy Act of 1976 would be required to allow for merging these programs. The Administration should not be allowed to create another layer of unneeded bureaucracy and grant additional federal regulatory powers, over well run state agencies.”

15. **Markey (D-MA):** The amendment requires that all oil and gas produced under a lease issued by this legislation be offered for sale only in the United States. The text of the amendment can be [found here](#). Some members may have concerns that this amendment would adversely affect export opportunities that would otherwise create U.S. jobs. Similar amendments (H.Amdt. 933 & H.Amdt. 948) were offered to H.R. 3408 and failed by roll call votes of [173-254](#) and [168-254](#).
16. **Landry (R-LA):** The amendment raises the Gulf of Mexico Energy Security Act of 2006 (GOMESA) revenue-sharing cap to \$750,000,000 for fiscal years 2023 through 2055. Currently, four Gulf States, Alabama, Louisiana, Mississippi, and Texas receive offshore revenue sharing under GOMESA. A cap on that revenue of \$500,000,000 per fiscal year is set to begin in FY2016. This amendment does not alter that cap until FY 2023 and will continue to apply to Alabama, Mississippi, Louisiana, and Texas, the states to which current GOMESA law already applies. The text of this amendment can be [found here](#). A similar

amendment was offered to [H.R. 3408](#) and the amendment passed by a [roll call vote of 266-159](#).

17. **Rigell (R-VA):** The amendment directs the Secretary of the Interior to include Lease Sale 220 (which is off the coast of Virginia on the OCS) in the revised OCS oil and gas leasing program. The Secretary shall conduct Lease Sale 220 within 1 year after enactment.

The amendment directs the Secretaries of the Interior and Defense to work jointly to preserve the ability of the Armed Forces of the U.S. to maintain an optimum state of readiness through their continued use of the OCS, and to allow effective exploration, development, and production of our Nation's oil, gas and renewable energy resources.

The amendment prohibits anyone from engaging in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation. The text of the amendment can be [found here](#).

18. **Holt (D-NJ):** The amendment prohibits the Secretary of the Interior from offering certain leases unless the applicant has renegotiated each lease to modify the payment responsibilities to require the payment of royalties if the price of oil and natural gas is greater or equal to the price thresholds set by the Outer Continental Shelf Lands Act. Read amendment [here](#).

19. **Wittman (R-VA) / Rigell (R-VA)** – This amendment would streamline the process for the Bureau of Ocean Energy Management (BOEM) to approve temporary infrastructure, such as towers or buoys, to test and develop offshore wind power in the Outer Continental Shelf. The Secretary of the Interior is required to decide whether to issue a permit and right of way for an offshore meteorological sit testing and monitoring project within 30 days after receiving application. Read amendment [here](#).

20. **Westmoreland (R-GA) / Braley (D-IA)** – This amendment would lower regulatory burdens upon delis by making Service-Over-the-Counter (SOTC) refrigerator units into a separate product classification. Read amendment [here](#).

According to the sponsor: “Currently, SOTC refrigerators and freezers must pass the efficiency standards designed for commercial refrigerators for storage use, called “reach-ins” (like the open and close refrigerators in your homes). It simply doesn't make sense to have deli display cases, which are constantly opened and closed, in the same product classification as huge reach-ins, which are used for completely different purposes and opened far less often. SOTC display units are designed for maximum product visibility and presentation. They require more

glass and lighting than conventional reach-ins, so their design makes it impossible to reach the minimum efficiency standards established in the Energy Policy Act of 2005.”

21. **Bass (D-CA)** – This amendment would require the Transportation Fuels Regulatory Committee to conduct an analysis of how to shield American consumers and the United States economy from gasoline price fluctuations and supply disruptions in the oil market by reducing the dependence of the United States on oil. Read amendment [here](#).
22. **Bass (D-CA)** – This amendment would require the Transportation Fuels Regulatory Committee to assess the impact of human exposure to releases of pollutants (including toxic, hazardous, and radioactive materials) in the air, water, and land. Read amendment [here](#).
23. **Capps (D-CA)** – This amendment would remove the requirements in Title II of the bill to conduct an analysis, issue a report, and delay rules if the Secretary of Energy determines that the analyses are “infeasible to conduct, require data that does not exist, or would generate results subject to such large estimates of uncertainty that the results would be neither reliable nor useful.” Read amendment [here](#).
24. **Hanabusa (D-HI)** – This amendment would require the Secretary of Interior in consultation with the Secretary of Agriculture to include in their Quadrennial Federal Onshore Energy Production Strategy, “the best estimate, based upon commercial and scientific data, of the expected increase in domestic production of geothermal, solar, wind, or other renewable energy sources on land” designated as Hawaiian Home Lands. Read amendment [here](#).
25. **Speier (D-CA)** – This amendment would strike language in the underlying legislation that would require drilling permits to be deemed approved a 60 day deadline, which the sponsor believes could expose public lands to undue risk. Read amendment [here](#).
26. **DeLauro (D-CT)/ Markey(D-MA)/ Edward (D-MA)/ Frank (D-MA)** – This amendment would require \$128 million received from the sale of new leases to be made available to fund the Commodity Futures Trading Commission to limit speculation in energy markets. Read amendment [here](#).
27. **Jackson Lee (D-TX)** – This amendment would establish an Office of Energy Employment and Training to “oversee planning, permitting, and regulatory activities to carry out the purposes, objectives, and requirements of this Act.”

This Office shall report at least quarterly to the Secretary of the interior regarding the Department's compliance with the Act.

Additionally, this amendment would establish an Office of Minority and Women Inclusion that would be responsible for all matters relating to diversity in management, employment, and business activities. The Director of the Office of Minority and Women Inclusion shall develop standards for equal employment opportunity, increased participation of minority-owned and women-owned businesses in the programs and contracts of the Department. Read amendment [here](#).

Potential Conservative Concerns: Some conservatives might argue that race, ethnicity or gender should not be considered a factor in these decisions, but instead solely the merits of the individual.

In addition, some conservative may be concerned that the amendment creates two new offices, which could lead to a larger federal workforce at a time when most conservatives favor decreasing the size of the federal workforce.

Finally, many conservatives may be concerned that the amendment would delegate significant new powers to the "[Administrative State](#)." The amendment gives these two new federal offices some goals, and then gives broad regulatory authority to the federal bureaucracy in terms of how the objectives are met.