

118TH CONGRESS  
1ST SESSION

# S. 3289

To ratify and approve all authorizations, permits, verifications, extensions, biological opinions, incidental take statements, and any other approvals or orders issued pursuant to Federal law necessary for the establishment and administration of the Coastal Plain oil and gas leasing program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2023

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To ratify and approve all authorizations, permits, verifications, extensions, biological opinions, incidental take statements, and any other approvals or orders issued pursuant to Federal law necessary for the establishment and administration of the Coastal Plain oil and gas leasing program, 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 “Alaska’s Right to  
5 Produce Act of 2023”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 Congress finds that—

3 (1) Congress provided clear authorization and  
4 direction that the Secretary of the Interior “shall es-  
5 tablish and administer a competitive oil and gas pro-  
6 gram for the leasing, development, production, and  
7 transportation of oil and gas in and from the Coast-  
8 al Plain” in section 20001 of Public Law 115–97  
9 (16 U.S.C. 3143 note) (commonly known as the Tax  
10 Cuts and Jobs Act);

11 (2) the timely administration of the Coastal  
12 Plain Oil and Gas Leasing Program is required and  
13 in the national and public interest;

14 (3) the Department of the Interior’s cancelling  
15 of the leases for the covered Coastal Plain lease  
16 tracts represents a major decision of economic and  
17 political significance that Congress did not delegate  
18 to the Secretary;

19 (4) the Naval Petroleum Reserves Production  
20 Act of 1976 (42 U.S.C. 6501 et seq.) requires that  
21 the Bureau of Land Management—

22 (A) allow for the exploration, development,  
23 and production of petroleum products in the  
24 National Petroleum Reserve in Alaska; and

25 (B) equally balance, to the extent con-  
26 sistent with that Act, the protection of ecologi-

1 cal and cultural values in the National Petro-  
2 leum Reserve in Alaska; and

3 (5) the proposed rule of the Bureau of Land  
4 Management entitled “Management and Protection  
5 of the National Petroleum Reserve in Alaska” (88  
6 Fed. Reg. 62025 (September 8, 2023)) fails to re-  
7 flect the intent of Congress for the Naval Petroleum  
8 Reserves Production Act of 1976 (42 U.S.C. 6501  
9 et seq.).

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) COASTAL PLAIN.—The term “Coastal  
13 Plain” has the meaning given the term in section  
14 20001(a) of Public Law 115–97 (16 U.S.C. 3143  
15 note).

16 (2) COASTAL PLAIN OIL AND GAS LEASING PRO-  
17 GRAM.—The term “Coastal Plain oil and gas leasing  
18 program” means the program established under sec-  
19 tion 20001(b)(2)(A) of Public Law 115–97 (16  
20 U.S.C. 3143 note).

21 (3) COVERED COASTAL PLAIN LEASE TRACT.—  
22 The term “covered Coastal Plain lease tract” means  
23 any of tracts 16, 17, 24, 26, 27, and 30 as listed  
24 in exhibit B of the document published by the Bu-  
25 reau of Land Management entitled “Amendment to

1 the Detailed Statement of Sale” and dated Decem-  
2 ber 18, 2020 (relating to oil and gas leasing within  
3 the Coastal Plain Alaska).

4 (4) RECORD OF DECISION.—The term “Record  
5 of Decision” means the record of decision described  
6 in the notice of availability of the Bureau of Land  
7 Management entitled “Notice of Availability of the  
8 Record of Decision for the Final Environmental Im-  
9 pact Statement for the Coastal Plain Oil and Gas  
10 Leasing Program, Alaska” (85 Fed. Reg. 51754  
11 (August 21, 2020)).

12 (5) SECRETARY.—The term “Secretary” means  
13 the Secretary of the Interior.

14 **SEC. 4. CONGRESSIONAL APPROVAL OF ORDERS.**

15 (a) MORATORIUM ON OIL AND GAS LEASING.—Any  
16 order or action by the President or the Secretary that has  
17 the effect of placing a moratorium on or otherwise sus-  
18 pending or pausing oil and gas leasing in the Coastal Plain  
19 shall have no force or effect.

20 (b) APPROVAL AND RATIFICATION OF EXISTING  
21 DOCUMENTATION AND AUTHORIZATIONS.—Notwith-  
22 standing any other provision of law, Congress—

23 (1) ratifies and approves all authorizations, per-  
24 mits, verifications, extensions, biological opinions, in-  
25 cidental take statements, and any other approvals or

1 orders issued pursuant to Federal law, as described  
2 in the Record of Decision, necessary for the estab-  
3 lishment and administration of the Coastal Plain Oil  
4 and Gas Leasing Program; and

5 (2) directs the Secretary, the Administrator of  
6 the Environmental Protection Agency, and the heads  
7 of other as applicable Federal departments and  
8 agencies to process, reinstate, or continue to main-  
9 tain such authorizations, permits, verifications, ex-  
10 tensions, biological opinions, incidental take state-  
11 ments, and any other approvals or orders described  
12 in paragraph (1).

13 (c) APPLICABILITY OF OTHER LAW.—Notwith-  
14 standing any other provision of law, the authorizations,  
15 permits, verifications, extensions, biological opinions, inci-  
16 dental take statements, and any other approvals or orders  
17 described in subsection (b)(1) shall be considered to sat-  
18 isfy the requirements of—

19 (1) section 1002 of the Alaska National Inter-  
20 est Lands Conservation Act (16 U.S.C. 3142);

21 (2) section 102(2)(c) of the National Environ-  
22 mental Policy Act of 1969 (42 U.S.C. 4332(2)(c));

23 (3) section 20001 of Public Law 115–97 (16  
24 U.S.C. 3143 note);

1 (4) the Endangered Species Act of 1973 (16  
2 U.S.C. 1531 et seq.); and

3 (5) subchapter II of chapter 5 of title 5, United  
4 States Code, and chapter 7 of title 5, United States  
5 Code.

6 **SEC. 5. COASTAL PLAIN OIL AND GAS LEASING PROGRAM.**

7 (a) REISSUANCE OF CANCELED LEASES.—

8 (1) ACCEPTANCE OF BIDS.—Not later than 30  
9 days after the date of enactment of this Act, the  
10 Secretary shall, without modification or delay—

11 (A) accept the highest valid bid for each  
12 covered Coastal Plain lease tract for which a  
13 valid bid was received on January 6, 2021, pur-  
14 suant to the requirement to hold the first lease  
15 sale in the Coastal Plain oil and gas leasing  
16 program; and

17 (B) provide the appropriate lease form to  
18 each winning bidder under subparagraph (A) to  
19 execute and return to the Secretary.

20 (2) LEASE ISSUANCE.—On receipt of an exe-  
21 cuted lease form under paragraph (1)(B) and pay-  
22 ment in accordance with that lease of the rental for  
23 the first year, the balance of the bonus bid (unless  
24 deferred), and any required bond or security from  
25 the high bidder, the Secretary shall promptly issue

1 to the high bidder a fully executed lease, in accord-  
2 ance with—

3 (A) the applicable regulations, as in effect  
4 on January 6, 2021; and

5 (B) the terms and conditions of the Record  
6 of Decision.

7 (b) REQUIREMENT FOR FUTURE LEASES.—

8 (1) SECOND LEASE SALE.—Not later than De-  
9 cember 22, 2024, the Secretary shall conduct the  
10 second lease sale required by section  
11 20001(c)(1)(B)(ii)(II) of Public Law 115–97 (16  
12 U.S.C. 3143 note) in accordance with the Record of  
13 Decision.

14 (2) EXCEPTIONS FOR CANCELING A LEASE.—  
15 Notwithstanding any other provision of law, the  
16 President and the Secretary may not cancel a lease  
17 issued under the Coastal Plain oil and gas leasing  
18 program if the Secretary has previously opened bids  
19 for such a lease or disclosed the high bidder for any  
20 tract that was included in a lease sale under the  
21 Coastal Plain oil and gas leasing program unless the  
22 lessee is in violation of the terms of the lease and  
23 fails to cure the violation after a reasonable period  
24 of time.

1           (c) APPLICABILITY OF PRIOR RECORD OF DECI-  
2 SION.—Notwithstanding any other provision of law and  
3 with respect to reissuing leases under subsection (a), the  
4 Record of Decision shall be considered to satisfy the re-  
5 quirements of—

6           (1) section 1002 of the Alaska National Inter-  
7 est Lands Conservation Act (16 U.S.C. 3142);

8           (2) section 102(2)(c) of the National Environ-  
9 mental Policy Act of 1969 (42 U.S.C. 4332(2)(c));

10           (3) section 20001 of Public Law 115–97 (16  
11 U.S.C. 3143 note);

12           (4) the Endangered Species Act of 1973 (Public  
13 Law 93–205; 16 U.S.C. 1533); and

14           (5) subchapter II of chapter 5 of title 5, United  
15 States Code, and chapter 7 of title 5, United States  
16 Code.

17           (d) WITHDRAWAL OF SUPPLEMENTAL ENVIRON-  
18 MENTAL IMPACT STATEMENT.—The Director of the Bu-  
19 reau of Land Management—

20           (1) shall withdraw the notice of availability en-  
21 titled “Notice of Availability of the Draft Coastal  
22 Plain Oil and Gas Leasing Program Supplemental  
23 Environmental Impact Statement” (88 Fed. Reg.  
24 62104 (September 8, 2023)); and



1           (2) may not take any action to finalize, imple-  
2           ment, or enforce the supplemental environmental im-  
3           pact statement described in paragraph (1).

4           (e) JUDICIAL REVIEW.—

5           (1) JUDICIAL PRECLUSION.—Notwithstanding  
6           any other provision of law and except as provided in  
7           paragraph (2), no court shall have jurisdiction to re-  
8           view any action taken by the Secretary, the Adminis-  
9           trator of the Environmental Protection Agency, a  
10          State administrative agency, an Indian Tribe, or any  
11          other Federal agency acting pursuant to Federal law  
12          that grants an authorization, permit, verification, bi-  
13          ological opinion, incidental take statement, or other  
14          approval described in section 4(b) for the Coastal  
15          Plain Oil and Gas Leasing Program, whether issued  
16          prior to, on, or after the date of enactment of this  
17          Act, and including any lawsuit or any other action  
18          pending in a court as of the date of enactment of  
19          this Act.

20          (2) FORUM EXCLUSIVITY.—The United States  
21          Court of Appeals for the District of Columbia Cir-  
22          cuit shall have original and exclusive jurisdiction  
23          over any claim regarding—

24                        (A) the validity of this section; or

1 (B) the scope of authority conferred by  
2 this section.

3 (3) RIGHT TO PETITION.—

4 (A) IN GENERAL.—Notwithstanding para-  
5 graph (1), a lease holder may obtain a review  
6 of an alleged failure by an agency to act in ac-  
7 cordance with section 20001 of Public Law  
8 115–97 (16 U.S.C. 3143 note) or with any law  
9 pertaining to the grant of an authorization, per-  
10 mit, verification, biological opinion, incidental  
11 take statement, or other approval related to the  
12 lease holder’s lease by filing a written petition  
13 with a court of competent jurisdiction seeking  
14 an order under subparagraph (B).

15 (B) DEADLINES.—If a court of competent  
16 jurisdiction finds that an agency has failed to  
17 act in accordance with section 20001 of Public  
18 Law 115–97 (16 U.S.C. 3143 note) or with any  
19 law pertaining to the grant of an authorization,  
20 permit, verification, biological opinion, inci-  
21 dental take statement, or other approval related  
22 to the lease holder’s lease, the court shall set a  
23 schedule and deadline for the agency to act as  
24 soon as practicable, which shall not exceed 90  
25 days from the date on which the order of the

1 court is issued, unless the court determines a  
2 longer time period is necessary to comply with  
3 applicable law.

4 **SEC. 6. NULLIFICATION OF CERTAIN FEDERAL AGENCY AC-**  
5 **TIONS.**

6 (a) NPRA RULE.—The Secretary, acting through the  
7 Director of the Bureau of Land Management—

8 (1) shall withdraw the proposed rule of the Bu-  
9 reau of Land Management entitled “Management  
10 and Protection of the National Petroleum Reserve in  
11 Alaska” (88 Fed. Reg. 62025 (September 8, 2023));  
12 and

13 (2) may not take any action to finalize, imple-  
14 ment, administer, or enforce the proposed rule de-  
15 scribed in paragraph (1) or any substantially similar  
16 rule.

17 (b) EXECUTIVE ORDER 13990.—

18 (1) IN GENERAL.—Section 4 of Executive  
19 Order 13990 (86 Fed. Reg. 7037; relating to pro-  
20 tecting public health and the environment and re-  
21 storing science to tackle the climate crisis) shall  
22 have no force or effect.

23 (2) FUNDING.—No Federal funds may be obli-  
24 gated or expended to carry out section 4 of the Ex-  
25 ecutive Order described in paragraph (1).

1 (c) SECRETARIAL ORDER 3401.—

2 (1) IN GENERAL.—Secretarial Order 3401 (re-  
3 lating to the Comprehensive Analysis and Tem-  
4 porary Halt on all Activities in the Arctic National  
5 Wildlife Refuge Relating to the Coastal Plain Oil  
6 and Gas Leasing Program), issued by the Secretary  
7 on June 1, 2021, shall have no force or effect.

8 (2) FUNDING.—No Federal funds may be obli-  
9 gated or expended to carry out the Secretarial Order  
10 described in paragraph (1).

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