

**Summary of H.R. 9641, the Offshore Energy Modernization Act of 2022**  
**Rep. Paul Tonko (NY-20)**  
**December 2022**

**Section-by-Section**

**Section 1. Short Title; Table of Contents.**

Provides a short title, the Offshore Energy Modernization Act of 2022, and table of contents for this Act.

**Section 2. Responsible Development of Offshore Renewable Energy Projects.**

**Subsection (a)** amends section 2 (Definitions) of the Outer Continental Shelf Lands Act (OCSLA) to establish a new definition for “offshore renewable energy project” which is used throughout the Act.

**Subsection (b)** amends section 3 (National Policy for the Outer Continental Shelf) of OCSLA to better incorporate offshore renewable energy projects into the existing national policy.

**Subsection (c)** makes several changes to section 8(p) (Leases, Easements, or Rights-of-Way for Energy and Related Purposes) of OCSLA.

Paragraph (1) reduces the percentage of revenues to affected States from 27% to 17%, but increases the distance a State can be from a project to be eligible for such revenues from 15 miles to 100 miles. It also requires that 10% of revenues be used to protect and mitigate impacts to marine and coastal habitats, as well as to increase the organizational capacity of entities that carry out such activities. These funds shall be competitively awarded to State, local, and Tribal governments, regional partnerships, and nonprofit organizations. An additional 10% of revenues shall be deposited into the Offshore Renewable Energy Compensation Fund established under section 3 of this Act.

Paragraph (2) makes several changes to existing leasing requirements, including requiring the Secretary to publish and periodically update a schedule of areas that may be available for leasing in the future. The Secretary may also use a multi-factor bidding system to award leases, taking into consideration investments in workforce development, domestic supply chain development, ecosystem and wildlife restoration, community benefit agreements, and other factors. The Secretary shall evaluate the quality of these commitments and reward finalized agreements above assurances for future commitments.

Paragraph (3) makes several changes to the requirements paragraph. Beginning not later than 2024, the Secretary shall require lessees (and their agents, contractors, and subcontractors) to become a party to a project labor agreement for the construction of any offshore renewable energy project. For projects beginning construction after December

31, 2031, the use of American structural iron and steel shall be required for the construction of offshore renewable energy projects, and not less than 80 percent of the value of project components shall be subject to domestic content requirements. The Secretary may waive domestic content requirements based on cost or lack of sufficient U.S.-made products.

Paragraph (4) clarifies that easements and rights-of-way for transmission infrastructure may be issued within units of the National Marine Sanctuary System.

Paragraph (5) requires the Secretary to conduct regional impact studies for potential lease areas for offshore renewable energy projects to evaluate cumulative impacts of development of existing and potential energy areas on human, marine, and coastal environments. The Secretary may use the data and assessments from such studies, as appropriate, to determine which portions of an area to make available for leasing and in future permitting assessments for individually leased areas.

**Subsection (d)** amends section 12(a) (Reservations) of OCSLA to establish a process for the President to reverse a withdrawal of unleased lands of the outer Continental Shelf for offshore renewable energy projects upon a determination that environmental, national security, or national or regional energy conditions or demands have changed such that a reversal would be in the public interest.

**Subsection (e)** amends section 23 (Citizen Suits, Court Jurisdiction, and Judicial Review) of OCSLA to clarify that judicial review of offshore renewable energy projects shall be carried out in a United States court of appeals for a circuit in which an affected State is located.

### **Section 3. Offshore Renewable Energy Compensation Fund.**

Amends OCSLA to add a new section 34 for the purposes of compensating certain entities impacted by the development of offshore renewable energy projects.

**Subsection (a)** establishes the Offshore Renewable Energy Compensation Fund to be used by the Secretary to make compensatory payments to covered entities, including community, stakeholder, and tribal interests, and entities that serve such interests, impacted by the development of an offshore renewable energy project. The Secretary may also provide grants from the Fund to support mitigation activities by those entities, including gear changes, navigation technology improvements, and other measures to enhance safety.

**Subsection (b)** enables the Secretary to make eligible payments from the Fund without fiscal year limitations.

**Subsection (c)** requires that the Fund be divided into separate area accounts from which payments are made based on the area where damages occur.

**Subsection (d)** requires the Secretary to establish a process to file and verify claims and to apply for grants under this section.

**Subsection (e)** requires payments to be made in a fair, efficient, and transparent manner, and prevents entities from receiving compensation from the Fund for an activity for which they are already receiving compensation through a community benefit agreement.

**Subsection (f)** enables payments to be made for eligible claims to replace income or gear lost from the development of an offshore renewable energy project. If sufficient amounts remain in the Fund, the Secretary may provide grants to eligible recipients to mitigate future effects of an offshore renewable energy project.

**Subsection (g)** establishes an advisory group, including individuals with fisheries expertise, to provide recommendations on the development and administration of the Fund.

**Subsection (h)** enables the Secretary to require lease holders to pay up to an additional \$1 per acre per year if the amount in the Fund is insufficient to cover the costs of all eligible claims.

**Subsection (i)** enables the Secretary to use up to 15 percent of amounts deposited into the Fund for administrative expenses to carry out this section.

**Subsection (j)** requires the Secretary to submit an annual report to Congress on its activities to carry out this section.

**Subsection (k)** provides definitions for this section.

#### **Section 4. Improving Environmental Reviews to Ensure Timely Permitting Decisions.**

**Subsection (a)** appropriates \$50,000,000 for the Bureau of Ocean Energy Management to facilitate timely and efficient permitting of offshore renewable energy projects, including by supporting stakeholder engagement, collection and standardization of environmental data, and hiring and training of personnel.

**Subsection (b)** appropriates \$45,000,000 for the National Oceanic and Atmospheric Administration to facilitate timely and efficient environmental reviews of offshore renewable energy projects, including by supporting stakeholder engagement, collection and standardization of environmental data, and hiring and training of personnel.

#### **Section 5. Report on Decommissioning of Offshore Renewable Energy Projects.**

Requires the Secretary of the Interior to submit a report to Congress not later than 5 years after the date of enactment of this Act evaluating decommissioning options for offshore renewable energy projects, including an assessment of the feasibility and ecosystem impacts of keeping

facilities in place or converting them to artificial reefs.

## **Section 6. Offshore Power Administration.**

**Subsection (a)** requires the Secretary of Energy to establish an Offshore Power Administration within 1 year after the date of enactment of this Act.

**Subsection (b)** enables the Administration to construct, finance, facilitate, plan, operate, maintain, acquire, replace, and study new or upgraded electric power transmission infrastructure and related facilities serving offshore renewable energy projects located on the Outer Continental Shelf, and support entities performing these activities. The Administration may only directly construct new electric transmission infrastructure and related facilities in a region upon the Secretary making a determination that relevant stakeholders within such region have failed to adequately coordinate and cooperate on the development and utilization of shared electric transmission infrastructure for offshore renewable energy projects. The Secretary may not make such a determination sooner than three years after the enactment of this Act. The Administration shall be subject to requirements to obtain a lease, easement, or right-of-way under section 8(p) of OCSLA for these activities.

**Subsection (c)** establishes the governance of the Administration, based on the existing Power Marketing Administrations within the Department of Energy.

**Subsection (d)** enables the Administrator to borrow up to \$10,000,000,000 from the Treasury to support its efforts and establishes requirements for the terms, conditions, and refinancing of such borrowed money.

**Subsection (e)** enables the Administrator to enter into agreements and partnerships with other entities to carry out the activities of the Administration.

**Subsection (f)** requires the Administrator to use revenue generated by transmission infrastructure owned or operated by the Administration to repay borrowed money.

**Subsection (g)** establishes requirements for the forgiveness of certain borrowed money.

**Subsection (h)** sets requirements for record and account keeping and subjects the Administration to an annual independent audit.

**Subsection (i)** sets prevailing wage requirements for construction work on projects funded in whole or in part by the Administration.

**Subsection (j)** requires the Administration to submit an annual report to Congress on its activities.

**Subsection (k)** provides definitions for this section.

## **Section 7. Offshore Transmission Infrastructure Studies and Recommendations.**

Requires the Secretary of Energy, in consultation with the Secretary of the Interior and other Federal agencies, to conduct studies and make recommendations for the potential siting of offshore transmission infrastructure.

## **Section 8. Interoperability of Offshore Transmission Infrastructure.**

**Subsection (a)** requires the Secretary of Energy to complete a study that assesses the needs and challenges of developing and standardizing interoperable equipment for shared offshore transmission networks not later than 2 years after the date of enactment of this Act.

**Subsection (b)** requires the Secretary to establish a program to develop and implement standards for interoperability among electric grid components, systems, or technologies.

**Subsection (c)** authorizes \$5,000,000 for the Secretary to carry out this section.

## **Section 9. Offshore Wind Shipbuilding.**

**Subsection (a)** requires the Secretary of Energy to establish a grant program to support the expansion, modernization, and establishment of shipyards and other manufacturing facilities needed for the domestic fabrication of offshore wind vessels. The subsection authorizes \$100,000,000 to carry out the grant program.

**Subsection (b)** amends Section 1703(b) of the Energy Policy Act of 2005 to make offshore wind vessels eligible for loan guarantees under the Department of Energy's Title 17 Loan Program.

## **Section 10. Access to Wind Energy Areas.**

Provides a sense of Congress that fishing and boating access in and around offshore renewable energy project structures will be maintained with narrow exceptions for construction and maintenance activities.

## **Section 11. Definitions.**

Includes definitions for "offshore renewable energy project" and "outer Continental Shelf" for sections of the Act that do not amend OCSLA.

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