

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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<b>In re:</b>	)	
	)	
<b>Shell Gulf of Mexico, Inc.</b>	)	
<b>OCS Permit No. R10 OCS/PSD-AK-09-01</b>	)	
	)	<b>OCS Appeal Nos.</b>
<b>Shell Offshore, Inc.</b>	)	<b>11-02, 11-03 &amp; 11-04</b>
<b>OCS Permit No. R10 OCS/PSD-AK-2010-01</b>	)	
	)	
<b>Frontier Discoverer Drilling Unit</b>	)	
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**NOTIFICATION OF CHANGE IN LAW**

On December 23, 2011, the President signed into law the Consolidated Appropriations Act of 2012, Pub. L. No. 112-74. As the Board may be aware, the Act amended Section 328 of the Clean Air Act to divest the Environmental Protection Agency of the authority to issue air quality permits to Outer Continental Shelf (“OCS”) sources located off the North Slope Borough of the State of Alaska. The relevant provision of this Act is excerpted and attached for the Board’s reference.

The enacted legislation provides that the transfer of authority “shall not invalidate or stay – (1) any air quality permit pending or existing as of the date of the enactment of this Act; or (2) any proceeding related thereto.” Under the present circumstances, Region 10 interprets this provision to mean that the Act does not affect or stay OCS Permit Nos. R10 OCS/PSD-AK-09-01 or R10 OCS/PSD-AK-2010-01 or the above-captioned appeal

proceedings, as these permits are pending permits and the appeal proceedings are proceedings relating to such pending permits.

**Dated:** January 6, 2012

Respectfully submitted,

/s/ 

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One Hundred Twelfth Congress  
of the  
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,  
the fifth day of January, two thousand and eleven*

An Act

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consolidated Appropriations Act, 2012".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Statement of appropriations.
- Sec. 5. Availability of funds.

DIVISION A—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2012

- Title I—Military Personnel
- Title II—Operation and Maintenance
- Title III—Procurement
- Title IV—Research, Development, Test and Evaluation
- Title V—Revolving and Management Funds
- Title VI—Other Department of Defense Programs
- Title VII—Related agencies
- Title VIII—General provisions
- Title IX—Overseas contingency operations

DIVISION B—ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT,  
2012

- Title I—Corps of Engineers—Civil
- Title II—Department of the Interior
- Title III—Department of Energy
- Title IV—Independent agencies
- Title V—General provisions

DIVISION C—FINANCIAL SERVICES AND GENERAL GOVERNMENT  
APPROPRIATIONS ACT, 2012

- Title I—Department of the Treasury
- Title II—Executive Office of the President and Funds Appropriated to the President
- Title III—The Judiciary
- Title IV—District of Columbia
- Title V—Independent agencies
- Title VI—General provisions—This Act
- Title VII—General provisions—Government-wide
- Title VIII—General provisions—District of Columbia

DIVISION D—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS  
ACT, 2012

- Title I—Departmental management and operations

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary of Agriculture may make such management changes as the Secretary determines to be necessary to manage bighorn sheep if the management changes—

(1) are consistent with the wildlife plans of the relevant State fish and game agency and determined in consultation with that agency; and

(2) are developed in consultation with the affected permittees.

(c) BUREAU OF LAND MANAGEMENT LANDS.—In circumstances involving conflicts between bighorn sheep and domestic sheep grazing on public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the Bureau of Land Management may only modify or cancel domestic sheep grazing permits after consulting with the appropriate State fish and game agency. However, if the State in question has an approved State Wildlife Management Plan that addresses, with specificity, bighorn sheep management, then the Bureau of Land Management modification or cancellation of permits in that State shall conform to the bighorn sheep management objectives in the State Wildlife Management Plan, unless conformance would be inconsistent with Federal statute or regulation. The Bureau of Land Management shall be bound by the requirements of this subsection until September 30, 2012.

(d) VOLUNTARY CLOSURE OF ALLOTMENTS.—Nothing in this section shall be construed as limiting the voluntary closure of existing domestic sheep allotments when the closure is agreed to in writing between the permittee and the Secretary of the Interior or the Secretary of Agriculture and is carried out for the purpose of reducing conflicts between domestic sheep and bighorn sheep.

(e) WAIVER OF GRAZING PERMITS AND LEASES.—The Secretary of the Interior and the Secretary of Agriculture may accept the voluntary waiver of any valid existing lease or permit authorizing grazing on National Forest System land described in subsection (a) or public lands described in subsection (c). If the grazing permit or lease for a grazing allotment is only partially within the area of potential domestic sheep and bighorn sheep contact, the affected permittee may elect to waive only the portion of the grazing permit or lease that is within that area. The Secretary concerned shall—

(1) terminate each permit or lease waived or portion of a permit or lease waived under this subsection;

(2) ensure a permanent end to domestic sheep grazing on the land covered by the waived permit or lease or waived portion of the permit or lease unless or until there is no conflict with bighorn sheep management; and

(3) provide for the reimbursement of range improvements in compliance with section 4 of the Act of June 28, 1934 (commonly known as the Taylor Grazing Act; 43 U.S.C. 315c).

#### AIR EMISSIONS FROM OUTER CONTINENTAL SHELF ACTIVITIES

SEC. 432. (a) It is the purpose of this section to ensure that the energy policy of the United States focuses on the expeditious and orderly development of domestic energy resources in a manner that protects human health and the environment.

(b) Section 328(a)(1) of the Clean Air Act (42 U.S.C. 7627(a)(1)) is amended—

(1) in the first sentence, by inserting “(other than Outer Continental Shelf sources located offshore of the North Slope Borough of the State of Alaska)” after “Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic and Atlantic Coasts”; and

(2) in the fourth sentence, by inserting “and this Act” after “regulations”.

(c) Section 328(b) of the Clean Air Act (42 U.S.C. 7627(b)) is amended in the first sentence—

(1) by striking “Gulf Coast”; and

(2) by inserting “or are adjacent to the North Slope Borough of the State of Alaska” after “Alabama”.

(d) The transfer of air quality permitting authority pursuant to this section shall not invalidate or stay—

(1) any air quality permit pending or existing as of the date of the enactment of this Act; or

(2) any proceeding related thereto.

(e)(1) The Comptroller General of the United States shall undertake a study on the process for air quality permitting in the Outer Continental Shelf.

(2) The study shall consist of a comparison of air quality permitting for Outer Continental Shelf sources (as such term is defined in section 328(a)(4) of the Clean Air Act (42 U.S.C. 7627(a)(4)) by the Department of the Interior with such permitting by the Environmental Protection Agency, taking into account the time elapsed between application and permit approval, the number of applications, and the experiences and assessments of the applicants.

(3) In carrying out the study, the Comptroller General shall consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and applicants for air quality permits.

(4) The Comptroller General shall complete the study and submit a report on the results of the study to the Congress not later than September 30, 2014.

#### FUNDING PROHIBITION

SEC. 433. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation, or such officer or agent and made a determination that this further action is not necessary to protect the interests of the Government.

#### LIMITATION WITH RESPECT TO DELINQUENT TAX DEBTS

SEC. 434. None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation with respect to which any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant

## CERTIFICATE OF SERVICE

I hereby certify that the attached Notification of Change in Law in re: Shell Gulf of Mexico, Inc. and Offshore, Inc., OCS Appeal Nos. 11-02, 11-03 & 11-04, was filed with the Clerk of the Environmental Appeals Board electronically through CDX. I also certify that an electronic copy was sent to each of the persons identified below via email:

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Dated: January 6, 2012

  
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