Pew

Offshore Wind Revenue Sharing Legislation

S. 373/H.R. 913: The Reinvesting in Shoreline Economies and Ecosystems Act (RISEE Act)

Offshore Wind: A Fast-Growing Source of Renewable Energy

Offshore wind (OSW) has become one of the fastest-growing sources of renewable energy around the world. Recent lease sales conducted by the U.S. Department of the Interior's Bureau of Ocean Energy Management (BOEM) have already generated billions of dollars in federal revenue.[i] As the OSW project pipeline grows and the domestic wind energy market matures, additional bids and long-term rental and operating fees could significantly increase these revenues, which under current law would largely be deposited in the U.S. Treasury. Anticipating this expansion in offshore projects and associated revenues, Congress is now considering bipartisan legislation to share these revenues with coastal and Great Lake states and communities that may be impacted by OSW operations.

Photo by Dennis Schroeder/NREL

Potential OSW Revenue Streams

Wind generation projects in federal waters can result in multiple streams of revenue starting with bids or "bonuses" that energy developers may offer to secure long-term leases to suitable areas of the Outer Continental Shelf (OCS). Bonus payments to secure a lease become payable shortly after winning bids are announced. In addition to bonus bids, the government may also collect rental fees based on acreage. Once an OSW project is completed and electricity is generated and sold, the government also collects funds based on the value of those sales.[ii]

Bipartisan OSW Revenue Sharing Legislation – the RISEE Act

S.373 (Sen. Whitehouse, D-RI, Sen. Cassidy, R-LA) | H.R.913 (Rep. Fletcher, D-TX, Rep. Weber, R-TX)

Introduced in the 118th House and Senate, the RISEE ACT establishes an offshore wind revenue sharing model, dedicates funding to the National Oceans and Coastal Security Fund (NOCSF)[iii], and eliminates the Gulf of Mexico Energy Security Act (GOMESA) state revenue sharing cap and the Mineral Leasing Act's two percent administrative fee. The offshore wind revenue sharing provisions include:

- *Revenue Sharing to Adjacent States*: 37.5 percent of federal OSW revenues from bonus bids, royalties, lease fees, etc., would be shared with impacted states.
- *Revenue Sharing to NOCSF*: Directs an additional 12.5 percent of OSW revenues to the NOCSF and updates NOSCF's competitive grant program and formula grants to states to: 1) clearly define the eligible uses of funding; and 2) to establish in statute the formula for allocating the funds between eligible states, including setting a maximum per state allocation of five percent of the total funds distributed.
- *Eligibility of States:* Any state located within 75 miles of the geographic center of a lease tract is eligible for a portion of the federal revenue sharing.
- *Eligibility of Funds*: Revenues shared directly with eligible states can be used to mitigate the impacts to coastal communities and habitats of wind energy development including coastal restoration, hurricane protection, infrastructure improvements, fisheries science and management, and federally approved marine, coastal, or comprehensive conservation management planning.

Background

Publicly Held Resources under Current Law

Offshore waters have long been recognized as an important shared national resource; navigable waters and submerged lands are managed by the federal government and the states for the benefit of all. For the most part, resources lying within three nautical miles[iv] of state boundaries are the province of the states, while marine resources beyond those boundaries are overseen by the Federal government.

The Outer Continental Shelf Lands Act (OCSLA), enacted in 1953, is the statute governing the management of offshore resources. Operating in conjunction with other federal laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Coastal Zone Management Act, OCSLA calls for development "subject to environmental safeguards" and in a manner "consistent with the maintenance of competition and other national needs,"[v] all to be overseen by BOEM. Overall, the broad body of federal law seeks to achieve a balance for multiples uses of the OCS, including, for example, navigation, military needs, conservation, fisheries, recreation, and energy production.

General Revenue-Sharing Approaches

Many types of resources associated with federal lands and waters bring in revenues to the federal government, and portions of those earnings are frequently directed to specific activities. For example, the Bureau of Land Management's rangeland improvement program is supported with a 50 percent share of the annual charges for grazing permits issued on federal lands,[vi] and portions of certain oil and gas leasing revenues are used to protect natural resources through distributions to the Land and Water Conservation Fund.[vii]

In numerous cases, funds are also shared with affected states and communities, with amounts varying based on proximity as well as timing and potential for impacts.[viii] Oil and gas, for example, section 8(g) of OCSLA sets out revenue sharing specifically for tracts that lie wholly or partially within the first three nautical miles of the federal waters which border on state waters, with total share amounts subject to certain yearly caps.[ix] Where more than one state lies within the stipulated distance of a project, revenues are disbursed on a proportional basis based on distance. In addition, under OCSLA and GOMESA, portions of certain oil and gas related funds go not only to the four Gulf states -- Louisiana, Texas, Alabama, and Mississippi, and their localities[x] but also to the Land and Water Conservation Fund, the Historic Preservation Fund, and the National Parks and the Public Land Legacy Restoration Fund.[xi]

Summary

Several pieces of legislation have been introduced in Congress to establish revenue-sharing frameworks for offshore wind that help incentivize renewable energy development while ensuring that impacted states share in the financial benefits of OSW leases. A growing domestic offshore wind industry can provide tens of thousands of jobs[xii] and facilitate significant infrastructure investments across the country. A revenue sharing framework for OSW such as the RISEE Act additionally would ensure significant funding for the conservation and restoration of vital coastal ecosystems.

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[i] Bureau of Ocean Energy Management, Lease and Grant Information. https://www.boem.gov/renewable-energy/lease-and-grant-information

[ii] Revenues | How revenue works | Natural Resources Revenue Data (doi.gov)

[iii] National Oceanic and Atmospheric Administration, National Oceans and Coastal Security Fund, https://www.noaa.gov/infrastructure-law/infrastructure-law-climate-ready-coasts/national-oceans-and-coastal-security-fund

[iv] The Submerged Lands Act of 1953 granted states title to the seabed out to three nautical miles from the state's coastline, and a Supreme Court case extended those distances to roughly nine nautical miles for the State of Texas and the Gulf Coast of Florida. States may regulate the coastal waters within their jurisdiction, subject to certain federal regulation and subject to possible preemption.

[v] (43 U.S.C. § 1332(3))

[vi] naturalresources_rangelandsandgrazingfactsheet.pdf (blm.gov)

[vii] https://www.doi.gov/lwcf

[viii] For example, subsection (f) of 43 U.S. Code § 1331 defines affected states and includes language regarding the "substantial probability of significant impact on or damage to the coastal, marine, or human environment" and "significant changes in the social, governmental, or economic infrastructure."

[ix] Those areas known as 8(g) under OCSLA are three nautical miles into federal waters beyond the boundary of state waters, which translates to six nautical miles from the shoreline in most cases. However, since the designation of state waters extends out to nine nautical miles for Texas and parts of Florida, the 8(g) area extends to 12 nautical miles in those cases. See, for example, the undated factsheet from BOEM and the National Oceanic and Atmospheric Administration entitled "So What? Zones, Limits, and Maritime Jurisdictions in the Marine Environment," https://www.marinecadastre.gov/SiteCollectionDocuments/SoWhat_MarineBoundaries_final_template.pdf

[x] https://revenuedata.doi.gov/how-revenue-works/gomesa/#:~:text=for%20public%20recreation.-,Purpose%20of%20funds,%2C%20restoration%2C%20and%20hurricane%20protection

[xi] https://www.boem.gov/oil-gas-energy/energy-economics/revenue-sharing

[xii] National Renewable Energy Laboratory's 2023 report, Supply Chain Roadmap for Offshore Wind Energy in the United States, projects up to 49,000 jobs by 2030. https://www.nrel.gov/wind/offshore-supply-chain-road-map.html