

112TH CONGRESS  
2D SESSION

# H. R. 4301

To contribute to the growth of the American economy and the strength of American national security by streamlining regulatory permitting procedures and increasing domestic production from all energy sources.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2012

Mr. DUNCAN of South Carolina (for himself, Mr. WILSON of South Carolina, Mr. POE of Texas, Mr. HARRIS, Mr. WESTMORELAND, Mr. GOHMERT, Mr. GRAVES of Georgia, Mr. BROUN of Georgia, Mr. MULVANEY, Mr. SCOTT of South Carolina, Mr. GOWDY, and Mr. LANDRY) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, the Judiciary, Rules, Ways and Means, Agriculture, Armed Services, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To contribute to the growth of the American economy and the strength of American national security by streamlining regulatory permitting procedures and increasing domestic production from all energy sources.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Energy Exploration  
3 and Production to Achieve National Demand Act” or the  
4 “EXPAND Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

6       The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.
- Sec. 4. Statement of policy.
- Sec. 5. Definitions.

**TITLE I—DEVELOPMENT OF FEDERAL ENERGY RESOURCES**

Subtitle A—Oil and Gas Leasing in the Gulf of Mexico

- Sec. 101. Leasing in the Eastern Gulf of Mexico.
- Sec. 102. Extension of deepwater oil and natural gas leases in Gulf of Mexico.

Subtitle B—Scheduled Leasing, Exploration, and Development of Oil and  
Natural Gas in the Federal Outer Continental Shelf

- Sec. 121. Expanded outer Continental Shelf lease sales.
- Sec. 122. Geological and geophysical activities in expanded leasing areas.
- Sec. 123. Payments from areas newly available to leasing.
- Sec. 124. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 125. Determination of adjacent zones and planning areas.

Subtitle C—Leasing, Exploration, and Development of Oil and Natural Gas  
Resources in Portions of the Coastal Plain of Alaska

- Sec. 131. Establishment of leasing program for Coastal Plain.
- Sec. 132. Conduct of leasing program.
- Sec. 133. Federal and State distribution of revenues.
- Sec. 134. Rights-of-way across the Coastal Plain.
- Sec. 135. Conveyance.
- Sec. 136. Local government impact aid and community service assistance.

Subtitle D—Improvement of Interagency Coordination and Cooperation in the  
Processing of Federal Permits for Production of Domestic Oil and Gas Re-  
sources

- Sec. 141. Regulatory certainty.
- Sec. 142. Regional offices and regional permit coordinators.
- Sec. 143. Reviews and actions of Federal agencies.
- Sec. 144. Lead agency.
- Sec. 145. Congressional review of agency rulemaking.
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- Sec. 147. State consultation.
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- Sec. 149. Review of agency permitting decisions.
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Subtitle E—Prohibition on New Wilderness or Wilderness Study Areas on Lands Administered by the BLM Without Congressional Approval; Indian Land Development

- Sec. 161. Repeal of Executive order.
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Subtitle F—Legal Causes and Claims Pertaining to the Leasing and Development of Federal Lands for Exploration and Production of Oil, Natural Gas, Associated Hydrocarbons, and Oil Shale

- Sec. 171. Oil shale, tar sands, and other strategic unconventional fuels.
- Sec. 172. Energy production on Federal lands.
- Sec. 173. Jurisdiction.
- Sec. 174. Judicial review.
- Sec. 175. Time for filing petition for judicial review; standing, filing of record.
- Sec. 176. Limitation on scope of review and relief.
- Sec. 177. Exclusion.

Subtitle G—Development of Solar and Wind Energy on Public Land

- Sec. 181. Definitions.
- Sec. 182. Programmatic environmental impact statements and land use planning.
- Sec. 183. Development of solar and wind energy on public land.
- Sec. 184. Disposition of revenues.

Subtitle H—Miscellaneous Provisions

- Sec. 191. Military operations.
- Sec. 192. Environmental sensitivity analysis under the program.
- Sec. 193. Validity of existing leases.
- Sec. 194. Integrity of lease sales and leasing schedule.
- Sec. 195. Authority to conduct offshore drilling under approved permits.
- Sec. 196. Time requirement to act on oil and natural gas drilling permits.
- Sec. 197. Timely issuance of onshore oil and gas leases.
- Sec. 198. State auditing.

TITLE II—CONTINENTAL PIPELINE APPROVAL

- Sec. 201. Keystone XL pipeline permit approval.

TITLE III—RADIOLOGICAL MATERIAL REPOSITORY

- Sec. 301. Radiological material repository.

TITLE IV—RELIEF FROM REGULATIONS AND PROHIBITIONS THAT CAUSE ARTIFICIAL PRICE INCREASES

- Sec. 401. Endangered Species Act of 1973 reform.
- Sec. 402. Repeal of EPA climate change regulation.
- Sec. 403. Repeal of Federal ban on synthetic fuels purchasing requirement.
- Sec. 404. Repeal of ethanol mandates.

## TITLE V—REFINERY REFORM

- Sec. 501. Refinery permitting process.
- Sec. 502. Existing refinery permit application deadline.

## TITLE VI—REPEAL OF ENERGY TAX SUBSIDIES

- Sec. 600. Amendment of 1986 code.
- Sec. 601. Repeal of credit for alcohol fuel, biodiesel, and alternative fuel mixtures.
- Sec. 602. Repeal of credit for certain plug-in electric vehicles.
- Sec. 603. Early termination of credit for qualified fuel cell motor vehicles.
- Sec. 604. Repeal of alternative fuel vehicle refueling property credit.
- Sec. 605. Repeal of credit for alcohol used as fuel.
- Sec. 606. Repeal of credit for biodiesel and renewable diesel used as fuel.
- Sec. 607. Repeal of enhanced oil recovery credit.
- Sec. 608. Termination of credit for electricity produced from certain renewable resources.
- Sec. 609. Repeal of credit for producing oil and gas from marginal wells.
- Sec. 610. Termination of credit for production from advanced nuclear power facilities.
- Sec. 611. Repeal of credit for carbon dioxide sequestration.
- Sec. 612. Termination of energy credit.
- Sec. 613. Repeal of qualifying advanced coal project.
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- Sec. 615. Repeal of American Recovery and Reinvestment Act of 2009 energy grant program.

## TITLE VII—REGULATORY RELIEF

- Sec. 701. Legislative stay.
- Sec. 702. Compliance dates.
- Sec. 703. Energy recovery and conservation.
- Sec. 704. Other provisions.
- Sec. 705. Management and disposal of coal combustion residuals.

## TITLE VIII—ATTAINMENT OF NATIONAL AMBIENT AIR QUALITY STANDARDS

- Sec. 801. Air quality monitoring and modeling methodologies.
- Sec. 802. Extending compliance for NAAQS attainment for downwind States.

## TITLE IX—SUB-BASIN REPORTING OF GREENHOUSE GAS EMISSIONS

- Sec. 901. Sub-basin reporting of greenhouse gas emissions.

## TITLE X—IMPLEMENTATION OF NATIONAL OCEAN POLICY

- Sec. 1001. Prohibition on use of funds.

## TITLE XI—OTHER PROVISIONS

- Sec. 1101. Administrative record.
- Sec. 1102. Statement of energy effects.
- Sec. 1103. Priority-Energy Project permit duration.
- Sec. 1104. Exemption for takings of migratory bird incidental to energy development and production.

1 **SEC. 3. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the United States spends over  
4 \$1,000,000,000 per day to import crude oil from  
5 foreign countries, representing the largest wealth  
6 transfer in history;

7 (2) the domestic oil and natural gas industry is  
8 responsible for approximately 9.2 million jobs;

9 (3) the United States has substantial undevel-  
10 oped oil and natural gas resources underlying Fed-  
11 eral lands;

12 (4) multiple legal challenges relating to the  
13 leasing, exploration, and development of Federal  
14 lands can significantly delay and even prevent these  
15 desperately needed oil and natural gas resources  
16 from reaching the American public;

17 (5) expedited and focused judicial review of  
18 legal challenges to proposed oil and natural gas de-  
19 velopment activities is necessary to ensure that addi-  
20 tional American oil and natural gas resources are  
21 made available without undue delay to American  
22 consumers;

23 (6) the approximately 43 million leased outer  
24 Continental Shelf acres currently account for about  
25 15 percent of the United States domestic natural

1 gas production and about 27 percent of the United  
2 States domestic oil production;

3 (7) the leasing of these domestic offshore areas  
4 for oil and natural gas development provides signifi-  
5 cant economic benefits to the Federal Government,  
6 as well as to States and localities, through the cre-  
7 ation and sustenance of jobs and domestic product;

8 (8) the Federal Government distributed over  
9 \$10,000,000,000 to Federal, State and Indian ac-  
10 counts from energy production during fiscal year  
11 2009, primarily from oil and natural gas production;

12 (9) the outer Continental Shelf is a vital na-  
13 tional resource reserve held by the Federal Govern-  
14 ment for the public, which should be made available  
15 for expeditious and orderly development, subject to  
16 environmental safeguards, in a manner that is con-  
17 sistent with the maintenance of competition and  
18 other national needs;

19 (10) Executive Order 13563 on Improving Reg-  
20 ulation and Regulatory Review, issued on January  
21 18, 2011, requires that to the extent permitted by  
22 law, each agency must, among other things—

23 (A) propose or adopt a regulation only  
24 upon a reasoned determination that its benefits

1 justify its costs (recognizing that some benefits  
2 and costs are difficult to quantify);

3 (B) tailor its regulations to impose the  
4 least burden on society, consistent with obtain-  
5 ing regulatory objectives, taking into account,  
6 among other things, and to the extent prac-  
7 ticable, the costs of cumulative regulations;

8 (C) select, in choosing among alternative  
9 regulatory approaches, those approaches that  
10 maximize net benefits (including potential eco-  
11 nomic, environmental, public health and safety,  
12 and other advantages; distributive impacts; and  
13 equity);

14 (D) to the extent feasible, specify perform-  
15 ance objectives, rather than specifying the be-  
16 havior or manner of compliance that regulated  
17 entities must adopt; and

18 (E) identify and assess available alter-  
19 natives to direct regulation, including providing  
20 economic incentives to encourage the desired  
21 behavior, such as user fees or marketable per-  
22 mits, or providing information upon which  
23 choices can be made by the public;

24 (11) Executive Order 13547 on Stewardship of  
25 the Ocean, Our Coasts, and the Great Lakes, issued

1 on July 19, 2010, provides for the development of  
2 coastal and marine spatial plans (CMSP) that build  
3 upon and improve existing Federal, State, tribal,  
4 local, and regional decisionmaking and planning  
5 processes;

6 (12) the Outer Continental Shelf Lands Act (43  
7 U.S.C. 1331 et seq.) already provides a comprehen-  
8 sive and complete framework for undertaking oil and  
9 gas activities within the framework of a CMSP-  
10 based program;

11 (13) through the Outer Continental Shelf  
12 Lands Act, Congress has already established the  
13 process for development of coastal and marine spa-  
14 tial plans for oil and gas leasing and other author-  
15 izations, and it is not necessary to create a new reg-  
16 ulatory regime as this would go against the Execu-  
17 tive Order;

18 (14) the Coastal Plain of Alaska is an impor-  
19 tant potential new source of domestic oil and gas  
20 production;

21 (15) the delivery of oil from Alberta, Canada, to  
22 domestic markets in the United States is in the na-  
23 tional interest of the United States, and the earliest  
24 possible completion of the Keystone XL pipeline will  
25 best serve the national interest;



1           (16) there are 104 nuclear reactors currently  
2           operating in the United States, providing 20 percent  
3           of the electricity of the United States, slightly less  
4           than the electricity generated by natural gas;

5           (17) nuclear energy is the largest provider of  
6           clean, low-carbon electricity, almost 8 times larger  
7           than all renewable power production combined, ex-  
8           cluding hydroelectric power;

9           (18) nuclear power is responsible for 72 percent  
10          of emission-free electricity production in the United  
11          States and is an essential tool for greenhouse gas re-  
12          duction;

13          (19) nuclear power plants virtually eliminate  
14          emissions of greenhouse gases and criteria pollutants  
15          associated with acid rain, smog, or ozone;

16          (20) nuclear energy supplies consistent, base-  
17          load electricity, independent of environmental condi-  
18          tions;

19          (21) nuclear power is a safe, reliable, efficient,  
20          and affordable source of energy;

21          (22) between 1960 and 1980, the Nuclear Reg-  
22          ulatory Commission issued 169 permits to construct  
23          nuclear power facilities;

1           (23) even if every nuclear power plant is grant-  
2           ed a 20-year extension, all currently operating nu-  
3           clear power plants will be retired by 2055;

4           (24) long lead times for nuclear power plant li-  
5           censing, permitting, and construction indicate that  
6           action to stimulate the nuclear power industry  
7           should not be delayed;

8           (25) there are 17 combined operating license  
9           applications currently pending before the Nuclear  
10          Regulatory Commission for 26 new reactors in the  
11          United States, with 4 applications inactive due to  
12          regulatory uncertainty;

13          (26) those proposed reactors will use the latest  
14          in nuclear technology for efficiency and safety, more  
15          advanced than the technology of the 1960s and  
16          1970s found in the reactors currently operating in  
17          the United States;

18          (27) increasing nuclear power threefold will cre-  
19          ate 480,000 construction jobs, 140,000 permanent  
20          jobs, and \$20,000,000,000 in local, State, and Fed-  
21          eral tax revenue each year;

22          (28) increasing nuclear power threefold will re-  
23          duce electricity-based carbon dioxide emissions by  
24          1,400,000,000 metric tons annually and will reduce

1 carbon emissions by 65 percent from current emis-  
2 sions levels by 2050;

3 (29) increasing nuclear power threefold will  
4 produce 320 gigawatts of electricity to power  
5 237,000,000 households and constitute 52 percent of  
6 the United States electricity portfolio by 2030;

7 (30) the Nuclear Waste Policy Act of 1982 (42  
8 U.S.C. 10101 et seq.) requires the Federal Govern-  
9 ment to take ownership of high-level radioactive  
10 waste and spent nuclear fuel and build a permanent  
11 geologic repository in which to store such waste;

12 (31) the Nuclear Waste Policy Act of 1982, as  
13 amended in 1987, selected the Yucca Mountain site  
14 to be the sole geologic repository in which to store  
15 high-level radioactive waste and spent nuclear fuel;

16 (32) the Congress reaffirmed Yucca Mountain  
17 as the sole candidate site for a geologic repository in  
18 2001;

19 (33) despite such laws, the Government has  
20 failed to accept high-level radioactive waste and  
21 spent nuclear fuel from utilities and has delayed  
22 construction of the Yucca Mountain repository;

23 (34) failure to accept high-level radioactive  
24 waste and spent nuclear fuel has led to more than  
25 74 lawsuits filed by utilities against the Government,

1       \$1,000,000,000 in settlements being paid, and an  
2       estimated \$16,200,000,000 in potential liabilities to  
3       settle remaining lawsuits;

4           (35) each year the Government refuses to ac-  
5       cept high-level radioactive waste and spent nuclear  
6       fuel adds an estimated \$500,000,000 in additional  
7       liabilities associated with future lawsuits;

8           (36) the failure of the Federal Government to  
9       accept high-level radioactive waste and spent nuclear  
10      fuel from utilities is a significant barrier to the fu-  
11      ture development of additional nuclear power;

12          (37) the United States has 58,000 tons of radi-  
13      ological material stored at more than 100 sites in 39  
14      States;

15          (38) the 104 commercial nuclear reactors oper-  
16      ating in the United States produce approximately  
17      2,000 tons of spent nuclear fuel every year;

18          (39) the Yucca Mountain repository's capacity  
19      is statutorily limited to 70,000 tons of waste but can  
20      safely hold 120,000 tons;

21          (40) operators who have paid into the Nuclear  
22      Waste Fund have been denied access to permanent  
23      storage of radiological material as promised by the  
24      Federal Government;

1           (41) permanent geologic storage capacity is a  
2     finite resource on which the industry depends; and

3           (42) operators have the technical expertise to  
4     develop new and more efficient processes of dis-  
5     posing of new radiological material.

6     (b) PURPOSES.—The purposes of this Act are to—

7           (1) promote expansion of domestic employment  
8     opportunities;

9           (2) respond to the Nation’s increased need for  
10    domestic energy resources, including oil and natural  
11    gas resources;

12          (3) support the utilization of the outer Conti-  
13    nental Shelf for oil and gas production and trans-  
14    mission;

15          (4) confirm and ensure the validity of oil and  
16    gas leases issued under the Final Outer Continental  
17    Shelf Oil and Gas Leasing Program, 2007–2012;

18          (5) ensure the continued leasing of outer Conti-  
19    nental Shelf areas pursuant to the Final Outer Con-  
20    tinental Shelf Oil and Gas Leasing Program, 2007–  
21    2012;

22          (6) facilitate interagency coordination and co-  
23    operation in the processing of permits required to  
24    support oil and gas use authorization on Federal  
25    lands, both onshore and on the outer Continental

1 Shelf, in order to achieve greater consistency, cer-  
2 tainty, and timeliness in permit processing require-  
3 ments;

4 (7) promote process streamlining and increased  
5 interagency efficiency, including elimination of inter-  
6 agency duplication of effort;

7 (8) improve information sharing among agen-  
8 cies and understanding of respective agency roles  
9 and responsibilities;

10 (9) promote coordination with State agencies  
11 with expertise and responsibilities related to Federal  
12 oil and gas permitting decisions, and balance Fed-  
13 eral interests with the interests and well-being of  
14 State and local communities;

15 (10) promote responsible stewardship of Fed-  
16 eral oil and gas resources;

17 (11) maintain high standards of safety and en-  
18 vironmental protection; and

19 (12) enhance the benefits to Federal permitting  
20 already occurring as a result of a coordinated and  
21 timely interagency process for oil and gas permit re-  
22 view for certain Federal oil and gas leases.

23 **SEC. 4. STATEMENT OF POLICY.**

24 It is the policy of the United States, given the impor-  
25 tance of making a transition to a clean energy, low-carbon

1 economy, to facilitate the continued development and  
2 growth of a safe and clean nuclear energy industry  
3 through reductions in financial, regulatory, and technical  
4 barriers to construction and operation.

5 **SEC. 5. DEFINITIONS.**

6 For purposes of this Act—

7 (1) **ACT.**—The term “Act” means the Outer  
8 Continental Shelf Lands Act (43 U.S.C. 1331 et  
9 seq.).

10 (2) **AUTHORIZING LEASING STATUTE.**—The  
11 term “authorizing leasing statute” means the Outer  
12 Continental Shelf Lands Act (43 U.S.C. 1331 et  
13 seq.), the Mineral Leasing Act (30 U.S.C. 181 et  
14 seq.), the Mineral Leasing Act for Acquired Lands  
15 (30 U.S.C. 351 et seq.), and any other law author-  
16 izing the use or disposition of Federal lands for oil  
17 and gas production or transmission.

18 (3) **COASTAL PLAIN.**—The term “Coastal  
19 Plain” means that area described in appendix I to  
20 part 37 of title 50, Code of Federal Regulations.

21 (4) **COVERED OIL AND NATURAL GAS ACTIV-**  
22 **ITY.**—The term “covered oil and natural gas activ-  
23 ity” means—

24 (A) the leasing or other disposition of any  
25 lands pursuant to an authorizing leasing statute

1 for the exploration, development, production,  
2 processing, or transmission of oil, natural gas,  
3 or associated hydrocarbons, and oil shale, in-  
4 cluding actions or decisions relating to the se-  
5 lection of which lands may or shall be made  
6 available for such leasing; and

7 (B) any activity taken or proposed to be  
8 taken pursuant or in relation to such leases, in-  
9 cluding their suspension, and any environ-  
10 mental analyses relating to such activity.

11 (5) OTHER TERMS.—Any terms used in this  
12 Act shall have the meaning such term has in the  
13 Act.

14 (6) PRIORITY ENERGY PROJECT.—The term  
15 “Priority Energy Project” means a project or facil-  
16 ity in the United States whose operation results in  
17 the production of a domestic supply of energy or the  
18 generation of electricity.

19 (7) PRIORITY ENERGY PROJECT DEVELOPER.—  
20 The term “Priority Energy Project Developer”  
21 means a person, organization, or other entity that  
22 owns or operates a Priority Energy Project.

23 (8) PROGRAM.—The term “program” means a  
24 Final Outer Continental Shelf Oil and Gas Leasing



1 Program issued pursuant to section 18 of the Act  
2 (43 U.S.C. 1344).

3 (9) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Interior, unless otherwise indi-  
5 cated.

6 **TITLE I—DEVELOPMENT OF**  
7 **FEDERAL ENERGY RESOURCES**  
8 **Subtitle A—Oil and Gas Leasing in**  
9 **the Gulf of Mexico**

10 **SEC. 101. LEASING IN THE EASTERN GULF OF MEXICO.**

11 (a) TERMINATION OF MORATORIUM.—Section 104 of  
12 the Gulf of Mexico Energy Security Act of 2006 (43  
13 U.S.C. 1331 note; Public Law 109–432) is amended by  
14 striking subsection (a) and redesignating subsections (b)  
15 and (c) as subsections (a) and (b), respectively.

16 (b) NATIONAL DEFENSE AREA.—Section 12(d) of  
17 the Outer Continental Shelf Lands Act (43 U.S.C.  
18 1341(d)) is amended—

19 (1) by striking “The United States” and insert-  
20 ing the following:

21 “(1) IN GENERAL.—The United States”; and

22 (2) by adding at the end the following:

23 “(2) REVIEW.—Annually, the Secretary of De-  
24 fense shall review the areas of the outer Continental  
25 Shelf that have been designated as restricted from

1 exploration and operation to determine whether the  
2 areas should remain under restriction.”.

3 (c) LEASING OF MORATORIUM AREAS.—

4 (1) DESTIN DOME AND PENSACOLA AREAS.—

5 Within 1 year after the date of the enactment of this  
6 Act, the Secretary shall offer for leasing under the  
7 Outer Continental Shelf Lands Act (43 U.S.C. 1331  
8 et seq.), the Destin Dome (OPD NH 16–08) and  
9 Pensacola (OPD NH 16–05) areas.

10 (2) OTHER AREAS.—As soon as practicable  
11 after the date of enactment of this Act, the Sec-  
12 retary shall offer for leasing under the Outer Conti-  
13 nental Shelf Lands Act (43 U.S.C. 1331 et seq.),  
14 any other areas in the Eastern Gulf of Mexico Plan-  
15 ning Area that are made available for leasing pursu-  
16 ant to subsection (a).

17 (3) ADMINISTRATION.—The areas described in  
18 paragraphs (1) and (2) shall be offered for lease  
19 under this section notwithstanding the omission of  
20 any of those areas from the 5-year leasing program  
21 approved by the Secretary under section 18 of the  
22 Outer Continental Shelf Lands Act (43 U.S.C.  
23 1344) in effect at the time of the lease sale. The  
24 Secretary shall include the areas described in para-

1 graphs (1) and (2) in any 5-year leasing program  
2 approved after the date of enactment of this Act.

3 (d) COASTAL ZONE MANAGEMENT ACT OF 1972 RE-  
4 VIEW.—The Secretary’s decision to hold a lease sale for  
5 the areas described in section 101(c) shall not be subject  
6 to consistency review under the Coastal Zone Management  
7 Act of 1972 (16 U.S.C. 1451 et seq.).

8 **SEC. 102. EXTENSION OF DEEPWATER OIL AND NATURAL**  
9 **GAS LEASES IN GULF OF MEXICO.**

10 (a) DEFINITION OF COVERED LEASE.—In this sec-  
11 tion the term “covered lease” means each oil and gas lease  
12 for the Gulf of Mexico Outer Continental Shelf region  
13 issued under section 8(b) of the Outer Continental Shelf  
14 Lands Act (43 U.S.C. 1337(b)) that was not producing  
15 as of April 30, 2010.

16 (b) EXTENSION OF COVERED LEASES.—The Sec-  
17 retary of the Interior shall extend the term of a covered  
18 lease by 24 months.

19 (c) MINIMUM DEEPWATER WELL REQUIREMENT.—  
20 If fewer than 20 exploration or development wells have  
21 been spudded on deepwater leases in the Gulf of Mexico  
22 within 18 months after the date of enactment of this Act,  
23 the 24-month period under subsection (b) for deepwater  
24 leases (water depths of 500 feet or greater) shall be ex-  
25 tended by an additional 18 months.

1 (d) EFFECT OF EXTENSION ON SUSPENSIONS.—The  
2 lease term extension under this Act shall be in addition  
3 to any lease term suspension either granted or directed  
4 under section 5(a)(1) of the Act (43 U.S.C. 1334(a)(1))  
5 prior to or following the date of enactment of this Act.

6 (e) LEASE REINSTATEMENT.—The Secretary shall  
7 reinstate any lease subject to subsection (a) that expired  
8 between April 30, 2010 and the date of enactment of this  
9 Act, with a new expiration date as provided in subsection  
10 (b).

11 **Subtitle B—Scheduled Leasing, Ex-**  
12 **ploration, and Development of**  
13 **Oil and Natural Gas in the Fed-**  
14 **eral Outer Continental Shelf**

15 **SEC. 121. EXPANDED OUTER CONTINENTAL SHELF LEASE**  
16 **SALES.**

17 (a) IN GENERAL.—Beginning in fiscal year 2012, the  
18 Secretary shall conduct all lease sales included in Table  
19 A of the Draft Proposed Outer Continental Shelf Oil and  
20 Gas Leasing Program 2010–2015, issued January 2009.  
21 All such lease sales shall be conducted in accordance with  
22 this section.

23 (b) EIS.—The Secretary is deemed to have issued a  
24 final environmental impact statement for the program de-  
25 scribed in subsection (a) in accordance with all require-

1 ments under section 102(2)(C) of the National Environ-  
2 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

3 (c) EXEMPTION FROM CONSISTENCY REVIEW.—The  
4 Secretary’s decision to hold a lease sale required under  
5 this section shall not be subject to consistency review  
6 under the Coastal Zone Management Act of 1972 (16  
7 U.S.C. 1451 et seq).

8 (d) LEASING PROGRAM.—The Secretary shall pre-  
9 pare and make available a 2015–2020 Draft Proposed  
10 Outer Continental Shelf Oil and Gas Leasing Program no  
11 later than 1 year after the date of enactment of this Act.

12 (e) REQUIREMENT TO MAINTAIN PROGRAM.—The  
13 Secretary’s implementation of the requirements of this  
14 section shall fulfill the requirement under section 19 of  
15 the Act (43 U.S.C. 1345) to maintain an oil and gas leas-  
16 ing program through June 30, 2015.

17 **SEC. 122. GEOLOGICAL AND GEOPHYSICAL ACTIVITIES IN**  
18 **EXPANDED LEASING AREAS.**

19 (a) EIS FOR ATLANTIC OCS PLANNING AREA.—  
20 Within 1 year after the date of enactment of this Act, the  
21 Secretary shall issue a Final Programmatic Environ-  
22 mental Impact Statement and Record of Decision pursu-  
23 ant to the National Environmental Policy Act of 1969 (42  
24 U.S.C. 4321 et seq.), assessing the environmental effects

1 of geological and geophysical activities in the Atlantic  
2 Outer Continental Shelf Planning Area.

3 (b) PERMITS FOR ATLANTIC OCS PLANNING  
4 AREA.—The Secretary shall approve any permit that  
5 meets the requirements of the Act for geologic and geo-  
6 physical activities in the Atlantic Outer Continental Shelf  
7 Planning Area, including areas in the Southern Atlantic  
8 outer Continental Shelf.

9 (c) PRELIMINARY EIS FOR SOUTHERN CALIFORNIA  
10 OCS PLANNING AREA.—Not later than 18 months after  
11 the date of enactment of this Act, the Secretary shall issue  
12 a Preliminary Environmental Impact Statement pursuant  
13 to the National Environmental Policy Act of 1969 (42  
14 U.S.C. 4321 et seq.) to assess the environmental impacts  
15 of geophysical activities in the Southern California Outer  
16 Continental Shelf Planning Area.

17 **SEC. 123. PAYMENTS FROM AREAS NEWLY AVAILABLE TO**  
18 **LEASING.**

19 (a) IN GENERAL.—Notwithstanding section 9 of the  
20 Act (43 U.S.C. 1338), upon enactment of this Act and  
21 each fiscal year thereafter, 37.5 percent of all bonuses,  
22 rents, royalties, and other sums due and payable to the  
23 United States received on or after enactment of this Act  
24 from outer Continental Shelf leases entered into on or  
25 after the date of enactment of this Act shall be paid to

1 the coastal States that are Adjacent States with respect  
2 to such leases. Such payment shall be allocated to each  
3 such Adjacent State in amounts (based on a formula es-  
4 tablished by the Secretary by regulation) that are inversely  
5 proportional to the respective distances between the point  
6 on the coastline of the Adjacent State that is closest to  
7 the geographic center of the applicable leased tract and  
8 the geographic center of the leased tract.

9 (b) EXCLUSIONS.—Subsection (a) shall not apply  
10 to—

11 (1) revenues from the forfeiture of a bond or  
12 other surety securing obligations other than royal-  
13 ties, civil penalties, or royalties taken by the Sec-  
14 retary in-kind and not sold; and

15 (2) revenues generated from leases subject to  
16 section 8(g) of the Act (43 U.S.C. 1137(g)).

17 (c) USE OF PAYMENTS TO STATES.—Amounts paid  
18 to a State under subsection (a) shall be used by the State  
19 for such purposes as that State considers necessary.

20 (d) GULF OF MEXICO OUTER CONTINENTAL SHELF  
21 REVENUES.—

22 (1) LIMITATION ON APPLICATION.—Subsection  
23 (a) shall not affect the application of section 105 of  
24 the Gulf of Mexico Energy Security Act of 2006  
25 (title I of division C of Public Law 109–432; (43

1 U.S.C. 1331 note)), as in effect before the enact-  
2 ment of this Act, with respect to revenues received  
3 by the United States under oil and gas leases issued  
4 for tracts located in the Western and Central Gulf  
5 of Mexico Outer Continental Shelf Planning Areas,  
6 including such leases issued on or after the date of  
7 the enactment of this Act.

8 (2) AMOUNT OF DISTRIBUTED QUALIFIED  
9 OUTER CONTINENTAL SHELF REVENUES.—Section  
10 105(f)(1) of the Gulf of Mexico Energy Security Act  
11 of 2006 (title I of division C of Public Law 109–  
12 432; (43 U.S.C. 1331 note)) is amended by striking  
13 “2055” and inserting “2022, and shall not exceed  
14 \$750,000,000 for each of fiscal years 2023 through  
15 2055”.

16 **SEC. 124. DEFINITIONS UNDER THE OUTER CONTINENTAL**  
17 **SHELF LANDS ACT.**

18 Section 2 of the Outer Continental Shelf Lands Act  
19 (43 U.S.C. 1331) is amended—

20 (1) by amending paragraph (f) to read as fol-  
21 lows:

22 “(f) The term ‘affected State’ means the Adjacent  
23 State.”;



1           (2) by striking the semicolon at the end of each  
2           of paragraphs (a) through (o) and inserting a pe-  
3           riod;

4           (3) by striking “; and” at the end of paragraph  
5           (p) and inserting a period;

6           (4) by adding at the end the following:

7           “(r) The term ‘Adjacent State’ means, with respect  
8           to any program, plan, lease sale, leased tract, or other ac-  
9           tivity, proposed, conducted, or approved pursuant to this  
10          Act, any State the laws of which are declared, pursuant  
11          to section 4(a)(2), to be the law of the United States for  
12          the portion of the outer Continental Shelf on which such  
13          program, plan, lease sale, leased tract, or activity apper-  
14          tains or is, or is proposed to be, conducted.

15          “(s) The term ‘State’ includes all States having a  
16          coastline contiguous to the Arctic, Atlantic, or Pacific  
17          Ocean, or the Gulf of Mexico, the Commonwealth of Puer-  
18          to Rico, the Commonwealth of the Northern Mariana Is-  
19          lands, the United States Virgin Islands, American Samoa,  
20          Guam, the other territories of the United States, and the  
21          District of Columbia.

22          “(t) The term ‘Adjacent Zone’ means, with respect  
23          to any program, plan, lease sale, leased tract, or other ac-  
24          tivity, proposed, conducted, or approved pursuant to this  
25          Act, the portion of the outer Continental Shelf for which

1 the laws of a particular Adjacent State are declared, pur-  
2 suant to section 4(a)(2), to be the law of the United  
3 States.

4 “(u) The term ‘miles’ means statute miles.

5 “(v) The term ‘coastline’ has the same meaning as  
6 the term ‘coast line’ as defined in section 2(c) of the Sub-  
7 merged Lands Act (43 U.S.C. 1301(c)).

8 “(w) The term ‘Neighboring State’ means a coastal  
9 State having a common boundary at the coastline with the  
10 Adjacent State.”; and

11 (5) in paragraph (a), by inserting after “con-  
12 trol” the following: “or lying within the United  
13 States Exclusive Economic Zone and outer Conti-  
14 nental Shelf adjacent to the Commonwealth of Puer-  
15 to Rico, the Commonwealth of the Northern Mar-  
16 iana Islands, the United States Virgin Islands,  
17 American Samoa, Guam, or any other territory of  
18 the United States”.

19 **SEC. 125. DETERMINATION OF ADJACENT ZONES AND**  
20 **PLANNING AREAS.**

21 Section 4(a)(2)(A) of the Outer Continental Shelf  
22 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the  
23 first sentence by striking “, and the President” and all  
24 that follows through the end of the sentence and inserting  
25 the following: “. The lines extending seaward and defining

1 each State’s Adjacent Zone, and the Atlantic OCS Plan-  
2 ning Area, are as indicated on the maps for the Atlantic  
3 Outer Continental Shelf region entitled ‘Atlantic OCS Re-  
4 gion State Adjacent Zones and OCS Planning Areas’,  
5 which is dated September 2005 and is on file in the Office  
6 of the Director, Minerals Management Service. The Sec-  
7 retary shall designate the Adjacent Zones of States, and  
8 additional OCS Planning Areas, for parts of the United  
9 States Exclusive Economic Zone and outer Continental  
10 Shelf not covered by those maps.”.

11 **Subtitle C—Leasing, Exploration,**  
12 **and Development of Oil and**  
13 **Natural Gas Resources in Por-**  
14 **tions of the Coastal Plain of**  
15 **Alaska**

16 **SEC. 131. ESTABLISHMENT OF LEASING PROGRAM FOR**  
17 **COASTAL PLAIN.**

18 The Secretary shall take such actions as are nec-  
19 essary—

20 (1) to establish and implement, in accordance  
21 with this subtitle and acting through the Director of  
22 the Bureau of Land Management in consultation  
23 with the Director of the United States Fish and  
24 Wildlife Service, a competitive oil and gas leasing  
25 program that will result in an environmentally sound

1 program for the exploration, development, and pro-  
2 duction of the oil and gas resources of the Coastal  
3 Plain; and

4 (2) to administer the provisions of this title  
5 through regulations, lease terms, conditions, restric-  
6 tions, prohibitions, stipulations, and other provisions  
7 that ensure the oil and gas exploration, development,  
8 and production activities on the Coastal Plain will  
9 minimize any significant adverse effects on fish and  
10 wildlife, their habitat, subsistence resources, and the  
11 environment, including, in furtherance of this goal,  
12 by requiring the application of the best commercially  
13 available technology for oil and gas exploration, de-  
14 velopment, and production to all exploration, devel-  
15 opment, and production operations under this title  
16 in a manner that ensures the receipt of fair market  
17 value by the public for the mineral resources to be  
18 leased.

19 **SEC. 132. CONDUCT OF LEASING PROGRAM.**

20 (a) REPEAL.—

21 (1) REPEAL.—Section 1003 of the Alaska Na-  
22 tional Interest Lands Conservation Act of 1980 (16  
23 U.S.C. 3143) is repealed.

1           (2) CONFORMING AMENDMENT.—The table of  
2 contents in section 1 of such Act is amended by  
3 striking the item relating to section 1003.

4           (b) COMPLIANCE WITH REQUIREMENTS UNDER  
5 CERTAIN OTHER LAWS.—

6           (1) COMPATIBILITY.—For purposes of the Na-  
7 tional Wildlife Refuge System Administration Act of  
8 1966 (16 U.S.C. 668dd et seq.), the oil and gas  
9 leasing program and activities authorized by this  
10 subtitle in the Coastal Plain are deemed to be com-  
11 patible with the purposes for which the Arctic Na-  
12 tional Wildlife Refuge was established, and no fur-  
13 ther findings or decisions are required to implement  
14 this determination.

15           (2) ADEQUACY OF THE DEPARTMENT OF THE  
16 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT  
17 STATEMENT.—The “Final Legislative Environ-  
18 mental Impact Statement” (April 1987) on the  
19 Coastal Plain prepared pursuant to section 1002 of  
20 the Alaska National Interest Lands Conservation  
21 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)  
22 of the National Environmental Policy Act of 1969  
23 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-  
24 quirements under the National Environmental Policy  
25 Act of 1969 that apply with respect to prelease ac-

1        activities, including actions authorized to be taken by  
2        the Secretary to develop and promulgate the regula-  
3        tions for the establishment of a leasing program au-  
4        thorized by this subtitle before the conduct of the  
5        first lease sale.

6            (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
7        TIONS.—Before conducting the first lease sale under  
8        this subtitle, the Secretary shall prepare an environ-  
9        mental impact statement under the National Envi-  
10        ronmental Policy Act of 1969 with respect to the ac-  
11        tions authorized by this subtitle that are not re-  
12        ferred to in paragraph (2). Notwithstanding any  
13        other law, the Secretary is not required to identify  
14        nonleasing alternative courses of action or to analyze  
15        the environmental effects of such courses of action.  
16        The Secretary shall only identify a preferred action  
17        for such leasing and a single leasing alternative, and  
18        analyze the environmental effects and potential miti-  
19        gation measures for those two alternatives. The  
20        identification of the preferred action and related  
21        analysis for the first lease sale under this subtitle  
22        shall be completed within 18 months after the date  
23        of enactment of this Act. The Secretary shall only  
24        consider public comments that specifically address  
25        the Secretary's preferred action and that are filed

1 within 20 days after publication of an environmental  
2 analysis. Notwithstanding any other law, compliance  
3 with this paragraph is deemed to satisfy all require-  
4 ments for the analysis and consideration of the envi-  
5 ronmental effects of proposed leasing under this sub-  
6 title. In preparing or reviewing an environmental as-  
7 sessment pursuant to the National Environmental  
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any  
9 regulations promulgated thereto, an agency shall  
10 consider, in addition to any mitigation required by  
11 the agency, all applicable Federal, State, local, and  
12 other laws and regulations, guidelines, permit condi-  
13 tions, and any other requirements and best practices  
14 regarding a Priority Energy Project and any other  
15 actions considered in a cumulative effects analysis.  
16 Pursuant to that, the agency shall make a finding  
17 of no significant impact or a mitigated finding of no  
18 significant impact, as applicable, unless, presuming  
19 administrative regularity, the agency can conclu-  
20 sively demonstrate that the mitigation required by  
21 the agency and the applicable Federal, State, local,  
22 and other laws and regulations, guidelines, permit  
23 conditions, and any other requirements and best  
24 practices regarding a Priority Energy Project and  
25 any other actions considered in a cumulative effects

1 analysis will not prevent or otherwise mitigate a sig-  
2 nificant impact on the human environment.

3 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
4 ITY.—Nothing in this subtitle shall be considered to limit  
5 State and local regulatory authority.

6 (d) SPECIAL AREAS.—

7 (1) IN GENERAL.—The Secretary, after con-  
8 sultation with the State of Alaska, the city of  
9 Kaktovik, and the North Slope Borough, may des-  
10 ignate up to a total of 45,000 acres of the Coastal  
11 Plain as a Special Area if the Secretary determines  
12 that the Special Area is of such unique character  
13 and interest so as to require special management  
14 and regulatory protection. The Secretary shall des-  
15 ignate as such a Special Area the Sadlerochit Spring  
16 area, comprising approximately 4,000 acres.

17 (2) MANAGEMENT.—Each such Special Area  
18 shall be managed so as to protect and preserve the  
19 area's unique and diverse character including its  
20 fish, wildlife, and subsistence resource values.

21 (3) EXCLUSION FROM LEASING OR SURFACE  
22 OCCUPANCY.—The Secretary may exclude any Spe-  
23 cial Area from leasing. If the Secretary leases a Spe-  
24 cial Area, or any part thereof, for purposes of oil  
25 and gas exploration, development, production, and



1 related activities, there shall be no surface occu-  
2 pancy of the lands comprising the Special Area.

3 (4) DIRECTIONAL DRILLING.—Notwithstanding  
4 the other provisions of this subsection, the Secretary  
5 may lease all or a portion of a Special Area under  
6 terms that permit the use of horizontal drilling tech-  
7 nology from sites on leases located outside the Spe-  
8 cial Area.

9 (e) LIMITATION ON CLOSED AREAS.—The Sec-  
10 retary's sole authority to close lands within the Coastal  
11 Plain to oil and gas leasing and to exploration, develop-  
12 ment, and production is that set forth in this subtitle.

13 (f) REGULATIONS.—The Secretary shall prescribe  
14 such regulations as may be necessary to carry out this  
15 subtitle, including rules and regulations relating to protec-  
16 tion of the fish and wildlife, their habitat, subsistence re-  
17 sources, and environment of the Coastal Plain, by no later  
18 than 12 months after the date of enactment of this Act.

19 (g) LEASE SALES.—

20 (1) IN GENERAL.—Lands may be leased pursu-  
21 ant to this subtitle to any person qualified to obtain  
22 a lease for deposits of oil and gas under the Mineral  
23 Leasing Act (30 U.S.C. 181 et seq.).

24 (2) PROCEDURES.—The Secretary shall, by reg-  
25 ulation, establish procedures for—

1           (A) receipt and consideration of sealed  
2 nominations for any area in the Coastal Plain  
3 for inclusion in, or exclusion (as provided in  
4 subparagraph (C)) from, a lease sale;

5           (B) the holding of lease sales after such  
6 nomination process; and

7           (C) public notice of and comment on des-  
8 ignation of areas to be included in, or excluded  
9 from, a lease sale.

10          (3) LEASE SALE BIDS.—Bidding for leases  
11 under this subtitle shall be by sealed competitive  
12 cash bonus bids.

13          (4) ACREAGE MINIMUM IN FIRST SALE.—In the  
14 first lease sale under this subtitle, the Secretary  
15 shall offer for lease those tracts the Secretary con-  
16 siders to have the greatest potential for the dis-  
17 covery of hydrocarbons, taking into consideration  
18 nominations received pursuant to paragraph (2)(A),  
19 but in no case less than 200,000 acres.

20          (5) TIMING OF LEASE SALES.—The Secretary  
21 shall—

22           (A) conduct the first lease sale under this  
23 subtitle within 18 months after the date of the  
24 enactment of this Act;

1 (B) evaluate the bids in such sale and  
2 issue leases resulting from such sale, within 90  
3 days after the date of the completion of such  
4 sale; and

5 (C) conduct additional sales so long as suf-  
6 ficient interest in development exists to war-  
7 rant, in the Secretary's judgment, the conduct  
8 of such sales.

9 (h) GRANT OF LEASES BY THE SECRETARY.—

10 (1) IN GENERAL.—The Secretary may grant to  
11 the highest responsible qualified bidder in a lease  
12 sale conducted pursuant to subsection (g) any lands  
13 to be leased on the Coastal Plain upon payment by  
14 the lessee of such bonus as may be accepted by the  
15 Secretary.

16 (2) SUBSEQUENT TRANSFERS.—No lease issued  
17 under this subtitle may be sold, exchanged, assigned,  
18 sublet, or otherwise transferred except with the ap-  
19 proval of the Secretary. Prior to any such approval  
20 the Secretary shall consult with, and give due con-  
21 sideration to the views of, the Attorney General.

22 (i) LEASE TERMS AND CONDITIONS.—An oil or gas  
23 lease issued pursuant to this subtitle shall—

24 (1) provide for the payment of a royalty of  
25 37½ percent in amount or value of the production

1 removed or sold from the lease, as determined by the  
2 Secretary under the regulations applicable to other  
3 Federal oil and gas leases;

4 (2) require that the lessee of lands within the  
5 Coastal Plain shall be fully responsible and liable for  
6 the reclamation of lands within the Coastal Plain  
7 and any other Federal lands that are adversely af-  
8 fected in connection with exploration, development,  
9 production, or transportation activities conducted  
10 under the lease and within the Coastal Plain by the  
11 lessee or by any of the subcontractors or agents of  
12 the lessee;

13 (3) provide that the lessee may not delegate or  
14 convey, by contract or otherwise, the reclamation re-  
15 sponsibility and liability to another person without  
16 the express written approval of the Secretary;

17 (4) provide that the standard of reclamation for  
18 lands required to be reclaimed under this subtitle  
19 shall be, as nearly as practicable, a condition capable  
20 of supporting the uses which the lands were capable  
21 of supporting prior to any exploration, development,  
22 or production activities, or upon application by the  
23 lessee, to a higher or better use as approved by the  
24 Secretary;

1           (5) contain terms and conditions relating to  
2 protection of fish and wildlife, their habitat, subsist-  
3 ence resources, and the environment as required  
4 pursuant to section 131(2);

5           (6) provide that the lessee, its agents, and its  
6 contractors use best efforts to provide a fair share,  
7 as determined by the level of obligation previously  
8 agreed to in the 1974 agreement implementing sec-  
9 tion 29 of the Federal Agreement and Grant of  
10 Right of Way for the Operation of the Trans Alaska  
11 Pipeline, of employment and contracting for Alaska  
12 Natives and Alaska Native Corporations from  
13 throughout the State; and

14           (7) contain such other provisions as the Sec-  
15 retary determines necessary to ensure compliance  
16 with the provisions of this subtitle and the regula-  
17 tions issued under this subtitle.

18 (j) LEASE APPROVAL DEADLINES.—

19           (1) IN GENERAL.—Not later than 10 business  
20 days after the date on which an agency receives an  
21 application for any permit, authorization, or other  
22 agency action with respect to a lease under this sub-  
23 title, the agency shall—

24                   (A) notify the applicant that the applica-  
25 tion is complete; or

1 (B) notify the applicant that information is  
2 missing and specify any information that is re-  
3 quired to be submitted for the application to be  
4 complete.

5 (2) ISSUANCE OR DEFERRAL.—Not later than  
6 30 days after the applicant for such a permit, au-  
7 thorization, or other agency action has submitted a  
8 complete application, the agency shall—

9 (A) issue the permit; or

10 (B)(i) defer the decision on the permit;

11 and

12 (ii) provide to the applicant a notice that  
13 specifies any steps that the applicant could take  
14 for the permit to be issued.

15 (3) REQUIREMENTS FOR DEFERRED APPLICA-  
16 TIONS.—

17 (A) IN GENERAL.—If the agency provides  
18 notice under paragraph (2)(B), the applicant  
19 shall have a period of 2 years from the date of  
20 receipt of the notice in which to complete all re-  
21 quirements specified by the agency, including  
22 providing information needed for compliance  
23 with the National Environmental Policy Act of  
24 1969 (42 U.S.C. 4321 et seq.).

1 (B) ISSUANCE OF DECISION ON PERMIT.—

2 If the applicant completes the requirements  
3 within the period specified in subparagraph (A),  
4 the agency shall issue a decision on the permit  
5 not later than 10 days after the date of comple-  
6 tion of the requirements described in subpara-  
7 graph (A).

8 (C) DENIAL OF PERMIT.—If the applicant  
9 does not complete the requirements within the  
10 period specified in subparagraph (A) the agency  
11 shall deny the permit.

12 (4) AGENCY REQUIREMENTS.—In any applica-  
13 tion for a permit, authorization, or other agency ac-  
14 tion, the agency shall be prohibited from requiring  
15 the applicant to perform any analyses, studies, or  
16 other activities that are novel, unprecedented, or  
17 otherwise inconsistent with past requirements for  
18 permit applicants in the same or similar situations.

19 (5) FAILURE TO ACT.—In the event the agency  
20 fails to meet any deadline set forth in this section,  
21 the agency shall immediately grant the requested  
22 permit, authorization, or other approval.

23 (k) COASTAL PLAIN ENVIRONMENTAL PROTEC-  
24 TION.—

1           (1) NO SIGNIFICANT ADVERSE EFFECT STAND-  
2           ARD TO GOVERN AUTHORIZED COASTAL PLAIN AC-  
3           TIVITIES.—The Secretary shall, consistent with the  
4           requirements of paragraph (3), administer the provi-  
5           sions of this subtitle through regulations, lease  
6           terms, conditions, restrictions, prohibitions, stipula-  
7           tions, and other provisions that—

8                   (A) ensure the oil and gas exploration, de-  
9                   velopment, and production activities on the  
10                  Coastal Plain will result in no significant ad-  
11                  verse effect on fish and wildlife, their habitat,  
12                  and the environment;

13                  (B) require the application of the best  
14                  commercially available technology for oil and  
15                  gas exploration, development, and production  
16                  on all new exploration, development, and pro-  
17                  duction operations; and

18                  (C) ensure that the maximum amount of  
19                  surface acreage covered by production and sup-  
20                  port facilities, including airstrips and any areas  
21                  covered by gravel berms or piers for support of  
22                  pipelines, does not exceed 5,000 acres on the  
23                  Coastal Plain.

24           (2) SITE-SPECIFIC ASSESSMENT AND MITIGA-  
25           TION.—The Secretary shall also require, with re-



1 spect to any proposed drilling and related activities  
2 pursuant to this subtitle, that—

3 (A) a site-specific analysis be made of the  
4 probable effects, if any, that the drilling or re-  
5 lated activities will have on fish and wildlife,  
6 their habitat, subsistence resources, and the en-  
7 vironment;

8 (B) a plan be implemented to avoid, mini-  
9 mize, and mitigate (in that order and to the ex-  
10 tent practicable) any significant adverse effect  
11 identified under subparagraph (A); and

12 (C) the development of the plan shall occur  
13 after consultation with the agency or agencies  
14 having jurisdiction over matters mitigated by  
15 the plan.

16 (3) REGULATIONS TO PROTECT COASTAL PLAIN  
17 FISH AND WILDLIFE RESOURCES, SUBSISTENCE  
18 USERS, AND THE ENVIRONMENT.—Before imple-  
19 menting the leasing program authorized by this sub-  
20 title, the Secretary shall prepare and promulgate  
21 regulations, lease terms, conditions, restrictions, pro-  
22 hibitions, stipulations, and other measures designed  
23 to ensure that the activities undertaken on the  
24 Coastal Plain under this subtitle are conducted in a

1 manner consistent with the purposes and environ-  
2 mental requirements of this subtitle.

3 (4) COMPLIANCE WITH FEDERAL AND STATE  
4 ENVIRONMENTAL LAWS AND OTHER REQUIRE-  
5 MENTS.—The proposed regulations, lease terms,  
6 conditions, restrictions, prohibitions, and stipulations  
7 for the leasing program under this subtitle shall re-  
8 quire compliance with all applicable provisions of  
9 Federal and State environmental law, and shall also  
10 require the following:

11 (A) Standards at least as effective as the  
12 safety and environmental mitigation measures  
13 set forth in items 1 through 29 at pages 167  
14 through 169 of the “Final Legislative Environ-  
15 mental Impact Statement” (April 1987) on the  
16 Coastal Plain.

17 (B) That exploration activities shall be  
18 supported, if necessary, by ice roads, winter  
19 trails with adequate snow cover, ice pads, ice  
20 airstrips, and air transport methods, except  
21 that such exploration activities may occur at  
22 other times if the Secretary finds that such ex-  
23 ploration will have no significant adverse effect  
24 on the fish and wildlife, their habitat, and the  
25 environment of the Coastal Plain.

1           (C) Design safety and construction stand-  
2           ards for all pipelines and any access and service  
3           roads, that—

4                   (i) minimize, to the maximum extent  
5                   possible, adverse effects upon the passage  
6                   of migratory species such as caribou; and

7                   (ii) minimize adverse effects upon the  
8                   flow of surface water by requiring the use  
9                   of culverts, bridges, and other structural  
10                  devices.

11          (D) Prohibitions on general public access  
12          and use on all pipeline access and service roads.

13          (E) Stringent reclamation and rehabilita-  
14          tion requirements, consistent with the stand-  
15          ards set forth in this subtitle, requiring the re-  
16          moval from the Coastal Plain of all oil and gas  
17          development and production facilities, struc-  
18          tures, and equipment upon completion of oil  
19          and gas production operations, except that the  
20          Secretary may exempt from the requirements of  
21          this subparagraph those facilities, structures, or  
22          equipment that the Secretary determines would  
23          assist in the management of the Arctic National  
24          Wildlife Refuge and that are donated to the  
25          United States for that purpose.

1           (F) Appropriate prohibitions or restrictions  
2 on access by all modes of transportation.

3           (G) Appropriate prohibitions or restrictions  
4 on sand and gravel extraction.

5           (H) Consolidation of facility siting.

6           (I) Appropriate prohibitions or restrictions  
7 on use of explosives.

8           (J) Avoidance, to the extent practicable, of  
9 springs, streams, and river system; the protec-  
10 tion of natural surface drainage patterns, wet-  
11 lands, and riparian habitats; and the regulation  
12 of methods or techniques for developing or  
13 transporting adequate supplies of water for ex-  
14 ploratory drilling.

15           (K) Avoidance or minimization of air traf-  
16 fic-related disturbance to fish and wildlife.

17           (L) Treatment and disposal of hazardous  
18 and toxic wastes, solid wastes, reserve pit  
19 fluids, drilling muds and cuttings, and domestic  
20 wastewater, including an annual waste manage-  
21 ment report, a hazardous materials tracking  
22 system, and a prohibition on chlorinated sol-  
23 vents, in accordance with applicable Federal  
24 and State environmental law.

1 (M) Fuel storage and oil spill contingency  
2 planning.

3 (N) Research, monitoring, and reporting  
4 requirements.

5 (O) Field crew environmental briefings.

6 (P) Avoidance of significant adverse effects  
7 upon subsistence hunting, fishing, and trapping  
8 by subsistence users.

9 (Q) Compliance with applicable air and  
10 water quality standards.

11 (R) Appropriate seasonal and safety zone  
12 designations around well sites, within which  
13 subsistence hunting and trapping shall be lim-  
14 ited.

15 (S) Reasonable stipulations for protection  
16 of cultural and archeological resources.

17 (T) All other protective environmental stip-  
18 ulations, restrictions, terms, and conditions  
19 deemed necessary by the Secretary.

20 (I) CONSIDERATIONS.—In preparing and promul-  
21 gating regulations, lease terms, conditions, restrictions,  
22 prohibitions, and stipulations under this section, the Sec-  
23 retary shall consider the following:

24 (1) The stipulations and conditions that govern  
25 the National Petroleum Reserve-Alaska leasing pro-

1       gram, as set forth in the 1999 Northeast National  
2       Petroleum Reserve-Alaska Final Integrated Activity  
3       Plan/Environmental Impact Statement.

4           (2) The environmental protection standards  
5       that governed the initial Coastal Plain seismic explo-  
6       ration program under parts 37.31 to 37.33 of title  
7       50, Code of Federal Regulations.

8           (3) The land use stipulations for exploratory  
9       drilling on the KIC-ASRC private lands that are set  
10      forth in appendix 2 of the August 9, 1983, agree-  
11      ment between Arctic Slope Regional Corporation and  
12      the United States.

13      (m) ENVIRONMENTAL APPEALS BOARD.—

14           (1) LIMITATION ON DELEGATION OF AUTHOR-  
15      ITY.—The Administrator of the Environmental Pro-  
16      tection Agency shall not delegate any authority to  
17      the Environmental Appeals Board to consider, re-  
18      view, reject, remand, or otherwise invalidate any per-  
19      mit for activity under a lease under this title.

20           (2) PERFORMANCE BY SECRETARY.—The Ad-  
21      ministrator shall perform all duties currently as-  
22      signed to the Environmental Appeals Board in the  
23      Secretary's individual capacity.

24      (n) FACILITY CONSOLIDATION PLANNING.—

1           (1) IN GENERAL.—The Secretary shall, after  
2 providing for public notice and comment, prepare  
3 and update periodically a plan to govern, guide, and  
4 direct the siting and construction of facilities for the  
5 exploration, development, production, and transpor-  
6 tation of Coastal Plain oil and gas resources.

7           (2) OBJECTIVES.—The plan shall have the fol-  
8 lowing objectives:

9                   (A) Avoiding unnecessary duplication of fa-  
10 cilities and activities.

11                   (B) Encouraging consolidation of common  
12 facilities and activities.

13                   (C) Locating or confining facilities and ac-  
14 tivities to areas that will minimize impact on  
15 fish and wildlife, their habitat, and the environ-  
16 ment.

17                   (D) Utilizing existing facilities wherever  
18 practicable.

19                   (E) Enhancing compatibility between wild-  
20 life values and development activities.

21           (o) ACCESS TO PUBLIC LANDS.—The Secretary  
22 shall—

23                   (1) manage public lands in the Coastal Plain  
24 subject to subsections (a) and (b) of section 811 of

1 the Alaska National Interest Lands Conservation  
2 Act (16 U.S.C. 3121); and

3 (2) ensure that local residents shall have rea-  
4 sonable access to public lands in the Coastal Plain  
5 for traditional uses.

6 (p) EXPEDITED JUDICIAL REVIEW.—

7 (1) FILING OF COMPLAINT.—

8 (A) DEADLINE.—A complaint seeking judi-  
9 cial review of any provision of this section or  
10 any action of the Secretary under this section  
11 shall be filed—

12 (i) within the 90-day period beginning  
13 on the date of the action being challenged;  
14 or

15 (ii) in the case of a complaint based  
16 solely on grounds arising after such period,  
17 within 90 days after the complainant knew  
18 or reasonably should have known of the  
19 grounds for the complaint.

20 (B) VENUE.—Any complaint seeking judi-  
21 cial review of any provision of this subtitle or  
22 any action of the Secretary under this subtitle  
23 may be filed only in the United States Court of  
24 Appeals for the District of Columbia.



1           (C) LIMITATION ON SCOPE OF CERTAIN  
2 REVIEW.—Judicial review of a Secretarial deci-  
3 sion to conduct a lease sale under this subtitle,  
4 including the environmental analysis thereof,  
5 shall be limited to whether the Secretary has  
6 complied with this subtitle and shall be based  
7 upon the administrative record of that decision.  
8 The Secretary's identification of a preferred  
9 course of action to enable leasing to proceed  
10 and the Secretary's analysis of environmental  
11 effects under this subtitle shall be presumed to  
12 be correct unless shown otherwise by clear and  
13 convincing evidence to the contrary.

14           (2) LIMITATION ON OTHER REVIEW.—Actions  
15 of the Secretary with respect to which review could  
16 have been obtained under this section shall not be  
17 subject to judicial review in any civil or criminal pro-  
18 ceeding for enforcement.

19 **SEC. 133. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
20 **NUES.**

21           (a) IN GENERAL.—All adjusted bonus, rental, and  
22 royalty revenues from Federal oil and gas leasing and op-  
23 erations authorized under this subtitle shall be subject to  
24 distribution in the same manner as for Federal oil and

1 gas leases under section 35 of the Mineral Leasing Act  
2 (30 U.S.C. 191).

3 (b) PAYMENTS TO ALASKA.—Payments to the State  
4 of Alaska under this section shall be made semiannually.

5 **SEC. 134. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

6 (a) IN GENERAL.—The Secretary shall issue rights-  
7 of-way and easements across the Coastal Plain for the  
8 transportation of oil and gas—

9 (1) except as provided in paragraph (2), under  
10 section 28 of the Mineral Leasing Act (30 U.S.C.  
11 185), without regard to title XI of the Alaska Na-  
12 tional Interest Lands Conservation Act (30 U.S.C.  
13 3161 et seq.); and

14 (2) under title XI of the Alaska National Inter-  
15 est Lands Conservation Act (30 U.S.C. 3161 et  
16 seq.), for access authorized by sections 1110 and  
17 1111 of that Act (16 U.S.C. 3170 and 3171).

18 (b) TERMS AND CONDITIONS.—The Secretary shall  
19 include in any right-of-way or easement issued under sub-  
20 section (a) such terms and conditions as may be necessary  
21 to ensure that transportation of oil and gas does not result  
22 in a significant adverse effect on the fish and wildlife, sub-  
23 sistence resources, their habitat, and the environment of  
24 the Coastal Plain, including requirements that facilities be

1 sited or designed so as to avoid unnecessary duplication  
2 of roads and pipelines.

3 (c) REGULATIONS.—The Secretary shall include in  
4 regulations under section 132 provisions granting rights-  
5 of-way and easements described in subsection (a).

6 **SEC. 135. CONVEYANCE.**

7 In order to maximize Federal revenues by removing  
8 clouds on title to lands and clarifying land ownership pat-  
9 terns within the Coastal Plain, the Secretary, notwith-  
10 standing section 1302(h)(2) of the Alaska National Inter-  
11 est Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall  
12 convey—

13 (1) to the Kaktovik Inupiat Corporation the  
14 surface estate of the lands described in paragraph 1  
15 of Public Land Order 6959, to the extent necessary  
16 to fulfill the Corporation's entitlement under sec-  
17 tions 12 and 14 of the Alaska Native Claims Settle-  
18 ment Act (43 U.S.C. 1611 and 1613) in accordance  
19 with the terms and conditions of the Agreement be-  
20 tween the Department of the Interior, the United  
21 States Fish and Wildlife Service, the Bureau of  
22 Land Management, and the Kaktovik Inupiat Cor-  
23 poration effective January 22, 1993; and

24 (2) to the Arctic Slope Regional Corporation  
25 the remaining subsurface estate to which it is enti-

1       tled pursuant to the August 9, 1983, agreement be-  
2       tween the Arctic Slope Regional Corporation and the  
3       United States of America.

4   **SEC. 136. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
5                   **NITY SERVICE ASSISTANCE.**

6       (a) FINANCIAL ASSISTANCE AUTHORIZED.—

7           (1) IN GENERAL.—The Secretary may use  
8       amounts available from the Coastal Plain Local Gov-  
9       ernment Impact Aid Assistance Fund established by  
10      subsection (d) to provide timely financial assistance  
11      to entities that are eligible under paragraph (2) and  
12      that are directly impacted by the exploration for or  
13      production of oil and gas on the Coastal Plain under  
14      this subtitle.

15          (2) ELIGIBLE ENTITIES.—The North Slope  
16      Borough, the City of Kaktovik, and any other bor-  
17      ough, municipal subdivision, village, or other com-  
18      munity in the State of Alaska that is directly im-  
19      pacted by exploration for, or the production of, oil  
20      or gas on the Coastal Plain under this subtitle, as  
21      determined by the Secretary, shall be eligible for fi-  
22      nancial assistance under this section.

23      (b) USE OF ASSISTANCE.—Financial assistance  
24      under this section may be used only for—

1           (1) planning for mitigation of the potential ef-  
2           fects of oil and gas exploration and development on  
3           environmental, social, cultural, recreational, and sub-  
4           sistence values;

5           (2) implementing mitigation plans and main-  
6           taining mitigation projects;

7           (3) developing, carrying out, and maintaining  
8           projects and programs that provide new or expanded  
9           public facilities and services to address needs and  
10          problems associated with such effects, including fire-  
11          fighting, police, water, waste treatment, medivac,  
12          and medical services; and

13          (4) establishment of a coordination office, by  
14          the North Slope Borough, in the City of Kaktovik,  
15          that shall—

16                (A) coordinate with and advise developers  
17                on local conditions, impact, and history of the  
18                areas utilized for development; and

19                (B) provide to the Committee on Natural  
20                Resources of the House of Representatives and  
21                the Committee on Energy and Natural Re-  
22                sources of the Senate an annual report on the  
23                status of coordination between developers and  
24                the communities affected by development.

25          (c) APPLICATION.—

1           (1) IN GENERAL.—Any community that is eligi-  
2           ble for assistance under this section may submit an  
3           application for such assistance to the Secretary, in  
4           such form and under such procedures as the Sec-  
5           retary may prescribe by regulation.

6           (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
7           community located in the North Slope Borough may  
8           apply for assistance under this section either directly  
9           to the Secretary or through the North Slope Bor-  
10          ough.

11          (3) APPLICATION ASSISTANCE.—The Secretary  
12          shall work closely with and assist the North Slope  
13          Borough and other communities eligible for assist-  
14          ance under this section in developing and submitting  
15          applications for assistance under this section.

16          (d) ESTABLISHMENT OF FUND.—

17               (1) IN GENERAL.—There is established in the  
18               Treasury the Coastal Plain Local Government Im-  
19               pact Aid Assistance Fund.

20               (2) USE.—Amounts in the fund may be used  
21               only for providing financial assistance under this  
22               section.

23               (3) DEPOSITS.—Subject to paragraph (4), there  
24               shall be deposited into the fund amounts received by  
25               the United States as revenues derived from rents,

1 bonuses, and royalties from Federal leases and lease  
2 sales authorized under this subtitle.

3 (4) LIMITATION ON DEPOSITS.—The total  
4 amount in the fund may not exceed \$11,000,000.

5 (5) INVESTMENT OF BALANCES.—The Sec-  
6 retary of the Treasury shall invest amounts in the  
7 fund in interest bearing government securities.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-  
9 vide financial assistance under this section there is author-  
10 ized to be appropriated to the Secretary from the Coastal  
11 Plain Local Government Impact Aid Assistance Fund  
12 \$5,000,000 for each fiscal year.

13 **Subtitle D—Improvement of Inter-**  
14 **agency Coordination and Co-**  
15 **operation in the Processing of**  
16 **Federal Permits for Production**  
17 **of Domestic Oil and Gas Re-**  
18 **sources**

19 **SEC. 141. REGULATORY CERTAINTY.**

20 (a) IN GENERAL.—The relevant regulations, guid-  
21 ance, guidelines, and any other agency interpretations and  
22 rules that are in effect on the day on which a Priority  
23 Energy Project Developer submits an application for a  
24 permit, authorization, or other agency action regarding a  
25 Priority Energy Project shall remain in effect for purposes

1 of the agency's evaluation, review, or action on such appli-  
2 cation. In no event shall any regulations, guidance, guide-  
3 lines, or any other agency interpretations and rules that  
4 become effective after such day be considered applicable  
5 to or otherwise controlling with regard to an agency's eval-  
6 uation, review, or action on such application.

7 (b) WAIVER.—Upon providing written notice to an  
8 agency, a Priority Energy Project Developer may waive  
9 subsection (a) with respect to a specific permit application.  
10 In no event shall such waiver be construed as waiving sub-  
11 section (a) regarding any other permit application or any  
12 other agency action for that same Priority Energy Project.

13 **SEC. 142. REGIONAL OFFICES AND REGIONAL PERMIT CO-**  
14 **ORDINATORS.**

15 It is the sense of the Congress that—

16 (1) within 180 days after enactment of this Act,  
17 the Secretary of the Interior should establish re-  
18 gional offices in Alaska and the contiguous 48  
19 States to coordinate review of Federal permits for oil  
20 and gas projects on Federal lands onshore and on  
21 the outer Continental Shelf;

22 (2) the regional offices should be responsible for  
23 coordinating the timely completion of all permitting  
24 activities by Federal agencies, and State agencies to  
25 the maximum extent practicable, with respect to any



1 oil and gas project under a Federal lease issued pur-  
2 suant to the mineral leasing laws, either onshore or  
3 on the outer Continental Shelf, including oil and gas  
4 projects should include oil shale projects under Fed-  
5 eral oil shale leases;

6 (3) the number of regional offices should be es-  
7 tablished by the Secretary, ensuring that there is an  
8 adequate number of offices in each region proximate  
9 to available Federal oil and gas lease tracts onshore  
10 and on the outer Continental Shelf to meet the de-  
11 mands for expeditious permitting in that region;

12 (4) the Secretary should designate as regional  
13 offices pursuant to paragraph (3) all offices estab-  
14 lished under section 365 of the Energy Policy Act of  
15 2005 (42 U.S.C. 15924);

16 (5) within 90 days after the enactment of this  
17 Act, the Secretary, the Secretary of Agriculture, the  
18 Secretary of Commerce, the Secretary of Transpor-  
19 tation, the Administrator of the Environmental Pro-  
20 tection Agency, the Chief of the Corps of Engineers,  
21 and the head of any other Federal agency with re-  
22 sponsibilities related to permitting of Federal oil and  
23 gas leases, should enter into a memorandum of un-  
24 derstanding establishing respective duties and re-

1        responsibilities for staffing the regional offices and ac-  
2        complishing the objectives of this section;

3            (6) not later than 30 days after the date of  
4        signing of a memorandum pursuant to subsection  
5        (c), all Federal signatory agencies should assign to  
6        each regional office the appropriate employees with  
7        expertise in the oil and gas permitting issues relat-  
8        ing to that office, including with respect to—

9            (A) consultation and preparation of bio-  
10        logical opinions under section 7 of the Endan-  
11        gered Species Act of 1973 (16 U.S.C. 1536);

12            (B) regulatory matters under the Clean  
13        Air Act (42 U.S.C. 7401 et seq.);

14            (C) planning under the National Forest  
15        Management Act of 1976 (16 U.S.C. 472a et  
16        seq.);

17            (D) the preparation of analyses under the  
18        National Environmental Policy Act of 1969 (42  
19        U.S.C. 4321 et seq.) (NEPA);

20            (E) the preparation of analyses and the  
21        issuance of approvals as required under the  
22        Coastal Zone Management Act (33 U.S.C. 1451  
23        et seq.);

1 (F) authorizations pursuant to the Marine  
2 Mammal Protection Act of 1972 (16 U.S.C.  
3 1361 et seq.);

4 (G) the issuance of permits as may be re-  
5 quired for the discharge of dredged or fill mate-  
6 rial into the waters of the United States, in-  
7 cluding wetlands, under section 404 of the Fed-  
8 eral Water Pollution Control Act (33 U.S.C.  
9 1344);

10 (H) applications for permits to drill under  
11 the Mineral Leasing Act (30 U.S.C. 181 et  
12 seq.);

13 (I) exploration plans and development and  
14 production plans and associated permits under  
15 the Outer Continental Shelf Lands Act (43  
16 U.S.C. 1331 et seq.); and

17 (J) to the maximum extent practicable, for  
18 purposes of this paragraph, Federal agencies  
19 should give preference to employees volun-  
20 teering for reassignment to the regional offices,  
21 and should offer incentives to attract and retain  
22 regional office employees, including retaining  
23 contract employees, rotational assignments, sal-  
24 ary incentives of up to 120 percent of an em-

1           employee's existing salary immediately prior to re-  
2           assignment, or any combination of strategies;

3           (7) each employee assigned pursuant to para-  
4           graph (6) should—

5                   (A) within 90 days after the date of as-  
6                   signment, report to the regional office to which  
7                   the employee is assigned;

8                   (B) be responsible for all issues relating to  
9                   the jurisdiction of the home office or agency of  
10                  the employee; and

11                  (C) participate as part of the team work-  
12                  ing on proposed oil and gas projects, planning,  
13                  and environmental analyses; and

14           (8) the Secretary should appoint a Regional  
15           Permit Coordinator to be located within each re-  
16           gional office established pursuant to this section,  
17           with full authority to act on behalf of the Secretary,  
18           and consistent with the purposes of this subtitle, the  
19           Regional Permit Coordinators should—

20                   (A) pursue interagency coordination and  
21                   cooperation in the processing of permits re-  
22                   quired to support oil and gas use authorizations  
23                   on Federal lands;

1 (B) maintain or enhance high standards of  
2 safety and environmental protection through  
3 improved coordination;

4 (C) achieve process streamlining and in-  
5 creased interagency efficiency, including elimi-  
6 nation of duplication between Federal and State  
7 agencies;

8 (D) seek improved information sharing and  
9 use, and an improved understanding of respec-  
10 tive agency mandates, roles, and responsibil-  
11 ities;

12 (E) provide a more consistent approach for  
13 the application of environmental science that  
14 will ensure environmental protection for all  
15 areas affected by outer Continental Shelf devel-  
16 opment, including Alaska; and

17 (F) establish mechanisms to enhance co-  
18 ordination with State agencies with expertise  
19 and responsibilities related to oil and gas use  
20 authorizations.

21 **SEC. 143. REVIEWS AND ACTIONS OF FEDERAL AGENCIES.**

22 (a) SCHEDULES FOR TIMELY PERMIT DECISION-  
23 MAKING.—

24 (1) NOTIFICATION OF APPLICANT.—Within 10  
25 days after the date on which the Secretary receives

1 any oil and gas permit application or amended appli-  
2 cation, the Secretary shall either notify the applicant  
3 that the application is complete or notify the appli-  
4 cant that information is missing and specify the in-  
5 formation that is required to be submitted for the  
6 application to be complete.

7 (2) CLASSIFICATION OF PERMIT.—Within 30  
8 days after notifying such a permit applicant that an  
9 application is complete, the Secretary, in consulta-  
10 tion with the permit applicant as necessary, shall de-  
11 termine and inform the Regional Permit Coordinator  
12 responsible for that project area whether the pro-  
13 posed permit is a class I, class II, or class III per-  
14 mit. The Regional Permit Coordinator shall as soon  
15 as possible, but in no event later than 30 days fol-  
16 lowing the Secretary's determination, establish a  
17 binding schedule to ensure the most expeditious pos-  
18 sible review and processing of the requested permit  
19 in accordance with this section.

20 (b) PERMIT CLASSES AND SCHEDULES.—

21 (1) CLASS I PERMITS.—An oil and gas permit  
22 shall be designated as a class I permit under this  
23 section if the permitted activity is of a nature that  
24 would typically require preparation of an environ-  
25 mental impact statement under the National Envi-

1       ronmental Policy Act of 1969 to inform the permit-  
2       ting decision. For such permits, the Regional Permit  
3       Coordinator shall establish a schedule for timely  
4       completion of all permit reviews and processing, not  
5       to exceed 30 months. The Regional Permit Coordi-  
6       nator shall make the schedule publicly available  
7       within 10 days after the schedule is established.

8               (2) CLASS II PERMITS.—An oil and gas permit  
9       shall be designated as a class II permit under this  
10      section if the permitted activity is of a nature that  
11      would typically be found not to significantly affect  
12      the quality of the human environment under the Na-  
13      tional Environmental Policy Act of 1969. For such  
14      permits, the Regional Permit Coordinator shall es-  
15      tablish the most expeditious schedule possible for  
16      completion of all permit reviews and processing, not  
17      to exceed 90 days. The Regional Permit Coordinator  
18      may grant a one-time extension of that schedule, not  
19      to exceed 60 days, upon a good cause showing that  
20      additional time is necessary to complete permit deci-  
21      sions. Not later than 15 days after establishing or  
22      extending any schedule for a class II permit, the Re-  
23      gional Permit Coordinator shall provide the permit  
24      applicant with the schedule.

1           (3) CLASS III PERMITS AND CATEGORICAL EX-  
2           CLUSIONS.—

3           (A) IN GENERAL.—Notwithstanding para-  
4           graphs (1) and (2), an oil and gas permit shall  
5           be designated as a class III permit under this  
6           section if the permitted activity either qualifies  
7           for a statutory or regulatory categorical exclu-  
8           sion under the National Environmental Policy  
9           Act of 1969 or if the requirements under the  
10          National Environmental Policy Act of 1969 and  
11          other applicable law for the permit have been  
12          completed within 30 days after the date of a  
13          complete application. For such permits, the per-  
14          mit shall be issued within 30 days after the  
15          date of a complete application.

16          (B) PURPOSE.—It is recognized that the  
17          purpose for issuing a categorical exclusion is to  
18          eliminate the need for unnecessary paperwork  
19          and effort under the National Environmental  
20          Policy Act of 1969 for categories of actions that  
21          normally do not warrant preparation of an envi-  
22          ronmental impact statement or environmental  
23          assessment.

24          (C) REBUTTABLE PRESUMPTION.—In the  
25          case of permits issued by the Bureau of Land



1 Management, the activities described in section  
2 390 of the Energy Policy Act of 2005 (42  
3 U.S.C. 15942) shall be entitled to a rebuttable  
4 presumption that a categorical exclusion shall  
5 apply if the activities are to be conducted pur-  
6 suant to the Mineral Leasing Act (30 U.S.C.  
7 181 et seq.), unless the Bureau shall have  
8 found extraordinary circumstances to exist as a  
9 result of a review conducted in accordance with  
10 43 CFR 46.20(e), 43 CFR 46.215, and chapter  
11 4 and appendix 5 of the Bureau of Land Man-  
12 agement NEPA Handbook, and shall have re-  
13 ported the findings of this review to the Re-  
14 gional Permit Coordinator within 30 days after  
15 the date of a complete application. If extraor-  
16 dinary circumstances exist in relation to the ac-  
17 tivities being considered, then the application  
18 shall be eligible for a class I or class II permit  
19 as appropriate under this section.

20 (4) RECLASSIFICATION OF CLASS II PERMIT.—

21 If prior to the expiration of the established schedule  
22 for a class II permit newly discovered information  
23 indicates that the class II permit will significantly  
24 affect the quality of the human environment, the  
25 Secretary may, in consultation with the permit appli-

1 cant, reclassify the permit as a class I permit under  
2 paragraph (1), and the Regional Coordinator shall  
3 establish an amended schedule that complies with  
4 the provisions of that paragraph.

5 (c) DISPUTE RESOLUTION.—The Regional Permit  
6 Coordinator shall resolve all administrative issues that af-  
7 fect oil and gas permit reviews. The Regional Permit Coor-  
8 dinator shall report to the head of the relevant action  
9 agency, or his or her designee, for resolution of any issue  
10 regarding an oil and gas permit that may result in missing  
11 the schedule deadlines established pursuant to subsection  
12 (b). The Regional Permit Coordinators shall include data  
13 regarding the incidence and resolution of disputes under  
14 this subsection in their reports to the Secretary.

15 (d) REMEDIES.—

16 (1) IN GENERAL.—An applicant for a class I  
17 permit may bring a cause of action to seek expedited  
18 mandamus review, pursuant to the procedures in  
19 section 174, if a Regional Permit Coordinator or the  
20 Secretary fails to—

21 (A) establish a schedule in accordance with  
22 subsection (b);

23 (B) enforce and ensure completion of re-  
24 views within schedule deadlines; or

1           (C) take all actions as are necessary and  
2           proper to avoid jeopardizing the timely comple-  
3           tion of the entire schedule.

4           (2) FAILURE TO COMPLY WITH SCHEDULE.—If  
5           an agency fails to complete its review of and issue  
6           a decision upon a permit within the schedule estab-  
7           lished by the Court pursuant to section 174, that  
8           permit shall be deemed granted to the applicant.

9           (e) PROHIBITION OF CERTAIN TERMS AND CONDI-  
10          TIONS.—No Federal agency may include in any permit,  
11          right-of-way, or other authorization issued for an oil and  
12          gas project subject to the provisions of this subtitle, any  
13          term or condition that may be authorized, but is not re-  
14          quired, by the provisions of any applicable law, if such  
15          term or condition would prevent or impair in any signifi-  
16          cant respect completion of a permit review within the time  
17          schedule established pursuant to subsection (b) or would  
18          otherwise impair in any significant respect expeditious oil  
19          and gas development. No Regional Permit Coordinator  
20          shall have any authority to impose any terms, conditions,  
21          or requirements beyond those imposed by any Federal law,  
22          agency, regulation, or lease term.

23          (f) CONSOLIDATED RECORD.—The Secretary, acting  
24          through the appropriate Regional Permit Coordinator,  
25          with the cooperation of Federal and State administrative

1 officials and agencies, shall maintain a complete, consoli-  
2 dated record of all decisions made or actions taken by the  
3 Regional Permit Coordinators or by any Federal agency  
4 with respect to any oil and gas permit.

5 (g) FUNDING.—The Secretary shall carry out this  
6 section with amounts that are otherwise available for re-  
7 lated purposes.

8 **SEC. 144. LEAD AGENCY.**

9 (a) APPLICABILITY.—The provisions of this section  
10 apply pursuant to this Act only where a Priority Energy  
11 Project is subject to the jurisdiction of more than one Fed-  
12 eral agency or upon the election of the Priority Energy  
13 Project Developer.

14 (b) LEAD AGENCY.—The Federal Energy Regulatory  
15 Commission shall act as the lead agency for purposes of  
16 coordinating, reviewing, or otherwise granting any permit  
17 or authorization or other agency action regarding a Pri-  
18 ority Energy Project pursuant to this Act.

19 (c) AUTHORITY TO SET DEADLINES.—The Federal  
20 Energy Regulatory Commission, in consultation with other  
21 Federal agencies and, as appropriate, with Indian tribes,  
22 multi-State entities, and State agencies that are willing  
23 to coordinate their own separate permitting and environ-  
24 mental reviews with the lead agency, shall establish  
25 prompt and binding intermediate milestones and final

1 deadlines for the granting of permits or authorizations or  
2 other agency actions relating to the Priority Energy  
3 Project not later than 90 days following notification by  
4 a Priority Energy Project Developer that it is invoking  
5 the provisions of this section for its Priority Energy  
6 Project.

7       (d) REQUIREMENT TO MEET DEADLINES.—All Fed-  
8 eral agencies shall meet the deadlines established under  
9 subsection (c) and cooperate fully with the Federal Energy  
10 Regulatory Commission in its capacity as lead agency pur-  
11 suant to this Act. In the event an agency fails to act in  
12 accordance with a final deadline established pursuant to  
13 subsection (c) regarding a Priority Energy Project, the  
14 permit or authorization or other agency action shall be  
15 deemed granted and approved.

16       (e) APPEALS.—As lead agency, the Federal Energy  
17 Regulatory Commission shall hear all agency appeals in  
18 lieu of an affected agency regarding a Priority Energy  
19 Project and in hearing such appeals is authorized to re-  
20 mand, reverse, or revise any agency decision.

21       (f) CONSOLIDATED RECORD.—As lead agency, the  
22 Federal Energy Regulatory Commission, in consultation  
23 with other Federal agencies, shall prepare a single envi-  
24 ronmental review document, which shall be used as the  
25 basis for all decisions regarding the Priority Energy

1 Project under Federal law. The document may be an envi-  
2 ronmental assessment or environmental impact statement  
3 under the National Environmental Policy Act of 1969 (42  
4 U.S.C. 4321 et seq.), if warranted, or such other form  
5 of analysis.

6 (g) RESOURCES.—All Federal agencies are required,  
7 upon request of the Federal Energy Regulatory Commis-  
8 sion, as lead agency, to allocate personnel and other re-  
9 sources to assist it in fulfilling its obligations under this  
10 section.

11 (h) RELATIONSHIP TO NEPA AND ENERGY POLICY  
12 ACT OF 2005.—

13 (1) IN GENERAL.—Section 390(a) of the En-  
14 ergy Policy Act of 2005 (42 U.S.C. 15942(a)) is  
15 amended—

16 (A) by striking “rebuttable presumption  
17 that the use of a”; and

18 (B) by striking “would apply”.

19 (2) MINERAL LEASING ACT.—Section 17(p) of  
20 the Mineral Leasing Act (30 U.S.C. 226(p)) is re-  
21 pealed.

22 (i) ADDITIONAL POWERS AND RESPONSIBILITIES.—

23 (1) REGIONAL PERMIT COORDINATOR RE-  
24 PORTS.—The Regional Permit Coordinators shall  
25 each submit a report to the Secretary by December

1 31 of each year that documents each office's per-  
2 formance in meeting the objectives under this sub-  
3 title, including recommendations to further stream-  
4 line the permitting process.

5 (2) REDIRECTION OF PRIORITIES OR RE-  
6 SOURCES.—In order to expedite overall permitting  
7 activity, the Secretary may redirect the priority of  
8 regional office activities or the allocation of re-  
9 sources among such offices, and shall engage the  
10 agencies that are parties to the memorandum of un-  
11 derstanding under section 142(e) to the extent such  
12 adjustments implicate their respective staffs or re-  
13 sources.

14 (3) REPORT TO CONGRESS.—Beginning 3 years  
15 after the date of enactment of this Act, the Sec-  
16 retary shall prepare and submit a report to the  
17 President and Congress by April 15 of each year  
18 that outlines the results achieved under this subtitle  
19 and makes recommendations to the President and  
20 Congress for further improvements in processing oil  
21 and gas permits on Federal lands.

22 **SEC. 145. CONGRESSIONAL REVIEW OF AGENCY RULE-**  
23 **MAKING.**

24 Chapter 8 of title 5, United States Code, is amended  
25 to read as follows:

1    **“CHAPTER 8—CONGRESSIONAL REVIEW**  
2                   **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

3    **“§ 801. Congressional review**

4           “(a)(1)(A) Before a rule may take effect, the Federal  
5 agency promulgating such rule shall submit to each House  
6 of the Congress and to the Comptroller General a report  
7 containing—

8                   “(i) a copy of the rule;

9                   “(ii) a concise general statement relating to the  
10 rule;

11                   “(iii) a classification of the rule as a major or  
12 nonmajor rule, including an explanation of the clas-  
13 sification specifically addressing each criteria for a  
14 major rule contained within sections 804(2)(A),  
15 804(2)(B), and 804(2)(C);

16                   “(iv) a list of any other related regulatory ac-  
17 tions intended to implement the same statutory pro-  
18 vision or regulatory objective as well as the indi-  
19 vidual and aggregate economic effects of those ac-  
20 tions; and

21                   “(v) the proposed effective date of the rule.



1       “(B) On the date of the submission of the report  
2 under subparagraph (A), the Federal agency promulgating  
3 the rule shall submit to the Comptroller General and make  
4 available to each House of Congress—

5           “(i) a complete copy of the cost-benefit analysis  
6 of the rule, if any, including an analysis of any jobs  
7 added or lost, differentiating between public and pri-  
8 vate sector jobs;

9           “(ii) the agency’s actions pursuant to sections  
10 603, 604, 605, 607, and 609 of this title;

11          “(iii) the agency’s actions pursuant to sections  
12 202, 203, 204, and 205 of the Unfunded Mandates  
13 Reform Act of 1995; and

14          “(iv) any other relevant information or require-  
15 ments under any other Act and any relevant Execu-  
16 tive orders.

17       “(C) Upon receipt of a report submitted under sub-  
18 paragraph (A), each House shall provide copies of the re-  
19 port to the chairman and ranking member of each stand-  
20 ing committee with jurisdiction under the rules of the  
21 House of Representatives or the Senate to report a bill  
22 to amend the provision of law under which the rule is  
23 issued.

24       “(2)(A) The Comptroller General shall provide a re-  
25 port on each major rule to the committees of jurisdiction

1 by the end of 15 calendar days after the submission or  
2 publication date as provided in section 802(b)(2). The re-  
3 port of the Comptroller General shall include an assess-  
4 ment of the agency's compliance with procedural steps re-  
5 quired by paragraph (1)(B).

6 “(B) Federal agencies shall cooperate with the Comp-  
7 troller General by providing information relevant to the  
8 Comptroller General's report under subparagraph (A).

9 “(3) A major rule relating to a report submitted  
10 under paragraph (1) shall take effect upon enactment of  
11 a joint resolution of approval described in section 802 or  
12 as provided for in the rule following enactment of a joint  
13 resolution of approval described in section 802, whichever  
14 is later.

15 “(4) A nonmajor rule shall take effect as provided  
16 by section 803 after submission to Congress under para-  
17 graph (1).

18 “(5) If a joint resolution of approval relating to a  
19 major rule is not enacted within the period provided in  
20 subsection (b)(2), then a joint resolution of approval relat-  
21 ing to the same rule may not be considered under this  
22 chapter in the same Congress by either the House of Rep-  
23 resentatives or the Senate.

1       “(b)(1) A major rule shall not take effect unless the  
2 Congress enacts a joint resolution of approval described  
3 under section 802.

4       “(2) If a joint resolution described in subsection (a)  
5 is not enacted into law by the end of 70 session days or  
6 legislative days, as applicable, beginning on the date on  
7 which the report referred to in section 801(a)(1)(A) is re-  
8 ceived by Congress (excluding days either House of Con-  
9 gress is adjourned for more than 3 days during a session  
10 of Congress), then the rule described in that resolution  
11 shall be deemed not to be approved and such rule shall  
12 not take effect.

13       “(c)(1) Notwithstanding any other provision of this  
14 section (except subject to paragraph (3)), a major rule  
15 may take effect for one 90-calendar-day period if the  
16 President makes a determination under paragraph (2) and  
17 submits written notice of such determination to the Con-  
18 gress.

19       “(2) Paragraph (1) applies to a determination made  
20 by the President by Executive order that the major rule  
21 should take effect because such rule is—

22               “(A) necessary because of an imminent threat  
23 to health or safety or other emergency;

24               “(B) necessary for the enforcement of criminal  
25 laws;

1           “(C) necessary for national security; or

2           “(D) issued pursuant to any statute imple-  
3           menting an international trade agreement.

4           “(3) An exercise by the President of the authority  
5           under this subsection shall have no effect on the proce-  
6           dures under section 802.

7           “(d)(1) In addition to the opportunity for review oth-  
8           erwise provided under this chapter, in the case of any rule  
9           for which a report was submitted in accordance with sub-  
10          section (a)(1)(A) during the period beginning on the date  
11          occurring—

12           “(A) in the case of the Senate, 60 session days,  
13          or

14           “(B) in the case of the House of Representa-  
15          tives, 60 legislative days,

16          before the date the Congress is scheduled to adjourn a  
17          session of Congress through the date on which the same  
18          or succeeding Congress first convenes its next session, sec-  
19          tions 802 and 803 shall apply to such rule in the suc-  
20          ceeding session of Congress.

21          “(2)(A) In applying sections 802 and 803 for pur-  
22          poses of such additional review, a rule described under  
23          paragraph (1) shall be treated as though—

24           “(i) such rule were published in the Federal  
25          Register on—

1 “(I) in the case of the Senate, the 15th  
2 session day, or

3 “(II) in the case of the House of Rep-  
4 resentatives, the 15th legislative day,  
5 after the succeeding session of Congress first con-  
6 venes; and

7 “(ii) a report on such rule were submitted to  
8 Congress under subsection (a)(1) on such date.

9 “(B) Nothing in this paragraph shall be construed  
10 to affect the requirement under subsection (a)(1) that a  
11 report shall be submitted to Congress before a rule can  
12 take effect.

13 “(3) A rule described under paragraph (1) shall take  
14 effect as otherwise provided by law (including other sub-  
15 sections of this section).

16 **“§ 802. Congressional approval procedure for major**  
17 **rules**

18 “(a)(1) For purposes of this section, the term ‘joint  
19 resolution’ means only a joint resolution addressing a re-  
20 port classifying a rule as major pursuant to section  
21 801(a)(1)(A)(iii) that—

22 “(A) bears no preamble;

23 “(B) bears the following title (with blanks filled  
24 as appropriate): ‘Approving the rule submitted by  
25 \_\_\_\_\_ relating to \_\_\_\_\_.’;

1           “(C) includes after its resolving clause only the  
2 following (with blanks filled as appropriate): ‘That  
3 Congress approves the rule submitted by \_\_\_\_\_ re-  
4 lating to \_\_\_\_\_.’; and

5           “(D) is introduced pursuant to paragraph (2).

6           “(2) After a House of Congress receives a report  
7 classifying a rule as major pursuant to section  
8 801(a)(1)(A)(iii), the majority leader of that House (or  
9 his or her respective designee) shall introduce (by request,  
10 if appropriate) a joint resolution described in paragraph  
11 (1)—

12           “(A) in the case of the House of Representa-  
13 tives, within three legislative days; and

14           “(B) in the case of the Senate, within three ses-  
15 sion days.

16           “(3) A joint resolution described in paragraph (1)  
17 shall not be subject to amendment at any stage of pro-  
18 ceeding.

19           “(b) A joint resolution described in subsection (a)  
20 shall be referred in each House of Congress to the commit-  
21 tees having jurisdiction over the provision of law under  
22 which the rule is issued.

23           “(c) In the Senate, if the committee or committees  
24 to which a joint resolution described in subsection (a) has  
25 been referred have not reported it at the end of 15 session

1 days after its introduction, such committee or committees  
2 shall be automatically discharged from further consider-  
3 ation of the resolution and it shall be placed on the cal-  
4 endar. A vote on final passage of the resolution shall be  
5 taken on or before the close of the 15th session day after  
6 the resolution is reported by the committee or committees  
7 to which it was referred, or after such committee or com-  
8 mittees have been discharged from further consideration  
9 of the resolution.

10       “(d)(1) In the Senate, when the committee or com-  
11 mittees to which a joint resolution is referred have re-  
12 ported, or when a committee or committees are discharged  
13 (under subsection (c)) from further consideration of a  
14 joint resolution described in subsection (a), it is at any  
15 time thereafter in order (even though a previous motion  
16 to the same effect has been disagreed to) for a motion  
17 to proceed to the consideration of the joint resolution, and  
18 all points of order against the joint resolution (and against  
19 consideration of the joint resolution) are waived. The mo-  
20 tion is not subject to amendment, or to a motion to post-  
21 pone, or to a motion to proceed to the consideration of  
22 other business. A motion to reconsider the vote by which  
23 the motion is agreed to or disagreed to shall not be in  
24 order. If a motion to proceed to the consideration of the  
25 joint resolution is agreed to, the joint resolution shall re-

1 main the unfinished business of the Senate until disposed  
2 of.

3 “(2) In the Senate, debate on the joint resolution,  
4 and on all debatable motions and appeals in connection  
5 therewith, shall be limited to not more than 2 hours, which  
6 shall be divided equally between those favoring and those  
7 opposing the joint resolution. A motion to further limit  
8 debate is in order and not debatable. An amendment to,  
9 or a motion to postpone, or a motion to proceed to the  
10 consideration of other business, or a motion to recommit  
11 the joint resolution is not in order.

12 “(3) In the Senate, immediately following the conclu-  
13 sion of the debate on a joint resolution described in sub-  
14 section (a), and a single quorum call at the conclusion of  
15 the debate if requested in accordance with the rules of the  
16 Senate, the vote on final passage of the joint resolution  
17 shall occur.

18 “(4) Appeals from the decisions of the Chair relating  
19 to the application of the rules of the Senate to the proce-  
20 dure relating to a joint resolution described in subsection  
21 (a) shall be decided without debate.

22 “(e) In the House of Representatives, if any com-  
23 mittee to which a joint resolution described in subsection  
24 (a) has been referred has not reported it to the House  
25 at the end of 15 legislative days after its introduction,



1 such committee shall be discharged from further consider-  
2 ation of the joint resolution, and it shall be placed on the  
3 appropriate calendar. On the second and fourth Thursdays  
4 of each month it shall be in order at any time for the  
5 Speaker to recognize a Member who favors passage of a  
6 joint resolution that has appeared on the calendar for at  
7 least 5 legislative days to call up that joint resolution for  
8 immediate consideration in the House without intervention  
9 of any point of order. When so called up a joint resolution  
10 shall be considered as read and shall be debatable for 1  
11 hour equally divided and controlled by the proponent and  
12 an opponent, and the previous question shall be considered  
13 as ordered to its passage without intervening motion. It  
14 shall not be in order to reconsider the vote on passage.  
15 If a vote on final passage of the joint resolution has not  
16 been taken by the third Thursday on which the Speaker  
17 may recognize a Member under this subsection, such vote  
18 shall be taken on that day.

19       “(f)(1) If, before passing a joint resolution described  
20 in subsection (a), one House receives from the other a  
21 joint resolution having the same text, then—

22               “(A) the joint resolution of the other House  
23 shall not be referred to a committee; and

24               “(B) the procedure in the receiving House shall  
25 be the same as if no joint resolution had been re-

1       ceived from the other House until the vote on pas-  
2       sage, when the joint resolution received from the  
3       other House shall supplant the joint resolution of  
4       the receiving House.

5       “(2) This subsection shall not apply to the House of  
6       Representatives if the joint resolution received from the  
7       Senate is a revenue measure.

8       “(g) If either House has not taken a vote on final  
9       passage of the joint resolution by the last day of the period  
10      described in section 801(b)(2), then such vote shall be  
11      taken on that day.

12      “(h) This section and section 803 are enacted by  
13      Congress—

14              “(1) as an exercise of the rulemaking power of  
15      the Senate and House of Representatives, respec-  
16      tively, and as such is deemed to be part of the rules  
17      of each House, respectively, but applicable only with  
18      respect to the procedure to be followed in that  
19      House in the case of a joint resolution described in  
20      subsection (a) and superseding other rules only  
21      where explicitly so; and

22              “(2) with full recognition of the Constitutional  
23      right of either House to change the rules (so far as  
24      they relate to the procedure of that House) at any

1           time, in the same manner and to the same extent as  
2           in the case of any other rule of that House.

3   **“§ 803. Congressional disapproval procedure for**  
4                           **nonmajor rules**

5           “(a) For purposes of this section, the term ‘joint res-  
6   olution’ means only a joint resolution introduced in the  
7   period beginning on the date on which the report referred  
8   to in section 801(a)(1)(A) is received by Congress and  
9   ending 60 days thereafter (excluding days either House  
10   of Congress is adjourned for more than 3 days during a  
11   session of Congress), the matter after the resolving clause  
12   of which is as follows: ‘That Congress disapproves the  
13   nonmajor rule submitted by the \_\_\_\_\_ relating to  
14   \_\_\_\_\_, and such rule shall have no force or effect.’ (The  
15   blank spaces being appropriately filled in).

16           “(b)(1) A joint resolution described in subsection (a)  
17   shall be referred to the committees in each House of Con-  
18   gress with jurisdiction.

19           “(2) For purposes of this section, the term submis-  
20   sion or publication date means the later of the date on  
21   which—

22                   “(A) the Congress receives the report submitted  
23                   under section 801(a)(1); or

24                   “(B) the nonmajor rule is published in the Fed-  
25                   eral Register, if so published.

1       “(c) In the Senate, if the committee to which is re-  
2       ferred a joint resolution described in subsection (a) has  
3       not reported such joint resolution (or an identical joint  
4       resolution) at the end of 15 session days after the date  
5       of introduction of the joint resolution, such committee may  
6       be discharged from further consideration of such joint res-  
7       olution upon a petition supported in writing by 30 Mem-  
8       bers of the Senate, and such joint resolution shall be  
9       placed on the calendar.

10       “(d)(1) In the Senate, when the committee to which  
11       a joint resolution is referred has reported, or when a com-  
12       mittee is discharged (under subsection (c)) from further  
13       consideration of a joint resolution described in subsection  
14       (a), it is at any time thereafter in order (even though a  
15       previous motion to the same effect has been disagreed to)  
16       for a motion to proceed to the consideration of the joint  
17       resolution, and all points of order against the joint resolu-  
18       tion (and against consideration of the joint resolution) are  
19       waived. The motion is not subject to amendment, or to  
20       a motion to postpone, or to a motion to proceed to the  
21       consideration of other business. A motion to reconsider the  
22       vote by which the motion is agreed to or disagreed to shall  
23       not be in order. If a motion to proceed to the consideration  
24       of the joint resolution is agreed to, the joint resolution

1 shall remain the unfinished business of the Senate until  
2 disposed of.

3 “(2) In the Senate, debate on the joint resolution,  
4 and on all debatable motions and appeals in connection  
5 therewith, shall be limited to not more than 10 hours,  
6 which shall be divided equally between those favoring and  
7 those opposing the joint resolution. A motion to further  
8 limit debate is in order and not debatable. An amendment  
9 to, or a motion to postpone, or a motion to proceed to  
10 the consideration of other business, or a motion to recom-  
11 mit the joint resolution is not in order.

12 “(3) In the Senate, immediately following the conclu-  
13 sion of the debate on a joint resolution described in sub-  
14 section (a), and a single quorum call at the conclusion of  
15 the debate if requested in accordance with the rules of the  
16 Senate, the vote on final passage of the joint resolution  
17 shall occur.

18 “(4) Appeals from the decisions of the Chair relating  
19 to the application of the rules of the Senate to the proce-  
20 dure relating to a joint resolution described in subsection  
21 (a) shall be decided without debate.

22 “(e) In the Senate the procedure specified in sub-  
23 section (e) or (d) shall not apply to the consideration of  
24 a joint resolution respecting a nonmajor rule—

1           “(1) after the expiration of the 60 session days  
2 beginning with the applicable submission or publica-  
3 tion date, or

4           “(2) if the report under section 801(a)(1)(A)  
5 was submitted during the period referred to in sec-  
6 tion 801(d)(1), after the expiration of the 60 session  
7 days beginning on the 15th session day after the  
8 succeeding session of Congress first convenes.

9           “(f) If, before the passage by one House of a joint  
10 resolution of that House described in subsection (a), that  
11 House receives from the other House a joint resolution  
12 described in subsection (a), then the following procedures  
13 shall apply:

14           “(1) The joint resolution of the other House  
15 shall not be referred to a committee.

16           “(2) With respect to a joint resolution described  
17 in subsection (a) of the House receiving the joint  
18 resolution—

19           “(A) the procedure in that House shall be  
20 the same as if no joint resolution had been re-  
21 ceived from the other House; but

22           “(B) the vote on final passage shall be on  
23 the joint resolution of the other House.

24 **“§ 804. Definitions**

25           “For purposes of this chapter—

1           “(1) The term ‘Federal agency’ means any  
2 agency as that term is defined in section 551(1).

3           “(2) The term ‘major rule’ means any rule, in-  
4 cluding an interim final rule, that the Administrator  
5 of the Office of Information and Regulatory Affairs  
6 of the Office of Management and Budget finds has  
7 resulted in or is likely to result in—

8                   “(A) an annual effect on the economy of  
9 \$100,000,000 or more;

10                   “(B) a major increase in costs or prices for  
11 consumers, individual industries, Federal,  
12 State, or local government agencies, or geo-  
13 graphic regions; or

14                   “(C) significant adverse effects on competi-  
15 tion, employment, investment, productivity, in-  
16 novation, or on the ability of United States-  
17 based enterprises to compete with foreign-based  
18 enterprises in domestic and export markets.

19           “(3) The term ‘nonmajor rule’ means any rule  
20 that is not a major rule.

21           “(4) The term ‘rule’ has the meaning given  
22 such term in section 551, except that such term does  
23 not include—

24                   “(A) any rule of particular applicability,  
25 including a rule that approves or prescribes for

1 the future rates, wages, prices, services, or al-  
2 lowances therefore, corporate or financial struc-  
3 tures, reorganizations, mergers, or acquisitions  
4 thereof, or accounting practices or disclosures  
5 bearing on any of the foregoing;

6 “(B) any rule relating to agency manage-  
7 ment or personnel; or

8 “(C) any rule of agency organization, pro-  
9 cedure, or practice that does not substantially  
10 affect the rights or obligations of non-agency  
11 parties.

12 **“§ 805. Judicial review**

13 “(a) No determination, finding, action, or omission  
14 under this chapter shall be subject to judicial review.

15 “(b) Notwithstanding subsection (a), a court may de-  
16 termine whether a Federal agency has completed the nec-  
17 essary requirements under this chapter for a rule to take  
18 effect.

19 “(c) The enactment of a joint resolution of approval  
20 under section 802 shall not be interpreted to serve as a  
21 grant or modification of statutory authority by Congress  
22 for the promulgation of a rule, shall not extinguish or af-  
23 fect any claim, whether substantive or procedural, against  
24 any alleged defect in a rule, and shall not form part of  
25 the record before the court in any judicial proceeding con-



1 cerning a rule except for purposes of determining whether  
2 or not the rule is in effect.

3 **“§ 806. Exemption for monetary policy**

4 “Nothing in this chapter shall apply to rules that con-  
5 cern monetary policy proposed or implemented by the  
6 Board of Governors of the Federal Reserve System or the  
7 Federal Open Market Committee.

8 **“§ 807. Effective date of certain rules**

9 “Notwithstanding section 801—

10 “(1) any rule that establishes, modifies, opens,  
11 closes, or conducts a regulatory program for a com-  
12 mercial, recreational, or subsistence activity related  
13 to hunting, fishing, or camping; or

14 “(2) any rule other than a major rule which an  
15 agency for good cause finds (and incorporates the  
16 finding and a brief statement of reasons therefore in  
17 the rule issued) that notice and public procedure  
18 thereon are impracticable, unnecessary, or contrary  
19 to the public interest,

20 shall take effect at such time as the Federal agency pro-  
21 mulgating the rule determines.”.

22 **SEC. 146. STATE COORDINATION REGARDING FEDERAL OIL**  
23 **AND GAS PERMITTING.**

24 (a) IN GENERAL.—The Secretary shall invite the  
25 Governor of any State wherein an oil and gas operation

1 may require a Federal permit, or the coastline of which  
2 is in immediate geographic proximity to oil and gas oper-  
3 ations on the outer Continental Shelf, to be a signatory  
4 to the memorandum under section 142(c) for purposes of  
5 fulfilling any State responsibilities with respect to Federal  
6 oil and gas permitting decisions. The Regional Permit Co-  
7 ordinators shall facilitate and coordinate concurrent State  
8 reviews of requested permits for oil and gas projects on  
9 the outer Continental Shelf.

10 (b) COOPERATIVE AGREEMENTS.—The Secretary  
11 may enter into cooperative agreements with affected  
12 States for purposes of this section, consistent with this  
13 title and other applicable Federal law. Such agreements  
14 may include the sharing of information, the joint utiliza-  
15 tion of available expertise, the facilitating of permitting  
16 procedures, joint planning and review, and the formation  
17 of joint surveillance and monitoring arrangements to carry  
18 out applicable Federal and State laws, regulations, and  
19 stipulations relevant to oil and gas operations that may  
20 be carried out pursuant to this title.

21 **SEC. 147. STATE CONSULTATION.**

22 A Federal agency with jurisdiction over a Priority  
23 Energy Project may delegate to the State in which the  
24 Priority Energy Project is located the Federal agency's  
25 responsibilities for environmental reviews, consultations,

1 or decisions or other actions required under any Federal  
2 law regarding the Priority Energy Project. After authority  
3 is delegated under this section to a State it may be re-  
4 voked only by an Act of Congress. The Federal agency  
5 may provide financial and other forms of assistance to  
6 States, multistate entities, and Indian tribes to facilitate  
7 the coordination and delegation under this section.

8 **SEC. 148. SAVINGS PROVISION.**

9 Except as expressly stated, nothing in this subtitle  
10 affects—

11 (1) the applicability of any Federal or State  
12 law; or

13 (2) any delegation of authority made by the  
14 head of a Federal agency the employees of which are  
15 participating in the implementation of this subtitle.

16 **SEC. 149. REVIEW OF AGENCY PERMITTING DECISIONS.**

17 (a) ADMINISTRATIVE REVIEW.—Any oil and gas per-  
18 mitting decision for Federal lands onshore or on the outer  
19 Continental Shelf under this subtitle shall not be subject  
20 to further administrative review within the respective Fed-  
21 eral agency responsible for that decision, and shall be the  
22 final decision of that agency for purposes of judicial re-  
23 view.

24 (b) JUDICIAL REVIEW.—Any oil and gas permitting  
25 decision for Federal lands onshore or on the outer Conti-

1 mental Shelf under this subtitle shall be subject to judicial  
2 review only in accordance with section 174.

3 **SEC. 150. DEADLINE FOR DECISION ON AGENCY APPEALS.**

4 (a) DEADLINE FOR DECISION.—Not later than 120  
5 days after the date of the filing of an appeal by a Priority  
6 Energy Project Developer, the agency shall issue a final  
7 decision.

8 (b) FAILURE TO ACT.—In the event the agency fails  
9 to meet the deadline of this section, the appeal shall be  
10 decided in favor of the Priority Energy Project Developer.

11 **Subtitle E—Prohibition on New**  
12 **Wilderness or Wilderness Study**  
13 **Areas on Lands Administered by**  
14 **the BLM Without Congressional**  
15 **Approval; Indian Land Develop-**  
16 **ment**

17 **SEC. 161. REPEAL OF EXECUTIVE ORDER.**

18 The Bureau of Land Management shall not imple-  
19 ment, administer, or enforce Secretarial Order No. 3310,  
20 issued by the Secretary of the Interior on December 22,  
21 2010, except by Congressional approval.

22 **SEC. 162. WILDERNESS DESIGNATION PROCEDURES.**

23 (a) PRECONDITION TO DESIGNATION.—The Sec-  
24 retary of the Interior may not designate or issue a rec-  
25 ommendation to designate a wilderness or wilderness

1 study area as “Wild Lands”, “Wilderness”, or any other  
2 protective designation on lands administered by the Bu-  
3 reau of Land Management before the last day of the 30-  
4 day period beginning on the date on which the Secretary  
5 provides a description and map of the land proposed to  
6 be so designated to Congress and to the Governor of each  
7 State with jurisdiction over parcels of land located within  
8 the boundaries of the area proposed to be designated.

9 (b) PUBLIC PARTICIPATION.—

10 (1) PUBLIC HEARING REQUIREMENT.—

11 (A) IN GENERAL.—Subject to subpara-  
12 graph (D), not later than 90 days after the  
13 date on which the Secretary of Interior issues  
14 a recommendation under subsection (a), the  
15 Secretary shall hold not fewer than one public  
16 hearing within a county (or comparable unit of  
17 local government) located wholly or in part  
18 within the boundaries of the proposed wilder-  
19 ness or wilderness study area. The Secretary  
20 shall ensure that all interested individuals are  
21 afforded an opportunity to participate in a  
22 hearing held under this paragraph.

23 (B) COMMENTS.—The Secretary of the In-  
24 terior shall solicit comments from the public at  
25 a hearing held under subparagraph (A), and

1 shall enter all comments received at or related  
2 to such hearing into the record of the hearing.

3 (C) AVAILABILITY OF RECORD.—The Sec-  
4 retary of the Interior shall promptly make the  
5 record of a hearing held under subparagraph  
6 (A), including a transcript of the hearing, avail-  
7 able to the public on the Internet or by other  
8 electronic means. The Secretary shall ensure  
9 that any components of the record that are  
10 completed before the entire record is finalized  
11 are made available upon their completion.

12 (D) WAIVER.—The Secretary of the Inte-  
13 rior may decline to hold a public hearing under  
14 subparagraph (A) if each unit of local govern-  
15 ment located wholly or in part within the  
16 boundaries of the national monument expressly  
17 waives the right to such hearing.

18 (2) NOTICE AND COMMENT PERIOD REQUIRE-  
19 MENT.—Not later than 30 days after the date on  
20 which Secretary of Interior issues a recommendation  
21 under subsection (a), the Secretary shall initiate a  
22 notice and comment period to receive comments  
23 from the public regarding the recommendation.

24 (3) REPORT.—

1 (A) CONTENTS.—Not later than one year  
2 after issuing a recommendation to designate a  
3 wilderness or wilderness study area under sub-  
4 section (a), the Secretary shall submit to Con-  
5 gress a report containing the following:

6 (i) An analysis of the economic impact  
7 of the designation on the communities  
8 within 100 miles of the boundaries of the  
9 proposed wilderness or wilderness study  
10 area, including an estimate of the tax reve-  
11 nues that will be lost to, or gained for, the  
12 Federal, State, and local governments as a  
13 result of the designation.

14 (ii) An analysis of the impact the des-  
15 ignation will have on the Nation's energy  
16 security, including the effects of the loss of  
17 sites to produce wind, geothermal, or solar  
18 energy, and the number of barrels of oil,  
19 tons of coal, or cubic feet of natural gas  
20 that will become unavailable as a result of  
21 the designation.

22 (iii) The projected impact of the des-  
23 ignation on interests, rights, and uses as-  
24 sociated with the parcels of land within the  
25 boundaries of the monument, including

1 water rights, hunting, recreational shoot-  
2 ing, grazing, timber production, vegetation  
3 manipulation to maintain forest health,  
4 off-road vehicle use, hiking, horseback  
5 riding, and mineral and energy leases,  
6 claims, and permits.

7 (iv) The record of any hearings held  
8 under paragraph (1).

9 (v) Any written comments received  
10 during the notice and comment period con-  
11 ducted under paragraph (2).

12 (B) PUBLICATION.—The Secretary of Inte-  
13 rior shall ensure that—

14 (i) a report submitted to Congress  
15 under subparagraph (A) is published on  
16 the Department of Interior Web site upon  
17 completion; and

18 (ii) any components of the report that  
19 are completed before the entire report is fi-  
20 nalized and submitted to Congress are  
21 published on the Department of Interior  
22 Web site upon their completion.

23 (4) IMPLEMENTATION GUIDELINES.—The Sec-  
24 retary of the Interior, in cooperation with the States,



1 shall develop and publish guidelines to provide for  
2 the implementation of subsection.

3 (c) CONGRESSIONAL APPROVAL OF DESIGNATION.—

4 (1) APPROVAL REQUIRED.—A designation  
5 issued under subsection (a) shall cease to be effec-  
6 tive following the last day of the 2-year period begin-  
7 ning on the date on which the Secretary of Interior  
8 issued the designation, unless the report is approved  
9 by an Act of Congress on or before that last day.

10 (2) MANAGEMENT OF LAND BEFORE AP-  
11 PROVAL.—During the period between the issuance of  
12 the report described in subsection (b)(3) and con-  
13 gressional approval described above, the Secretary of  
14 Interior shall ensure that any restriction placed on  
15 land and interests, rights, or uses associated with  
16 the parcels of land designated as a national monu-  
17 ment, including water rights, hunting, recreational  
18 shooting, grazing, timber production, vegetation ma-  
19 nipulation to maintain forest health, off-road vehicle  
20 use, hiking, horseback riding, and mineral and en-  
21 ergy leases, claims, and permits, is narrowly tailored  
22 and essential to the proper care and management of  
23 the objects to be protected.

24 (3) EFFECT OF NONAPPROVAL.—If Congress  
25 does not approve the report, any reservation of land

1       made by the report, and any restriction imposed as  
2       a result of the report on interests, rights, or uses as-  
3       sociated with the parcels of land, shall cease to be  
4       effective following the last day of the 2-year period  
5       referred to in paragraph (1).

6       **SEC. 163. FUTURE EXECUTIVE BRANCH ACTIONS.**

7       (a) EFFECTIVENESS.—Upon enactment of this Act,  
8       no executive branch action that withdraws more than 100  
9       acres, in the aggregate, of public lands within the United  
10      States pursuant to the Antiquities Act of 1906 (16 U.S.C.  
11      431 et seq.) or any other relevant authority shall be effec-  
12      tive except by compliance with this section. The provisions  
13      of this subsection shall apply to executive branch actions  
14      that withdraw less than 100 acres of public land where  
15      such withdrawals are located within 100 miles of any other  
16      withdrawal of public lands.

17      (b) WITHDRAWAL.—To the extent authorized by ex-  
18      isting law, the President or the relevant head of an agency  
19      may withdraw public lands in the United States provided  
20      that such withdrawal shall not be effective until notice is  
21      provided in the Federal Register and to the House of Rep-  
22      resentatives and the Senate. Such withdrawal shall termi-  
23      nate unless approved by a Federal statute not later than  
24      one year after the notice of such withdrawal has been sub-  
25      mitted to Congress.

1           (c) LIMITATION.—If Congress fails to pass an Act ap-  
2 proving a withdrawal under subsection (b), the President  
3 or the relevant head of an agency shall be prohibited from  
4 withdrawing such land or a similar area of public lands  
5 until at least 5 years after the end of the time period de-  
6 scribed in subsection (b).

7 **SEC. 164. LEASES FOR DEVELOPMENT OF NATURAL RE-**  
8 **SOURCES ON INDIAN LANDS.**

9           Subsection (a) of the first section of the Act to au-  
10 thorize the leasing of restricted Indian lands for public,  
11 religious, educational, recreational, residential, business,  
12 and other purposes requiring the grant of long-term leases  
13 (25 U.S.C. 415(a); commonly known as the “Long-term  
14 Leasing Act”) is amended by striking “including the de-  
15 velopment or utilization of natural resources in connection  
16 with operations under such leases” and inserting “except  
17 leases for the development or utilization of natural re-  
18 sources and leases in connection with operations under  
19 such leases, neither of which shall require Secretarial ap-  
20 proval under this section,”.

1 **Subtitle F—Legal Causes and**  
2 **Claims Pertaining to the Leas-**  
3 **ing and Development of Federal**  
4 **Lands for Exploration and Pro-**  
5 **duction of Oil, Natural Gas, As-**  
6 **sociated Hydrocarbons, and Oil**  
7 **Shale**

8 **SEC. 171. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC**  
9 **UNCONVENTIONAL FUELS.**

10 (a) JURISDICTION.—Upon enactment of this Act, the  
11 Federal Energy Regulatory Commission, in lieu of the De-  
12 partment of the Interior, shall be granted exclusive juris-  
13 diction and all relevant authority to implement and admin-  
14 ister the leasing program for research and development  
15 of oil shale and tar sands and all other programs and re-  
16 quirements contained in section 369 of the Energy Policy  
17 Act of 2005 (Public Law 109–58; 42 U.S.C. 15927).

18 (b) REGULATIONS.—Upon enactment of this Act and  
19 pursuant to paragraph (1), the Federal Energy Regu-  
20 latory Commission shall immediately stay all regulations  
21 and guidelines promulgated by the Department of the In-  
22 terior or any other agency under section 369 of the En-  
23 ergy Policy Act of 2005 and, notwithstanding any other  
24 law, publish proposed rules in the Federal Register not  
25 later than 6 months following enactment of this Act that

1 fully implement as expeditiously as practicable the provi-  
2 sions of such section 369. The Federal Energy Regulatory  
3 Commission shall publish final rules not later than 18  
4 months following enactment of this Act.

5 (c) RESOURCES.—The Federal Energy Regulatory  
6 Commission is authorized to request from the Department  
7 of the Interior and the Department of Energy any re-  
8 sources and personnel that it deems necessary to imple-  
9 ment and administer the provisions of this subsection, and  
10 the Department of the Interior and the Department of En-  
11 ergy are required to provide such resources and personnel  
12 as requested.

13 **SEC. 172. ENERGY PRODUCTION ON FEDERAL LANDS.**

14 (a) REQUIREMENT.—The Secretary of the Interior is  
15 directed to take sufficient actions to ensure that by Janu-  
16 ary 1, 2018, not less than 10 percent of the Federal outer  
17 Continental Shelf lands and not less than 10 percent of  
18 onshore Federal lands and interests in lands that are  
19 under the Secretary’s jurisdiction are being leased for the  
20 production of energy.

21 (b) AUTHORIZATION.—The Secretary of the Interior  
22 shall utilize all available authority pursuant to this Act  
23 and any other Federal law, as applicable, to comply with  
24 the requirement in subsection (a).

1 **SEC. 173. JURISDICTION.**

2 (a) **EXCLUSIVE JURISDICTION.**—Notwithstanding  
3 any other provision of law, including section 23(c)(2) of  
4 the Outer Continental Shelf Lands Act (43 U.S.C.  
5 1349(c)(2)), any final agency decision concerning any cov-  
6 ered oil and natural gas activity shall be subject to judicial  
7 review only in the United States District Court for the  
8 District of Columbia.

9 (b) **FINALITY OF LEASING DECISIONS.**—Notwith-  
10 standing the provisions of any law or regulation to the  
11 contrary, a decision by the Bureau of Land Management  
12 or the Minerals Management Service to issue a Final No-  
13 tice of Sale and proceed with an oil and gas lease sale  
14 pursuant to any authorizing leasing statute shall not be  
15 subject to further administrative review within the Depart-  
16 ment of the Interior, and shall be the final decision of the  
17 agency for purposes of judicial review.

18 (c) **EXPEDITED REVIEW.**—Section 390 of the Energy  
19 Policy Act of 2005 (42 U.S.C. 15942) is amended—

20 (1) by striking “be subject to a rebuttable pre-  
21 sumption that the use of” and inserting “apply”;  
22 and

23 (2) by striking “would apply”.

24 **SEC. 174. JUDICIAL REVIEW.**

25 (a) **IN GENERAL.**—

1           (1) EXCLUSIVE JURISDICTION.—The United  
2 States Court of Appeals for the circuit in which a  
3 Priority Energy Project is proposed to be con-  
4 structed, expanded, or operated shall have original  
5 and exclusive jurisdiction over the review of an order  
6 or action of a Federal agency or State administra-  
7 tive agency acting pursuant to Federal law to issue,  
8 condition, or deny any permit, license, concurrence,  
9 or approval (hereinafter in this section collectively  
10 referred to as a “permit”) required under Federal  
11 law.

12           (2) AGENCY DELAY.—The United States Court  
13 of Appeals for the District of Columbia shall have  
14 original and exclusive jurisdiction over the review of  
15 an alleged failure to act by a Federal agency or  
16 State administrative agency acting pursuant to Fed-  
17 eral law to issue, condition, or deny any permit re-  
18 quired under Federal law for a Priority Energy  
19 Project.

20           (3) COURT ACTION.—

21           (A) IN GENERAL.—The Court shall act as  
22 expeditiously as possible for all appeals under  
23 this section.

24           (B) REMAND.—If a Court finds that such  
25 order or action is inconsistent with the Federal

1 law governing such permit and would prevent  
2 the construction, expansion, or operation of the  
3 Priority Energy Project, the Court shall re-  
4 mand the proceeding to the agency to take ap-  
5 propriate action consistent with the order of the  
6 Court. If the Court remands the order or action  
7 to a Federal or State agency, the Court shall  
8 set as expeditious a schedule and deadline as  
9 possible for the agency to act on remand, and  
10 in any event shall allow not more than 90 days  
11 for agency action on remand.

12 (C) ATTORNEY'S FEES AND OTHER EX-  
13 PENSES.—Attorney's fees and other expenses of  
14 litigation shall be awarded to the prevailing  
15 party in actions challenging an agency action  
16 granting a permit for or otherwise authorizing  
17 a Priority Energy Project, but in no event shall  
18 a Priority Energy Project Developer be required  
19 to pay attorney's fees and other expenses of liti-  
20 gation to a prevailing party.

21 (4) APPEALS.—Appeals brought pursuant to  
22 this section may only be filed within 30 days of a  
23 final agency action regarding a permit.

24 (b) CITIZEN SUITS.—



1           (1) STANDING.—In any suit involving a Priority  
2 Energy Project brought under a citizen suit provi-  
3 sion under a Federal law, any fact material to the  
4 standing of the party bringing the suit that is in dis-  
5 pute shall be adjudicated by the Court prior to the  
6 adjudication of any other issue relating to the merits  
7 of the suit.

8           (2) PRESERVATION OF AGENCY DISCRETION.—

9           (A) NOTICE OF CITIZEN SUIT RE-  
10 QUIRED.—A party seeking to file a citizen suit  
11 pursuant to a Federal law involving a Priority  
12 Energy Project shall first notify in writing the  
13 relevant agency and the Priority Energy Project  
14 Developer of its intent to file a citizen suit, the  
15 claims it intends to bring, and all relevant stat-  
16 utory and regulatory provisions.

17           (B) DETERMINATION REQUIRED.—

18           (i) IN GENERAL.—Not later than 60  
19 days following receipt of such notice, the  
20 agency shall exercise discretion in deter-  
21 mining whether enforcement of the claims  
22 described in such notice are an appropriate  
23 use of agency resources.

24           (ii) DISMISSAL REQUIRED.—If the  
25 agency determines such claims are not an

1 appropriate use of agency resources, the  
2 citizen suit shall be not be considered au-  
3 thorized under relevant Federal law and if  
4 filed shall be immediately dismissed by the  
5 Court.

6 (iii) AGENCY RESPONSE REQUIRED.—

7 If the agency determines such claims are  
8 an appropriate use of agency resources, the  
9 agency shall have a period of 24 months to  
10 act in response to such claims, including  
11 by bringing an enforcement action or by  
12 consulting with the Priority Energy  
13 Project Developer, before the citizen suit  
14 shall be considered authorized under rel-  
15 evant Federal law. Upon the request of the  
16 Priority Energy Project Developer, the  
17 agency must allow for an additional 24  
18 months to act in response to such claims.

19 (C) CITIZEN SUIT AUTHORIZED.—After  
20 the 24 month period, or 48 month period, as  
21 applicable, described in subparagraph (B)(iii)  
22 has expired, if the agency publishes a notice in  
23 the Federal Register expressly stating that it  
24 declines to address the claims described by the  
25 party seeking to file a citizen suit as described

1           pursuant to subparagraph (A), then such party  
2           is authorized to file a citizen suit under relevant  
3           Federal law. The agency is prohibited from  
4           publishing such notice if the Priority Energy  
5           Project Developer has consulted with the agen-  
6           cy and taken remedial action regarding the  
7           claims contained in the notice described in  
8           paragraph (A).

9           (D) ATTORNEYS FEES AND EXPENSES.—

10          In a citizen suit filed pursuant a Federal law  
11          that involves a Priority Energy Project, a Pri-  
12          ority Energy Project Developer shall not be re-  
13          quired to pay attorneys fees and expenses to a  
14          prevailing party.

15          (3) SETTLEMENTS.—Notwithstanding any

16          other provision of law, no Federal agency shall enter  
17          into a settlement agreement arising from a citizen  
18          suit subject to this subsection that would require the  
19          reallocation of agency resources that had been pre-  
20          viously allocated by law or regulation.

21 **SEC. 175. TIME FOR FILING PETITION FOR JUDICIAL RE-**  
22 **VIEW; STANDING, FILING OF RECORD.**

23          (a) DEADLINE.—All petitions for judicial review of  
24          covered oil and natural gas activities must be filed within

1 45 days of the final agency decision or the challenge shall  
2 be barred.

3 (b) STANDING.—Only persons whose legal rights will  
4 be directly and adversely affected by the challenged action,  
5 and who are within the zone of interest protected by each  
6 Act under which the challenge is brought, shall have  
7 standing to file any petition for judicial review of covered  
8 oil and natural gas activities.

9 (c) LIMITATION.—Nothing in this section creates a  
10 right to judicial review or places any limit on filing a claim  
11 that a person has violated the terms of a permit, license,  
12 or approval.

13 (d) CONSOLIDATED RECORD.—When any civil action  
14 is brought concerning any covered oil and natural gas ac-  
15 tivity, the Federal agencies involved shall immediately pre-  
16 pare for the court the consolidated record compiled for the  
17 challenged decision.

18 (e) COMPLETION OF REVIEW.—The court shall com-  
19 plete all judicial review, including rendering a judgment,  
20 before the end of the 210-day period beginning on the date  
21 on which a petition is filed that is subject to this subtitle,  
22 unless all parties to such proceeding agree to an extension  
23 of such period.

24 (f) EXPEDITED MANDAMUS REVIEW.—Notwith-  
25 standing subsection (e), within 30 days after the filing of

1 an action that is subject to this subtitle, the court shall  
2 issue a decision either compelling permit issuance or es-  
3 tablishing a schedule that enables the most expeditious  
4 possible completion of proceedings. The court may issue  
5 orders to enforce any schedule it establishes under this  
6 subsection.

7 (g) NO PRIVATE RIGHT OF ACTION.—Except as ex-  
8 pressly provided in this section, this subtitle shall not be  
9 construed to create any additional right, benefit, or trust  
10 responsibility, substantive or procedural, enforceable at  
11 law or equity, by a person against the United States, its  
12 agencies, its officers, or any person.

13 **SEC. 176. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

14 (a) PROSPECTIVE RELIEF.—In any proceeding for  
15 judicial review that is subject to this subtitle, the court  
16 shall not grant or approve any prospective relief unless  
17 the court finds that such relief is narrowly drawn, extends  
18 no further than necessary to correct the violation of a Fed-  
19 eral law requirement, and is the least intrusive means nec-  
20 essary to correct the violation.

21 (b) EFFECTIVENESS OF AGENCY DECISION PENDING  
22 JUDICIAL REVIEW.—Final agency decisions relating to  
23 covered oil and natural gas activities shall be effective  
24 pending any judicial review of such decisions unless the  
25 Court issues an order staying the effect of the decision.

1 **SEC. 177. EXCLUSION.**

2 This subtitle shall not apply to disputes between the  
3 parties to a lease issued pursuant to an authorizing leas-  
4 ing statute regarding the obligations of such lease or the  
5 alleged breach thereof.

6 **Subtitle G—Development of Solar**  
7 **and Wind Energy on Public Land**

8 **SEC. 181. DEFINITIONS.**

9 In this subtitle:

10 (1) COVERED LAND.—The term “covered land”  
11 means land that is—

12 (A)(i) public land administered by the Sec-  
13 retary; or

14 (ii) National Forest System land adminis-  
15 tered by the Secretary of Agriculture; and

16 (B) not excluded from the development of  
17 solar or wind energy under—

18 (i) a land use plan established under  
19 the Federal Land Policy and Management  
20 Act of 1976 (43 U.S.C. 1701 et seq.);

21 (ii) a land use plan established under  
22 the National Forest Management Act of  
23 1976 (16 U.S.C. 1600 et seq.); or

24 (iii) other law.

1           (2) PILOT PROGRAM.—The term “pilot pro-  
2           gram” means the wind and solar leasing pilot pro-  
3           gram established under section 183(a).

4           (3) PUBLIC LAND.—The term “public land”  
5           has the meaning given the term “public lands” in  
6           section 103 of the Federal Land Policy and Manage-  
7           ment Act of 1976 (43 U.S.C. 1702).

8           (4) SECRETARIES.—The term “Secretaries”  
9           means—

10                   (A) in the case of public land administered  
11                   by the Secretary, the Secretary; and

12                   (B) in the case of National Forest System  
13                   land administered by the Secretary of Agri-  
14                   culture, the Secretary of Agriculture.

15           (5) SECRETARY.—The term “Secretary” means  
16           the Secretary of the Interior.

17 **SEC. 182. PROGRAMMATIC ENVIRONMENTAL IMPACT**  
18 **STATEMENTS AND LAND USE PLANNING.**

19           (a) PUBLIC LAND.—Not later than 1 year after the  
20           date of enactment of this Act, the Secretary shall—

21                   (1) complete and finalize the Programmatic En-  
22                   vironmental Impact Statement for Solar Energy De-  
23                   velopment in Six Southwestern States (BLM/DES  
24                   10–59; DOE/EIS–0403) in accordance with the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.  
2 4321 et seq.) to analyze the potential impacts of—

3 (A) a program to develop solar energy on  
4 land administered by the Secretary, acting  
5 through the Bureau of Land Management; and

6 (B) any necessary amendments to land use  
7 plans for the land; and

8 (2) amend any land use plans as appropriate to  
9 provide for the development of energy resources in  
10 areas considered appropriate by the Secretary.

11 (b) NATIONAL FOREST SYSTEM LAND.—As soon as  
12 practicable but not later than 2 years after the date of  
13 enactment of this Act, the Secretary of Agriculture shall—

14 (1) prepare and publish in the Federal Register  
15 a notice of intent to prepare a programmatic envi-  
16 ronmental impact statement in accordance with the  
17 National Environmental Policy Act of 1969 (42  
18 U.S.C. 4321 et seq.) to analyze the potential im-  
19 pacts of—

20 (A) a program to develop solar and wind  
21 energy on National Forest System land admin-  
22 istered by the Secretary of Agriculture; and

23 (B) any necessary amendments to land use  
24 plans for the land; and



1           (2) amend any land use plans as appropriate to  
2           provide for the development of energy resources in  
3           areas considered appropriate by the Secretary of Ag-  
4           riculture immediately on completion of the pro-  
5           grammatic environmental impact statement.

6           (c) EFFECT ON PROCESSING APPLICATIONS.—The  
7           requirement for completion of programmatic environ-  
8           mental impact statements under this section shall not re-  
9           sult in any delay in processing or approving applications  
10          for wind or solar development on public land administered  
11          by the Secretary or on National Forest System land.

12          (d) MILITARY INSTALLATIONS.—

13                 (1) REPORT.—

14                         (A) IN GENERAL.—Not later than 2 years  
15                         after the date of enactment of this Act, the Sec-  
16                         retary of Defense, in consultation with the Sec-  
17                         retary of the Interior, shall conduct a study,  
18                         and prepare a report, that—

19                                 (i) identifies locations on land with-  
20                                 drawn from the public domain and re-  
21                                 served for military purposes that—

22   (I) exhibit a high potential for  
23   solar, wind, geothermal, or other en-  
24   ergy resources production;

1 (II) are disturbed or otherwise  
2 have comparatively low value for other  
3 resources; and

4 (III) could be developed for en-  
5 ergy production in a manner con-  
6 sistent with all present and reasonably  
7 foreseeable military training and oper-  
8 ational missions and research, devel-  
9 opment, testing, and evaluation re-  
10 quirements; and

11 (ii) describes the administration of  
12 public land withdrawn for military pur-  
13 poses for the development of commercial-  
14 scale energy projects, including the legal  
15 authorities governing authorization for  
16 that use.

17 (B) RECOMMENDATIONS.—The report  
18 shall include recommendations on—

19 (i) necessary changes in any law (in-  
20 cluding regulations);

21 (ii) whether the authorization for the  
22 use of the land for development of energy  
23 projects should be pursuant to lease, con-  
24 tract, right-of-way, permit, or other form  
25 of authorization;

1 (iii) methods of improving coordina-  
2 tion among the Federal, State, and local  
3 agencies, if any, involved in authorizing the  
4 projects; and

5 (iv) disposition of revenues resulting  
6 from the development of energy projects on  
7 the land.

8 (2) ENVIRONMENTAL IMPACT ANALYSIS.—Not  
9 later than 1 year after the completion of the study  
10 required by paragraph (1), the Secretary of Defense,  
11 in consultation with the Secretary of the Interior,  
12 shall prepare and publish in the Federal Register a  
13 notice of intent to prepare an environmental impact  
14 analysis document to support a program to develop  
15 energy resources on withdrawn military land identi-  
16 fied in the study as suitable for the production.

17 (3) REPORTS.—On completion of the report,  
18 the Secretary and the Secretary of Defense shall  
19 jointly submit the report required by paragraph (1)  
20 to—

21 (A) the Committee on Armed Services of  
22 the Senate;

23 (B) the Committee on Energy and Natural  
24 Resources of the Senate;

1 (C) the Committee on Armed Services of  
2 the House of Representatives; and

3 (D) the Committee on Natural Resources  
4 of the House of Representatives.

5 **SEC. 183. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**  
6 **PUBLIC LAND.**

7 (a) PILOT PROGRAM.—

8 (1) IN GENERAL.—Not later than 180 days  
9 after the date of enactment of this Act, the Sec-  
10 retary shall establish a wind and solar leasing pilot  
11 program on covered land administered by the Sec-  
12 retary.

13 (2) SELECTION OF SITES.—

14 (A) IN GENERAL.—Not later than 90 days  
15 after the date the pilot program is established  
16 under this subsection, the Secretary shall (tak-  
17 ing into consideration the multiple resource val-  
18 ues of the land) select 2 sites that are appro-  
19 priate for the development of a solar energy  
20 project, and 2 sites that are appropriate for the  
21 development of a wind energy project, on cov-  
22 ered land administered by the Secretary as part  
23 of the pilot program.

1 (B) SITE SELECTION.—In carrying out  
2 subparagraph (A), the Secretary shall seek to  
3 select sites—

4 (i) for which there is likely to be a  
5 high level of industry interest;

6 (ii) that have a comparatively low  
7 value for other resources; and

8 (iii) that are representative of sites on  
9 which solar or wind energy is likely to be  
10 developed on covered land.

11 (C) INELIGIBLE SITES.—The Secretary  
12 shall not select as part of the pilot program any  
13 site for which a right-of way for site testing or  
14 construction has been issued.

15 (3) QUALIFICATIONS.—Prior to any lease sale,  
16 the Secretary shall establish qualifications for bid-  
17 ders that ensure bidders—

18 (A) are able to expeditiously develop a  
19 wind or solar energy project on the site for  
20 lease;

21 (B) possess—

22 (i) financial resources necessary to  
23 complete a project;

24 (ii) knowledge of the applicable tech-  
25 nology; and

1 (iii) such other qualifications as are  
2 determined appropriate by the Secretary;  
3 and

4 (C) meet the eligibility requirements for  
5 leasing under the first section of the Mineral  
6 Leasing Act (30 U.S.C. 181).

7 (4) LEASE SALES.—

8 (A) IN GENERAL.—Except as provided in  
9 subparagraph (D)(ii), not later than 180 days  
10 after the date sites are selected under para-  
11 graph (2), the Secretary shall offer each site for  
12 competitive leasing to qualified bidders under  
13 such terms and conditions as are required by  
14 the Secretary.

15 (B) BIDDING SYSTEMS.—

16 (i) IN GENERAL.—In offering the sites  
17 for lease, the Secretary may vary the bid-  
18 ding systems to be used at each lease sale,  
19 including—

20 (I) cash bonus bids with a re-  
21 quirement for payment of the royalty  
22 established under this Act;

23 (II) variable royalty bids based  
24 on a percentage of the gross proceeds  
25 from the sale of electricity produced

1 from the lease, except that the royalty  
2 shall not be less than the royalty re-  
3 quired under this Act, together with a  
4 fixed cash bonus; and

5 (III) such other bidding system  
6 as ensures a fair return to the public  
7 consistent with the royalty established  
8 under this Act.

9 (ii) ROUND.—The Secretary shall  
10 limit bidding to 1 round in any lease sale.

11 (iii) EXPENDITURES.—In any case in  
12 which the land that is subject to lease has  
13 1 or more pending applications for the de-  
14 velopment of wind or solar energy at the  
15 time of the lease sale, the Secretary shall  
16 give credit toward any bid submitted by  
17 the applicant for expenditures of the appli-  
18 cant considered by the Secretary to be  
19 qualified and necessary for the preparation  
20 of the application.

21 (C) REVENUES.—Bonus bids, royalties,  
22 rentals, fees, or other payments collected by the  
23 Secretary under this section shall be subject to  
24 section 184.

25 (D) LEASE TERMS.—

1 (i) IN GENERAL.—As part of the pilot  
2 program, the Secretary may vary the  
3 length of the lease terms and establish  
4 such other lease terms and conditions as  
5 the Secretary considers appropriate.

6 (ii) DATA COLLECTION.—As part of  
7 the pilot program, the Secretary shall—

8 (I) offer on a noncompetitive  
9 basis on at least 1 site a short-term  
10 lease for data collection; and

11 (II) on the expiration of the  
12 short-term lease, offer on a competi-  
13 tive basis a long-term lease, giving  
14 credit toward the bonus bid to the  
15 holder of the short-term lease for any  
16 qualified expenditures to collect data  
17 to develop the site during the short-  
18 term lease.

19 (5) COMPLIANCE WITH LAWS.—In offering for  
20 lease the selected sites under paragraph (4), the Sec-  
21 retary shall comply with all applicable environmental  
22 and other laws.

23 (6) REPORT.—The Secretary shall—

24 (A) compile a report of the results of each  
25 lease sale under the pilot program, including—



- 1 (i) the level of competitive interest;  
2 (ii) a summary of bids and revenues  
3 received; and  
4 (iii) any other factors that may have  
5 impacted the lease sale process; and  
6 (B) not later than 90 days after the final  
7 lease sale, submit to the Committee on Energy  
8 and Natural Resources of the Senate and the  
9 Committee on Natural Resources of the House  
10 of Representatives the report described in sub-  
11 paragraph (A).

12 (7) RIGHTS-OF-WAY.—During the pendency of  
13 the pilot program, the Secretary shall continue to  
14 issue rights-of-way, in compliance with authority in  
15 effect on the date of enactment of this Act, for avail-  
16 able sites not selected for the pilot program.

17 (b) SECRETARIAL DETERMINATION.—

18 (1) IN GENERAL.—Not later than 2 years after  
19 the date of enactment of this Act, the Secretaries  
20 shall make a joint determination on whether to es-  
21 tablish a leasing program under this section for wind  
22 or solar energy, or both, on all covered land.

23 (2) SYSTEM.—If the Secretaries determine that  
24 a leasing program should be established, the pro-  
25 gram shall apply to all covered land in accordance

1 with this Act and other provisions of law applicable  
2 to public land or National Forest System land.

3 (3) ESTABLISHMENT.—The Secretaries shall  
4 establish a leasing program unless the Secretaries  
5 determine that the program—

6 (A) is not in the public interest; and

7 (B) does not provide an effective means of  
8 developing wind or solar energy.

9 (4) CONSULTATION.—In making the determina-  
10 tions required under this subsection, the Secretaries  
11 shall consult with—

12 (A) the heads of other relevant Federal  
13 agencies;

14 (B) interested States, Indian tribes, and  
15 local governments;

16 (C) representatives of the solar and wind  
17 industries;

18 (D) representatives of the environment,  
19 conservation, and outdoor sporting commu-  
20 nities;

21 (E) other users of the covered land; and

22 (F) the public.

23 (5) CONSIDERATIONS.—In making the deter-  
24 minations required under this subsection, the Secre-  
25 taries shall consider the results of the pilot program.

1           (6) REGULATIONS.—Not later than 1 year after  
2 the date on which any determination is made to es-  
3 tablish a leasing program, the Secretaries shall joint-  
4 ly promulgate final regulations to implement the  
5 program.

6           (7) REPORT.—If the Secretaries determine that  
7 a leasing program should not be established, not  
8 later than 60 days after the date of the determina-  
9 tion, the Secretaries shall jointly submit to the Com-  
10 mittee on Energy and Natural Resources of the Sen-  
11 ate and the Committee on Natural Resources of the  
12 House of Representatives a report describing the  
13 basis and findings for the determination.

14       (c) TRANSITION.—

15           (1) IN GENERAL.—If the Secretaries determine  
16 under subsection (b) that a leasing program should  
17 be established for covered land, until the program is  
18 established and final regulations for the program are  
19 issued—

20           (A) the Secretary shall continue to accept  
21 applications for rights-of-way on covered land,  
22 and provide for the issuance of rights-of-way on  
23 covered land within the jurisdiction of the Sec-  
24 retary for the development of wind or solar en-  
25 ergy pursuant to each requirement described in

1 title V of the Federal Land Policy and Manage-  
2 ment Act of 1976 (43 U.S.C. 1761 et seq.) and  
3 other applicable law; and

4 (B) the Secretary of Agriculture shall con-  
5 tinue to accept applications for authorizations,  
6 and provide for the issuance of the authoriza-  
7 tions, for the development of wind or solar en-  
8 ergy on covered land within the jurisdiction of  
9 the Secretary pursuant to applicable law.

10 (2) EXISTING RIGHTS-OF-WAY AND AUTHORIZA-  
11 TIONS.—

12 (A) IN GENERAL.—Effective beginning on  
13 the date on which the wind or solar leasing pro-  
14 grams are established and final regulations are  
15 issued, the Secretaries shall not renew an exist-  
16 ing right-of-way or other authorization for wind  
17 or solar energy development at the end of the  
18 term of the right-of-way or authorization.

19 (B) LEASE.—

20 (i) IN GENERAL.—Subject to clause  
21 (ii), at the end of the term of the right-of-  
22 way or other authorization for the wind or  
23 solar energy project, the Secretary or, in  
24 the case of National Forest System land,  
25 the Secretary of Agriculture, shall grant,

1 without a competitive process, a lease to  
2 the holder of the right-of-way or other au-  
3 thorization for the same covered land as  
4 was authorized under the right-of-way or  
5 other authorization if (as determined by  
6 the Secretary concerned)—

7 (I) the holder of the right-of-way  
8 or other authorization has met the re-  
9 quirements of diligent development;  
10 and

11 (II) issuance of the lease is in the  
12 public interest and consistent with ap-  
13 plicable law.

14 (ii) TERMS AND CONDITIONS.—Any  
15 lease described in clause (i) shall be sub-  
16 ject to—

17 (I) terms and conditions that are  
18 consistent with this Act and the regu-  
19 lations issued under this Act; and

20 (II) the regulations in effect on  
21 the date of renewal and any other  
22 terms and conditions that the Sec-  
23 retary considers necessary to protect  
24 the public interest.

1           (3) PENDING RIGHTS-OF-WAY.—Effective begin-  
2           ning on the date on which the wind or solar leasing  
3           programs are established and final regulations for  
4           the programs are issued, the Secretary or, with re-  
5           spect to National Forest System land, the Secretary  
6           of Agriculture shall provide any applicant that has  
7           filed a plan of development for a right-of-way or, in  
8           the case of National Forest System land, for an ap-  
9           plicable authorization, for a wind or solar energy  
10          project with an option to acquire a lease on a non-  
11          competitive basis, under such terms and conditions  
12          as are required by this Act, applicable regulations,  
13          and the Secretary concerned, for the same covered  
14          land included in the plan of development if—

15                 (A) the plan of development has been de-  
16                 termined by the Secretary concerned to be ade-  
17                 quate for the initiation of environmental review;

18                 (B) granting the lease is consistent with all  
19                 applicable land use planning, environmental,  
20                 and other laws;

21                 (C) the applicant has made a good faith ef-  
22                 fort to obtain a right-of-way or, in the case of  
23                 National Forest System land, other authoriza-  
24                 tion, for the project; and

1 (D) issuance of the lease is in the public  
2 interest.

3 (d) LEASING PROGRAM.—If the Secretaries deter-  
4 mine under subsection (b) that a leasing program should  
5 be established, the program shall be established in accord-  
6 ance with subsections (e) through (k).

7 (e) COMPETITIVE LEASES.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), leases for wind or solar energy develop-  
10 ment under this section shall be issued on a competi-  
11 tive basis with a single round of bidding in any lease  
12 sale.

13 (2) EXCEPTIONS.—Paragraph (1) shall not  
14 apply if the Secretary or, with respect to National  
15 Forest System land, the Secretary of Agriculture de-  
16 termines that—

17 (A) no competitive interest exists for the  
18 covered land;

19 (B) the public interest would not be served  
20 by the competitive issuance of a lease;

21 (C) the lease is for the placement and op-  
22 eration of a meteorological or data collection fa-  
23 cility or for the development or demonstration  
24 of a new wind or solar technology and has a  
25 term of not more than 5 years; or

1 (D) the covered land is eligible to be grant-  
2 ed a noncompetitive lease under subsection (c).

3 (f) PAYMENTS.—

4 (1) IN GENERAL.—The Secretaries shall jointly  
5 establish fees, rentals, bonuses, or other payments to  
6 ensure a fair return to the United States for any  
7 lease issued under this section.

8 (2) BONUS BIDS.—The Secretaries may grant  
9 credit toward any bonus bid for a qualified expendi-  
10 ture by the holder of a lease described in subsection  
11 (e)(2)(C) in any competitive lease sale held for a  
12 long-term lease covering the same land covered by  
13 the lease described in subsection (e)(2)(C).

14 (g) QUALIFICATIONS.—Prior to any lease sale, the  
15 Secretary shall establish qualifications for bidders that en-  
16 sure bidders meet the requirements described in sub-  
17 section (a)(3).

18 (h) REQUIREMENTS.—The Secretaries shall ensure  
19 that any activity under a leasing program is carried out  
20 in a manner that—

21 (1) is consistent with all applicable land use  
22 planning, environmental, and other laws; and

23 (2) provides for—

24 (A) safety;



1 (B) protection of the environment and fish  
2 and wildlife habitat;

3 (C) mitigation of impacts;

4 (D) prevention of waste;

5 (E) diligent development of the resource,  
6 with specific milestones to be met by the lessee  
7 as determined by the Secretaries;

8 (F) coordination with applicable Federal  
9 agencies;

10 (G) a fair return to the United States for  
11 any lease;

12 (H) use of best management practices, in-  
13 cluding planning and practices for mitigation of  
14 impacts;

15 (I) public notice and comment on any pro-  
16 posal submitted for a lease under this section;

17 (J) oversight, inspection, research, moni-  
18 toring, and enforcement relating to a lease  
19 under this section;

20 (K) the quantity of acreage to be commen-  
21 surate with the size of the project covered by a  
22 lease; and

23 (L) efficient use of water resources.

24 (i) LEASE DURATION, SUSPENSION, AND CANCELLA-  
25 TION.—

1           (1) DURATION.—A lease under this section  
2 shall be for—

3                   (A) an initial term of 25 years; and

4                   (B) any additional period after the initial  
5 term during which electricity is being produced  
6 annually in commercial quantities from the  
7 lease.

8           (2) ADMINISTRATION.—The Secretary shall es-  
9 tablish terms and conditions for the issuance, trans-  
10 fer, renewal, suspension, and cancellation of a lease  
11 under this section.

12           (3) READJUSTMENT.—

13                   (A) IN GENERAL.—Royalties, rentals, and  
14 other terms and conditions of a lease under this  
15 section shall be subject to readjustment—

16                           (i) on the date that is 15 years after  
17 the date on which the lease is issued; and

18                           (ii) every 10 years thereafter.

19                   (B) LEASE.—Each lease issued under this  
20 Act shall provide for readjustment in accord-  
21 ance with subparagraph (A).

22           (j) SURFACE-DISTURBING ACTIVITIES.—The Secre-  
23 taries shall—

1           (1) regulate all surface-disturbing activities con-  
2           ducted pursuant to any lease issued under this sec-  
3           tion; and

4           (2) require any necessary reclamation and other  
5           actions under the lease as are required in the inter-  
6           est of conservation of surface resources.

7           (k) SECURITY.—The Secretaries shall require the  
8           holder of a lease issued under this section—

9           (1) to furnish a surety bond or other form of  
10          security, as prescribed by the Secretaries;

11          (2) to provide for the reclamation and restora-  
12          tion of the area covered by the lease; and

13          (3) to comply with such other requirements as  
14          the Secretaries consider necessary to protect the in-  
15          terests of the public and the United States.

16          (l) PERIODIC REVIEW.—Not less frequently than  
17          once every 5 years, the Secretary shall conduct a review  
18          of the adequacy of the surety bond or other form of secu-  
19          rity provided by the holder of a lease issued under this  
20          section.

21       **SEC. 184. DISPOSITION OF REVENUES.**

22          (a) DISPOSITION OF REVENUES.—Of the amounts  
23          collected as bonus bids, royalties, rentals, fees, or other  
24          payments under a right-of-way, permit, lease, or other au-

1 thORIZATION for the development of wind or solar energy  
2 on covered land—

3 (1) 25 percent shall be paid by the Secretary of  
4 the Treasury to the State within the boundaries of  
5 which the income is derived;

6 (2) 25 percent shall be paid by the Secretary of  
7 the Treasury to the 1 or more counties within the  
8 boundaries of which the income is derived; and

9 (3) 50 percent shall be deposited in the Treas-  
10 ury of the United States.

11 (b) PAYMENTS TO STATES AND COUNTIES.—  
12 Amounts paid to States and counties under subsection (a)  
13 shall be used consistent with section 35 of the Mineral  
14 Leasing Act (30 U.S.C. 191).

## 15 **Subtitle H—Miscellaneous** 16 **Provisions**

### 17 **SEC. 191. MILITARY OPERATIONS.**

18 The Secretary shall consult with the Secretary of De-  
19 fense regarding military operations needs in the waters of  
20 the outer Continental Shelf. The Secretary shall work with  
21 the Secretary of Defense to resolve any conflicts that  
22 might arise between such operations and leasing under  
23 this subtitle. If the Secretaries are unable to resolve all  
24 such conflicts, any unresolved issues shall be referred by

1 the Secretaries to the President within 90 days for imme-  
2 diate resolution.

3 **SEC. 192. ENVIRONMENTAL SENSITIVITY ANALYSIS UNDER**  
4 **THE PROGRAM.**

5 (a) ENVIRONMENTAL SENSITIVITY INDEX.—The En-  
6 vironmental Sensitivity Index, developed by the National  
7 Oceanic and Atmospheric Administration, which considers  
8 the sensitivity of different shoreline areas to oil spills, and  
9 the ranking under the program of the areas of the outer  
10 Continental Shelf based upon the Environmental Sensi-  
11 tivity Index, satisfies the requirements of section 18 of the  
12 Act (43 U.S.C. 1344), including the requirement to con-  
13 sider the relative environmental sensitivity of different  
14 areas of the outer Continental Shelf under section  
15 18(a)(2)(G) of the Act (43 U.S.C. 1344(a)(2)(G)).

16 (b) PROGRAM DEEMED SUFFICIENT.—The Final  
17 Outer Continental Shelf Oil and Gas Leasing Program,  
18 2007–2012, is deemed to meet all requirements of section  
19 18 of the Act (43 U.S.C. 1344) and is effective as of the  
20 date on which the Secretary made that program effective.

21 **SEC. 193. VALIDITY OF EXISTING LEASES.**

22 Any lease heretofore issued pursuant to a lease sale  
23 held under the Final Outer Continental Shelf Oil and Gas  
24 Leasing Program, 2007–2012, including any lease issued  
25 pursuant to Lease Sale 193 or 213, is deemed to be in

1 full compliance with the Act and all other legal require-  
2 ments.

3 **SEC. 194. INTEGRITY OF LEASE SALES AND LEASING**  
4 **SCHEDULE.**

5 (a) LEASING DURING JUDICIAL OR ADMINISTRATIVE  
6 REVIEW.—Section 18(d)(3) of the Act (43 U.S.C.  
7 1344(d)(3)) is amended to read as follows:

8 “(3) After the leasing program has been approved by  
9 the Secretary, except as otherwise provided by applicable  
10 law, no lease shall be issued unless it is for an area in-  
11 cluded in the approved leasing program and unless it con-  
12 tains provisions consistent with the approved leasing pro-  
13 gram, except that leasing shall continue for so long as  
14 such program is under judicial or administrative review  
15 pursuant to this Act, including any administrative review  
16 occasioned by the remand of such program as a result of  
17 judicial review. Any lease issued pursuant to a lease sale  
18 held in the period that the approved leasing program is  
19 under judicial or administrative review is deemed to have  
20 been issued pursuant to an approved leasing program.”.

21 (b) COURT ACTION UPON APPEAL.—The last sen-  
22 tence of section 23(c)(6) of the Act (43 U.S.C. 1349(c)(6))  
23 is amended to read as follows: “The court may affirm or  
24 modify any order or decision or may remand the pro-

1 ceedings to the Secretary for such further action as it may  
2 direct.”.

3 **SEC. 195. AUTHORITY TO CONDUCT OFFSHORE DRILLING**  
4 **UNDER APPROVED PERMITS.**

5 (a) IN GENERAL.—Subject to subsection (b), each  
6 holder of a permit issued pursuant to an application for  
7 a permit to drill, including an application for a permit to  
8 sidetrack, that was approved by the Minerals Management  
9 Service before May 3, 2010, for purposes of outer Conti-  
10 nental Shelf energy exploration or development and pro-  
11 duction may conduct all operations authorized under the  
12 terms of the permit (including all exploration plans, devel-  
13 opment operations coordination documents, and develop-  
14 ment production plans submitted for the permit)—

15 (1) without further review by the Bureau of  
16 Ocean Energy Management, Regulation and En-  
17 forcement and Bureau of Safety and Environmental  
18 Enforcement; and

19 (2) without further review or delay under the  
20 National Environmental Policy Act of 1969 (42  
21 U.S.C. 4321 et. seq.) or any other similar statutes,  
22 including the Federal Water Pollution Control Act  
23 (33 U.S.C. 1251 et seq.) or the Marine Mammal  
24 Protection Act of 1972 (16 U.S.C. 1361 et seq.).

1 (b) OPERATIONS.—Operations conducted under sub-  
2 section (a) shall be carried out in accordance with the safe-  
3 ty protocols contained in part 250 of title 30, Code of Fed-  
4 eral Regulations.

5 (c) REVIEW OF COMPLIANCE.—This section does not  
6 prohibit review of compliance with the terms of such a per-  
7 mit.

8 **SEC. 196. TIME REQUIREMENT TO ACT ON OIL AND NAT-**  
9 **URAL GAS DRILLING PERMITS.**

10 Subsection (d) of section 11 of the Act (43 U.S.C.  
11 1340) is amended by designating the existing text as para-  
12 graph (1) and adding at the end the following:

13 “(2)(A) The Secretary shall approve or dis-  
14 approve any application for a permit for drilling a  
15 well under an approved exploration or development  
16 plan, or any application to amend a previously ap-  
17 proved permit, within 30 days after its submission,  
18 except that the Secretary may disapprove such per-  
19 mit only upon a determination that—

20 “(i) any proposed activity under the permit  
21 would result in any condition described in sec-  
22 tion 5(a)(2)(A)(i); and

23 “(ii) such proposed activity cannot be  
24 modified to avoid such condition.



1           “(B) The Secretary may request additional in-  
2           formation from the applicant prior to approving or  
3           disapproving such application, but the request for  
4           additional information must be received by the appli-  
5           cant within 15 days after submission of the applica-  
6           tion to the Secretary. Upon receipt of the additional  
7           information requested by the Secretary, the Sec-  
8           retary shall approve or disapprove the application  
9           within 15 days in accordance with this subsection. If  
10          the Secretary disapproves a permit application or an  
11          amended permit application pursuant to this sub-  
12          section, and there is no other well on the lease tract  
13          capable of production in paying quantities, within 90  
14          days after receipt of a final disapproval decision all  
15          record title holders of the lease may request can-  
16          cellation of the lease, and within 60 days after re-  
17          ceipt of such cancellation request the Secretary shall  
18          pay to the record title holders the amount of any  
19          bonus bid paid for such lease. The Secretary shall  
20          make such payment from amounts that otherwise  
21          would be credited to miscellaneous receipts pursuant  
22          to section 9.”.

1 **SEC. 197. TIMELY ISSUANCE OF ONSHORE OIL AND GAS**  
2 **LEASES.**

3 Section 17(a)(1) of the Mineral Leasing Act (30  
4 U.S.C. 226(b)(1)(A)) is amended by striking “Leases shall  
5 be issued within 60 days following payment by the success-  
6 ful bidder of the remainder of the bonus bid, if any, and  
7 the annual rental for the first lease year.” and inserting  
8 “Unless the Secretary issues a lease sooner, leases shall  
9 automatically issue exactly 60 days following payment by  
10 the successful bidder of the remainder of the bonus bid,  
11 if any, and the annual rental for the first lease year. The  
12 filing of any protest to the sale or issuance of a lease shall  
13 not act to extend the date by which the lease is to be  
14 issued following payment by the successful bidder under  
15 the preceding sentence, nor shall the issuance of a lease  
16 be delayed or deferred beyond 60 days following payment  
17 by the successful bidder pending resolution of a protest  
18 to the sale or issuance of the lease.”.

19 **SEC. 198. STATE AUDITING.**

20 Where authority is ceded to States to audit proc-  
21 essing and transportation for purposes of royalty calcula-  
22 tion under section 205 of the Royalty Simplification and  
23 Fairness Act of 1996, State auditors shall provide back-  
24 ground methodology and supporting detail to the payor  
25 for audit findings; including formulas and supporting  
26 worksheets detailing the calculations used when costs from

1 processing plants and transportation providers are dis-  
2 allowed by the State auditor. The State shall seek written  
3 authority from the processors and transporters to provide  
4 this information when necessary and requested.

5 **TITLE II—CONTINENTAL**  
6 **PIPELINE APPROVAL**

7 **SEC. 201. KEYSTONE XL PIPELINE PERMIT APPROVAL.**

8 (a) PERMIT APPROVAL.—The permit described in  
9 subsection (b) is hereby approved.

10 (b) DESCRIPTION OF PERMIT.—The permit approved  
11 under subsection (a) is the permit with respect to certain  
12 energy-related facilities and land transportation crossings  
13 on the international boundaries of the United States for  
14 the Keystone XL pipeline project, an application for which  
15 was filed on September 19, 2008 (including amendments).

16 (c) REQUIREMENTS.—The permit granted under sub-  
17 section (a) shall require the following:

18 (1) The permittee shall comply with all applica-  
19 ble Federal and State laws (including regulations)  
20 and all applicable industrial codes regarding the con-  
21 struction, connection, operation, and maintenance of  
22 the United States facilities.

23 (2) The permittee shall take all appropriate  
24 measures to prevent or mitigate any adverse envi-  
25 ronmental impact or disruption of historic properties

1 in connection with the construction, operation, and  
2 maintenance of the United States facilities.

3 (3) For the purpose of the permit approved  
4 under subsection (a) (regardless of any modifications  
5 under subsection (d))—

6 (A) the final environmental impact state-  
7 ment issued by the Secretary of State on Au-  
8 gust 26, 2011, satisfies all requirements of the  
9 National Environmental Policy Act of 1969 (42  
10 U.S.C. 4321 et seq.) and section 106 of the Na-  
11 tional Historic Preservation Act (16 U.S.C.  
12 470f);

13 (B) any modification required by the Sec-  
14 retary of State to the Plan described in para-  
15 graph (4)(A) shall not require supplementation  
16 of the final environmental impact statement de-  
17 scribed in that paragraph; and

18 (C) no further Federal environmental re-  
19 view shall be required.

20 (4) The construction, operation, and mainte-  
21 nance of the facilities shall be in all material re-  
22 spects similar to that described in the application  
23 described in subsection (b) and in accordance with—

24 (A) the construction, mitigation, and rec-  
25 lamation measures agreed to by the permittee

1 in the Construction Mitigation and Reclamation  
2 Plan found in appendix B of the final environ-  
3 mental impact statement issued by the Sec-  
4 retary of State on August 26, 2011, subject to  
5 the modification described in subsection (d);

6 (B) the special conditions agreed to be-  
7 tween the permittee and the Administrator of  
8 the Pipeline Hazardous Materials Safety Ad-  
9 ministration of the Department of Transpor-  
10 tation found in appendix U of the final environ-  
11 mental impact statement described in subpara-  
12 graph (A);

13 (C) if the modified route submitted by the  
14 Governor of Nebraska under subsection  
15 (d)(3)(B) crosses the Sand Hills region, the  
16 measures agreed to by the permittee for the  
17 Sand Hills region found in appendix H of the  
18 final environmental impact statement described  
19 in subparagraph (A); and

20 (D) the stipulations identified in appendix  
21 S of the final environmental impact statement  
22 described in subparagraph (A).

23 (5) Other requirements that are standard in-  
24 dustry practice or commonly included in Federal

1 permits that are similar to a permit approved under  
2 subsection (a).

3 (d) MODIFICATION.—The permit approved under  
4 subsection (a) shall require—

5 (1) the reconsideration of routing of the Key-  
6 stone XL pipeline within the State of Nebraska;

7 (2) a review period during which routing within  
8 the State of Nebraska may be reconsidered and the  
9 route of the Keystone XL pipeline through the State  
10 altered with any accompanying modification to the  
11 Plan described in subsection (c)(4)(A); and

12 (3) the President—

13 (A) to coordinate review with the State of  
14 Nebraska and provide any necessary data and  
15 reasonable technical assistance material to the  
16 review process required under this subsection;  
17 and

18 (B) to approve the route within the State  
19 of Nebraska that has been submitted to the  
20 Secretary of State by the Governor of Ne-  
21 braska.

22 (e) EFFECT OF NO APPROVAL.—If the President  
23 does not approve the route within the State of Nebraska  
24 submitted by the Governor of Nebraska under subsection  
25 (d)(3)(B) not later than 10 days after the date of submis-

1 sion, the route submitted by the Governor of Nebraska  
 2 under subsection (d)(3)(B) shall be considered approved,  
 3 pursuant to the terms of the permit approved under sub-  
 4 section (a) that meets the requirements of subsection (c)  
 5 and this subsection, by operation of law.

6 (f) PRIVATE PROPERTY SAVINGS CLAUSE.—Nothing  
 7 in this section alters the Federal, State, or local processes  
 8 or conditions in effect on the date of enactment of this  
 9 Act that are necessary to secure access from private prop-  
 10 erty owners to construct the Keystone XL pipeline.

## 11 **TITLE III—RADIOLOGICAL** 12 **MATERIAL REPOSITORY**

### 13 **SEC. 301. RADIOLOGICAL MATERIAL REPOSITORY.**

14 (a) REPOSITORY REQUIRED.—The Federal Govern-  
 15 ment shall site and permit at least one radiological mate-  
 16 rial geologic repository for the disposal of radiological ma-  
 17 terial.

18 (b) YUCCA MOUNTAIN.—

19 (1) IN GENERAL.—The repository site at Yucca  
 20 Mountain shall remain the site for the Nation’s radi-  
 21 ological material repository following full statutory  
 22 review of the Department of Energy’s license appli-  
 23 cation to construct the Yucca Mountain repository.

24 (2) APPLICATION.—The Nuclear Regulatory  
 25 Commission shall continue to review the Department

1 of Energy's pending license application to construct  
2 the repository at Yucca Mountain until a determina-  
3 tion is made on the merits of the application.

4 (c) DEADLINES.—

5 (1) SUITABILITY DETERMINATION.—Not later  
6 than 90 days after the enactment of this Act, the  
7 Nuclear Regulatory Commission shall make a deter-  
8 mination regarding the suitability of Yucca Moun-  
9 tain under subsection (a).

10 (2) ACTION ON APPLICATION.—Not later than  
11 180 days after the enactment of this Act, the Nu-  
12 clear Regulatory Commission shall approve the ap-  
13 plication under subsection (b).

14 (d) LIMITATIONS ON AMOUNT OF RADIOLOGICAL  
15 MATERIAL.—All statutory limitations on the amount of  
16 radiological material that can be placed in Yucca Moun-  
17 tain are hereby removed and shall be replaced by the Nu-  
18 clear Regulatory Commission with new limits based on sci-  
19 entific and technical analysis of the full capacity of Yucca  
20 Mountain for the storage of radiological material.



1 **TITLE IV—RELIEF FROM REGU-**  
2 **LATIONS AND PROHIBITIONS**  
3 **THAT CAUSE ARTIFICIAL**  
4 **PRICE INCREASES**

5 **SEC. 401. ENDANGERED SPECIES ACT OF 1973 REFORM.**

6 The Endangered Species Act of 1973 (16 U.S.C.  
7 1531 et seq.) is amended—

8 (1) by striking “best scientific and commercial  
9 data available” each place it appears and inserting  
10 “best scientific and economic data available at the  
11 time, including analysis of the costs and benefits of  
12 the matter under consideration”; and

13 (2) by adding at the end the following:

14 **“SEC. 19. SCOPE.**

15 “Nothing in this Act shall be construed to authorize  
16 the use of this Act or the rules and regulations promul-  
17 gated pursuant to this Act to regulate greenhouse gas  
18 emissions.”.

19 **SEC. 402. REPEAL OF EPA CLIMATE CHANGE REGULATION.**

20 (a) GREENHOUSE GAS REGULATION UNDER CLEAN  
21 AIR ACT.—Section 302(g) of the Clean Air Act (42 U.S.C.  
22 7602(g)) is amended by adding the following at the end  
23 thereof: “The term ‘air pollutant’ does not include carbon  
24 dioxide, water vapor, methane, nitrous oxide,

1 hydrofluorocarbons, perfluorocarbons, or sulfur  
2 hexafluoride.”.

3 (b) NO REGULATION OF CLIMATE CHANGE.—Noth-  
4 ing in the Clean Air Act (42 U.S.C. 7401 et seq.), the  
5 Federal Water Pollution Control Act (33 U.S.C. 1251 et  
6 seq.), the National Environmental Policy Act of 1969 (42  
7 U.S.C. 4321 et seq.), the Endangered Species Act of 1973  
8 (16 U.S.C. 1531 et seq.), or the Solid Waste Disposal Act  
9 (42 U.S.C. 6901 et seq.), shall be treated as authorizing  
10 or requiring the regulation of climate change or global  
11 warming.

12 (c) EXCEPTIONS.—Notwithstanding subsections (a)  
13 and (b), this section does not prohibit the following:

14 (1) Implementation and enforcement of the rule  
15 entitled “Light-Duty Vehicle Greenhouse Gas Emis-  
16 sion Standards and Corporate Average Fuel Econ-  
17 omy Standards” (as published at 75 Fed. Reg.  
18 25324 (May 7, 2010) and without further revision)  
19 and finalization, implementation, enforcement, and  
20 revision of the proposed rule entitled “Greenhouse  
21 Gas Emissions Standards and Fuel Efficiency  
22 Standards for Medium- and Heavy-Duty Engines  
23 and Vehicles” published at 75 Fed. Reg. 74152 (No-  
24 vember 30, 2010).

1           (2) Statutorily authorized Federal research, de-  
2           velopment, demonstration programs and voluntary  
3           programs addressing climate change.

4           (3) Implementation and enforcement of title VI  
5           of the Clean Air Act (42 U.S.C. 7671 et seq.) to the  
6           extent such implementation or enforcement only in-  
7           volves one or more class I substances or class II sub-  
8           stances (as such terms are defined in section 601 of  
9           such title).

10           (4) Implementation and enforcement of section  
11           821 (42 U.S.C. 7651k note) of Public Law 101–549  
12           (commonly referred to as the “Clean Air Act  
13           Amendments of 1990”).

14 **SEC. 403. REPEAL OF FEDERAL BAN ON SYNTHETIC FUELS**  
15 **PURCHASING REQUIREMENT.**

16           Section 526 of the Energy Independence and Security  
17           Act of 2007 (42 U.S.C. 17142) is repealed.

18 **SEC. 404. REPEAL OF ETHANOL MANDATES.**

19           Section 211(o) of the Clean Air Act (42 U.S.C.  
20           7545(o); relating to the Renewable Fuel Program) is re-  
21           pealed.

22 **TITLE V—REFINERY REFORM**

23 **SEC. 501. REFINERY PERMITTING PROCESS.**

24           (a) DEFINITIONS.—In this section:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) EXPANSION.—The term “expansion” means  
5           a physical change that results in an increase in the  
6           capacity of a refinery.

7           (3) INDIAN TRIBE.—The term “Indian tribe”  
8           has the meaning given the term in section 4 of the  
9           Indian Self-Determination and Education Assistance  
10          Act (25 U.S.C. 450b).

11          (4) PERMIT.—The term “permit” means any  
12          permit, license, approval, variance, or other form of  
13          authorization that a refiner is required to obtain—

14                 (A) under any Federal law; or

15                 (B) from a State or Indian tribal govern-  
16          ment agency delegated authority by the Federal  
17          Government, or authorized under Federal law,  
18          to issue permits.

19          (5) REFINER.—The term “refiner” means a  
20          person that—

21                 (A) owns or operates a refinery; or

22                 (B) seeks to become an owner or operator  
23          of a refinery.

24          (6) REFINERY.—

1 (A) IN GENERAL.—The term “refinery”  
2 means—

3 (i) a facility at which crude oil is re-  
4 fined into transportation fuel or other pe-  
5 troleum products; and

6 (ii) a coal liquification or coal-to-liquid  
7 facility at which coal is processed into syn-  
8 thetic crude oil or any other fuel.

9 (B) INCLUSIONS.—The term “refinery” in-  
10 cludes an expansion of a refinery.

11 (7) REFINERY PERMITTING AGREEMENT.—The  
12 term “refinery permitting agreement” means an  
13 agreement entered into between the Administrator  
14 and a State or Indian tribe under subsection (b).

15 (8) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 and

20 (D) any other territory or possession of the  
21 United States.

22 (b) STREAMLINING OF REFINERY PERMITTING  
23 PROCESS.—

24 (1) IN GENERAL.—At the request of the Gov-  
25 ernor of a State or the governing body of an Indian

1       tribe, the Administrator shall enter into a refinery  
2       permitting agreement with the State or Indian tribe  
3       under which the process for obtaining all permits  
4       necessary for the construction and operation of a re-  
5       finery shall be streamlined using a systematic inter-  
6       disciplinary multimedia approach as provided in this  
7       section.

8               (2) AUTHORITY OF ADMINISTRATOR.—Under a  
9       refinery permitting agreement the Administrator  
10      shall have authority, as applicable and necessary,  
11      to—

12               (A) accept from a refiner a consolidated  
13      application for all permits that the refiner is re-  
14      quired to obtain to construct and operate a re-  
15      finery;

16               (B) in consultation and cooperation with  
17      each Federal, State, or Indian tribal govern-  
18      ment agency that is required to make any de-  
19      termination to authorize the issuance of a per-  
20      mit, establish a schedule under which each  
21      agency shall—

22                       (i) concurrently consider, to the max-  
23                       imum extent practicable, each determina-  
24                       tion to be made; and

1 (ii) complete each step in the permit-  
2 ting process; and

3 (C) issue a consolidated permit that com-  
4 bines all permits issued under the schedule es-  
5 tablished under subparagraph (B).

6 (3) AGREEMENT BY THE STATE.—Under a re-  
7 finery permitting agreement, a State or governing  
8 body of an Indian tribe shall agree that—

9 (A) the Administrator shall have each of  
10 the authorities described in paragraph (2); and

11 (B) each State or Indian tribal government  
12 agency shall—

13 (i) in accordance with State law, make  
14 such structural and operational changes in  
15 the agencies as are necessary to enable the  
16 agencies to carry out consolidated project-  
17 wide permit reviews concurrently and in  
18 coordination with the Environmental Pro-  
19 tection Agency and other Federal agencies;  
20 and

21 (ii) comply, to the maximum extent  
22 practicable, with the applicable schedule  
23 established under paragraph (2)(B).

24 (4) DEADLINES.—

1 (A) NEW REFINERIES.—In the case of a  
2 consolidated permit for the construction of a  
3 new refinery, the Administrator and the State  
4 or governing body of an Indian tribe shall ap-  
5 prove or disapprove the consolidated permit not  
6 later than—

7 (i) 365 days after the date of the re-  
8 ceipt of the administratively complete ap-  
9 plication for the consolidated permit; or

10 (ii) on agreement of the applicant, the  
11 Administrator, and the State or governing  
12 body of the Indian tribe, 90 days after the  
13 expiration of the deadline established  
14 under clause (i).

15 (B) EXPANSION OF EXISTING REFIN-  
16 ERIES.—In the case of a consolidated permit  
17 for the expansion of an existing refinery, the  
18 Administrator and the State or governing body  
19 of an Indian tribe shall approve or disapprove  
20 the consolidated permit not later than—

21 (i) 120 days after the date of the re-  
22 ceipt of the administratively complete ap-  
23 plication for the consolidated permit; or

24 (ii) on agreement of the applicant, the  
25 Administrator, and the State or governing



1           body of the Indian tribe, 30 days after the  
2           expiration of the deadline established  
3           under clause (i).

4           (5) FEDERAL AGENCIES.—Each Federal agency  
5           that is required to make any determination to au-  
6           thorize the issuance of a permit shall comply with  
7           the applicable schedule established under paragraph  
8           (2)(B).

9           (6) JUDICIAL REVIEW.—Any civil action for re-  
10          view of any permit determination under a refinery  
11          permitting agreement shall be brought exclusively in  
12          the United States district court for the district in  
13          which the refinery is located or proposed to be lo-  
14          cated.

15          (7) EFFICIENT PERMIT REVIEW.—In order to  
16          reduce the duplication of procedures, the Adminis-  
17          trator shall use State permitting and monitoring  
18          procedures to satisfy substantially equivalent Fed-  
19          eral requirements under this title.

20          (8) SEVERABILITY.—If 1 or more permits that  
21          are required for the construction or operation of a  
22          refinery are not approved on or before any deadline  
23          established under paragraph (4), the Administrator  
24          may issue a consolidated permit that combines all

1 other permits that the refiner is required to obtain  
2 other than any permits that are not approved.

3 (9) SAVINGS.—Nothing in this subsection af-  
4 fects the operation or implementation of otherwise  
5 applicable law regarding permits necessary for the  
6 construction and operation of a refinery.

7 (10) CONSULTATION WITH LOCAL GOVERN-  
8 MENTS.—Congress directs the Administrator, States,  
9 and tribal governments to consult, to the maximum  
10 extent practicable, with local governments in car-  
11 rying out this subsection.

12 (11) EFFECT ON LOCAL AUTHORITY.—Nothing  
13 in this subsection affects—

14 (A) the authority of a local government  
15 with respect to the issuance of permits; or

16 (B) any requirement or ordinance of a  
17 local government (such as a zoning regulation).

18 (c) FISCHER-TROPSCH FUELS.—

19 (1) IN GENERAL.—In cooperation with the Sec-  
20 retary of Energy, the Secretary of Defense, the Ad-  
21 ministrator of the Federal Aviation Administration,  
22 Secretary of Health and Human Services, and  
23 Fischer-Tropsch industry representatives, the Ad-  
24 ministrator shall—

1           (A) conduct a research and demonstration  
2 program to evaluate the air quality benefits of  
3 Fischer-Tropsch transportation fuel, including  
4 diesel and jet fuel;

5           (B) evaluate the use of Fischer-Tropsch  
6 transportation fuel as a mechanism for reduc-  
7 ing engine exhaust emissions; and

8           (C) submit recommendations to Congress  
9 on the most effective use and associated bene-  
10 fits of these fuels for reducing public exposure  
11 to exhaust emissions.

12           (2) GUIDANCE AND TECHNICAL SUPPORT.—The  
13 Administrator shall, to the extent necessary, issue  
14 any guidance or technical support documents that  
15 would facilitate the effective use and associated ben-  
16 efit of Fischer-Tropsch fuel and blends.

17           (3) REQUIREMENTS.—The program described  
18 in paragraph (1) shall consider—

19           (A) the use of neat (100 percent) Fischer-  
20 Tropsch fuel and blends with conventional  
21 crude oil-derived fuel for heavy-duty and light-  
22 duty diesel engines and the aviation sector; and

23           (B) the production costs associated with  
24 domestic production of fuel and prices for con-  
25 sumers.

1           (4) REPORTS.—The Administrator shall submit  
 2           to the Committee on Environment and Public Works  
 3           and the Committee on Energy and Natural Re-  
 4           sources of the Senate and the Committee on Energy  
 5           and Commerce and the Committee on Natural Re-  
 6           sources of the House of Representatives—

7                   (A) not later than 1 year after the date of  
 8                   enactment of this Act, an interim report on ac-  
 9                   tions taken to carry out this subsection; and

10                   (B) not later than 2 years after the date  
 11                   of enactment of this Act, a final report on ac-  
 12                   tions taken to carry out this subsection.

13 **SEC. 502. EXISTING REFINERY PERMIT APPLICATION DEAD-**  
 14 **LINE.**

15           Notwithstanding any other provision of law, applica-  
 16           tions for a permit for existing refinery applications shall  
 17           not be considered to be timely if submitted after 120 days  
 18           after the date of enactment of this Act.

19 **TITLE VI—REPEAL OF ENERGY**  
 20 **TAX SUBSIDIES**

21 **SEC. 600. AMENDMENT OF 1986 CODE.**

22           Except as otherwise expressly provided, whenever in  
 23           this title an amendment or repeal is expressed in terms  
 24           of an amendment to, or repeal of, a section or other provi-  
 25           sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code  
2 of 1986.

3 **SEC. 601. REPEAL OF CREDIT FOR ALCOHOL FUEL, BIO-**  
4 **DIESEL, AND ALTERNATIVE FUEL MIXTURES.**

5 (a) IN GENERAL.—Section 6426 is repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Subparagraph (D) of section 6427(e)(6) is  
8 amended by striking “September 30, 2014” and in-  
9 serting “September 30, 2012”.

10 (2) Paragraph (1) of section 4101(a) is amend-  
11 ed by striking “or alcohol (as defined in section  
12 6426(b)(4)(A))”.

13 (3) Paragraph (2) of section 4104(a) is amend-  
14 ed by striking “6426, or 6427(e)”.

15 (4) Subparagraph (E) of section 7704(d)(1) is  
16 amended—

17 (A) by inserting “(as in effect on the day  
18 before the date of the enactment of the Energy  
19 Exploration and Production to Achieve National  
20 Demand Act)” after “of section 6426”, and

21 (B) by inserting “(as so in effect)” after  
22 “section 6426(b)(4)(A)”.

23 (5) Paragraph (1) of section 9503(b) is amend-  
24 ed by striking the second sentence.

1 (c) CLERICAL AMENDMENT.—The table of sections  
2 for subchapter B of chapter 65 is amended by striking  
3 the item relating to section 6426.

4 (d) EFFECTIVE.—The amendments made by this sec-  
5 tion shall apply with respect to fuel sold and used after  
6 December 31, 2012.

7 **SEC. 602. REPEAL OF CREDIT FOR CERTAIN PLUG-IN ELEC-**  
8 **TRIC VEHICLES.**

9 (a) IN GENERAL.—Section 30 is repealed.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Paragraph (3) of section 24(b) is amended  
12 by striking “, 30”.

13 (2) Clause (ii) of section 25(e)(1)(C) is amend-  
14 ed by striking “, 30”.

15 (3) Paragraph (2) of section 25B(g) is amended  
16 by striking “, 30”.

17 (4) Paragraph (1) of section 26(a) is amended  
18 by striking “, 30”.

19 (5) Subclause (VI) of section 48C(e)(1)(A)(i) is  
20 amended by inserting “(as in effect on the day be-  
21 fore the date of the enactment of the Energy Explo-  
22 ration and Production to Achieve National Demand  
23 Act)” after “section 30(d)”.

24 (6) Paragraph (3) of section 179A(c) is amend-  
25 ed by inserting “(as in effect on the day before the

1 date of the enactment of the Energy Freedom and  
2 Economic Prosperity Act)” after section “30(c)”.

3 (7) Subsection (a) of section 1016 is amended  
4 by striking paragraph (25) and by redesignating  
5 paragraphs (26) through (37) as paragraphs (25)  
6 through (36), respectively.

7 (8) Subsection (m) of section 6501 is amended  
8 by striking “30(e)(6)”.

9 (c) CLERICAL AMENDMENT.—The table of sections  
10 for subpart B of part IV of subchapter A of chapter 1  
11 is amended by striking the item relating to section 30.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to property placed in service after  
14 December 31, 2011.

15 **SEC. 603. EARLY TERMINATION OF CREDIT FOR QUALIFIED**  
16 **FUEL CELL MOTOR VEHICLES.**

17 (a) IN GENERAL.—Section 30B is repealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subparagraph (A) of section 24(b)(3) is  
20 amended by striking “, 30B”.

21 (2) Clause (ii) of section 25(e)(1)(C) is amend-  
22 ed by striking “, 30B”.

23 (3) Paragraph (2) of section 25B(g) is amended  
24 by striking “, 30B,”.

1 (4) Paragraph (1) of section 26(a) is amended  
2 by striking “, 30B”.

3 (5) Subsection (b) of section 38 is amended by  
4 striking paragraph (25).

5 (6) Subsection (a) of section 1016, as amended  
6 by section 602 of this Act, is amended by striking  
7 paragraph (33) and by redesignating paragraphs  
8 (34), (35), and (36) as paragraphs (33), (34), and  
9 (35), respectively.

10 (7) Paragraph (2) of section 1400C(d) is  
11 amended by striking “, 30B”.

12 (8) Subsection (m) of section 6501 is amended  
13 by striking “, 30B(h)(9)”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 for subpart B of part IV of subchapter A of chapter 1  
16 is amended by striking the item relating to section 30B.

17 (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to property placed in service after  
19 December 31, 2012.

20 **SEC. 604. REPEAL OF ALTERNATIVE FUEL VEHICLE RE-**  
21 **FUELING PROPERTY CREDIT.**

22 (a) IN GENERAL.—Section 30C is repealed.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Subsection (b) of section 38 is amended by  
25 striking paragraph (26).





1           (3) Paragraph (1) of section 4101(a) is amend-  
2           ed by striking “, and every person producing cellu-  
3           losic biofuel (as defined in section 40(b)(6)(E))”.

4           (4) Paragraph (1) of section 4104(a) is amend-  
5           ed by striking “, 40”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to fuel sold or used after December  
8 31, 2012.

9   **SEC. 606. REPEAL OF CREDIT FOR BIODIESEL AND RENEW-**  
10                                   **ABLE DIESEL USED AS FUEL.**

11           (a) IN GENERAL.—Section 40A is repealed.

12           (b) CONFORMING AMENDMENT.—

13                   (1) Subsection (b) of section 38 is amended by  
14           striking paragraph (17).

15                   (2) Section 87 is repealed.

16                   (3) Subsection (c) of section 196, as amended  
17           by section 605 of this Act, is amended by striking  
18           paragraph (11) and by redesignating paragraphs  
19           (11), (12), and (13) as paragraphs (10), (11), and  
20           (12), respectively.

21                   (4) Paragraph (1) of section 4101(a) is amend-  
22           ed by striking “, every person producing or import-  
23           ing biodiesel (as defined in section 40A(d)(1))”.

24                   (5) Paragraph (1) of section 4104(a) is amend-  
25           ed by striking “, and 40A”.

1           (6) Subparagraph (E) of section 7704(d)(1) is  
2           amended by inserting “(as so in effect)” after “sec-  
3           tion 40A(d)(1)”.

4           (c) CLERICAL AMENDMENT.—The table of sections  
5           for subpart D of part IV of subchapter A of chapter 1  
6           is amended by striking the item relating to section 40A.

7           (d) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to fuel produced, and sold or used,  
9           after December 31, 2011.

10 **SEC. 607. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

11           (a) IN GENERAL.—Section 43 is repealed.

12           (b) CONFORMING AMENDMENTS.—

13                 (1) Subsection (b) of section 38 is amended by  
14                 striking paragraph (6).

15                 (2) Paragraph (4) of section 45Q(d) is amended  
16                 by inserting “(as in effect on the day before the date  
17                 of the enactment of the Energy Exploration and  
18                 Production to Achieve National Demand Act)” after  
19                 “section 43(c)(2)”.

20                 (3) Subsection (c) of section 196, as amended  
21                 by sections 605 and 606 of this Act, is amended by  
22                 striking paragraph (5) and by redesignating para-  
23                 graphs (6) through (12) as paragraphs (5) through  
24                 (11), respectively.

1 (c) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 is amended by striking the item relating to section 43.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to costs paid or incurred in taxable  
6 years beginning after December 31, 2012.

7 **SEC. 608. TERMINATION OF CREDIT FOR ELECTRICITY**  
8 **PRODUCED FROM CERTAIN RENEWABLE RE-**  
9 **SOURCES.**

10 (a) IN GENERAL.—Subsection (d) of section 45 is  
11 amended—

12 (1) by striking “2013” in paragraph (1) and in-  
13 serting “2012”, and

14 (2) by striking “2014” each place it appears in  
15 paragraphs (2), (3), (4), (6), (7), (9), and (11) and  
16 inserting “2012”.

17 (b) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to property placed in service after  
19 December 31, 2012.

20 **SEC. 609. REPEAL OF CREDIT FOR PRODUCING OIL AND**  
21 **GAS FROM MARGINAL WELLS.**

22 (a) IN GENERAL.—Section 45I is repealed.

23 (b) CONFORMING AMENDMENT.—Subsection (b) of  
24 section 38 is amended by striking paragraph (19).

1 (c) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 is amended by striking the item relating to section 45I.

4 (d) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to production in taxable years be-  
6 ginning after December 31, 2012.

7 **SEC. 610. TERMINATION OF CREDIT FOR PRODUCTION**  
8 **FROM ADVANCED NUCLEAR POWER FACILI-**  
9 **TIES.**

10 (a) IN GENERAL.—Subparagraph (B) of section  
11 45J(d)(1) is amended by striking “January 1, 2021” and  
12 inserting “January 1, 2013”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to property placed in service after  
15 December 31, 2012.

16 **SEC. 611. REPEAL OF CREDIT FOR CARBON DIOXIDE SE-**  
17 **QUESTRATION.**

18 (a) IN GENERAL.—Section 45Q is repealed.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to carbon dioxide captured after  
21 December 31, 2012.

22 **SEC. 612. TERMINATION OF ENERGY CREDIT.**

23 (a) IN GENERAL.—Section 48 is amended—

24 (1) by striking “January 1, 2017” each place  
25 it appears and inserting “January 1, 2013”,

1           (2) by striking “December 31, 2016” each  
2           place it appears and inserting “December 31,  
3           2012”, and

4           (3) by striking “2012, or 2013” in subsection  
5           (a)(5)(C)(ii) and inserting “or 2012”.

6           (b) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to property placed in service after  
8           December 31, 2012.

9           **SEC. 613. REPEAL OF QUALIFYING ADVANCED COAL**  
10           **PROJECT.**

11           (a) IN GENERAL.—Section 48A is repealed.

12           (b) CONFORMING AMENDMENT.—Section 46 is  
13           amended by striking paragraph (3) and by redesignating  
14           paragraphs (4), (5), and (6) as paragraphs (3), (4), and  
15           (5), respectively.

16           (c) CLERICAL AMENDMENT.—The table of sections  
17           for subpart E of part IV of subchapter A of chapter 1  
18           is amended by striking the item relating to section 48A.

19           (d) EFFECTIVE DATE.—The amendments made by  
20           this section shall apply to property placed in service after  
21           December 31, 2012.

22           **SEC. 614. REPEAL OF QUALIFYING GASIFICATION PROJECT**  
23           **CREDIT.**

24           (a) IN GENERAL.—Section 48B is repealed.

1 (b) CONFORMING AMENDMENT.—Section 46, as  
2 amended by section 613, is amended by striking para-  
3 graph (3) and by redesignating paragraphs (4) and (5)  
4 as paragraphs (3) and (4), respectively.

5 (c) CLERICAL AMENDMENT.—The table of sections  
6 for subpart E of part IV of subchapter A of chapter 1  
7 is amended by striking the item relating to section 48B.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to property placed in service after  
10 December 31, 2012.

11 **SEC. 615. REPEAL OF AMERICAN RECOVERY AND REIN-**  
12 **VESTMENT ACT OF 2009 ENERGY GRANT PRO-**  
13 **GRAM.**

14 (a) IN GENERAL.—Section 1603 of division B of the  
15 American Recovery and Reinvestment Act of 2009 is re-  
16 pealed.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to property placed in service after  
19 December 31, 2011.

20 **TITLE VII—REGULATORY**  
21 **RELIEF**

22 **SEC. 701. LEGISLATIVE STAY.**

23 (a) ESTABLISHMENT OF STANDARDS.—In place of  
24 the rules specified in subsection (b), and notwithstanding  
25 the date by which such rules would otherwise be required

1 to be promulgated, the Administrator of the Environ-  
2 mental Protection Agency (in this title referred to as the  
3 “Administrator”) shall—

4 (1) propose regulations for industrial, commer-  
5 cial, and institutional boilers and process heaters,  
6 and commercial and industrial solid waste inciner-  
7 ator units, subject to any of the rules specified in  
8 subsection (b)—

9 (A) establishing maximum achievable con-  
10 trol technology standards, performance stand-  
11 ards, and other requirements under sections  
12 112 and 129, as applicable, of the Clean Air  
13 Act (42 U.S.C. 7412, 7429); and

14 (B) identifying non-hazardous secondary  
15 materials that, when used as fuels or ingredi-  
16 ents in combustion units of such boilers, proc-  
17 ess heaters, or incinerator units are solid waste  
18 under the Solid Waste Disposal Act (42 U.S.C.  
19 6901 et seq.; commonly referred to as the “Re-  
20 source Conservation and Recovery Act”) for  
21 purposes of determining the extent to which  
22 such combustion units are required to meet the  
23 emissions standards under section 112 of the  
24 Clean Air Act (42 U.S.C. 7412) or the emission



1 standards under section 129 of such Act (42  
2 U.S.C. 7429); and

3 (2) finalize the regulations on the date that is  
4 15 months after the date of the enactment of this  
5 Act.

6 (b) STAY OF EARLIER RULES.—The following rules  
7 are of no force or effect, shall be treated as though such  
8 rules had never taken effect, and shall be replaced as de-  
9 scribed in subsection (a):

10 (1) “National Emission Standards for Haz-  
11 arduous Air Pollutants for Major Sources: Industrial,  
12 Commercial, and Institutional Boilers and Process  
13 Heaters”, published at 76 Fed. Reg. 15608 (March  
14 21, 2011).

15 (2) “National Emission Standards for Haz-  
16 arduous Air Pollutants for Area Sources: Industrial,  
17 Commercial, and Institutional Boilers”, published at  
18 76 Fed. Reg. 15554 (March 21, 2011).

19 (3) “Standards of Performance for New Sta-  
20 tionary Sources and Emission Guidelines for Exist-  
21 ing Sources: Commercial and Industrial Solid Waste  
22 Incineration Units”, published at 76 Fed. Reg.  
23 15704 (March 21, 2011).

1           (4) “Identification of Non-Hazardous Sec-  
2           ondary Materials That Are Solid Waste”, published  
3           at 76 Fed. Reg. 15456 (March 21, 2011).

4           (c) INAPPLICABILITY OF CERTAIN PROVISIONS.—

5           With respect to any standard required by subsection (a)  
6           to be promulgated in regulations under section 112 of the  
7           Clean Air Act (42 U.S.C. 7412), the provisions of sub-  
8           sections (g)(2) and (j) of such section 112 shall not apply  
9           prior to the effective date of the standard specified in such  
10          regulations.

11       **SEC. 702. COMPLIANCE DATES.**

12          (a) ESTABLISHMENT OF COMPLIANCE DATES.—For  
13          each regulation promulgated pursuant to section 701, the  
14          Administrator—

15               (1) shall establish a date for compliance with  
16               standards and requirements under such regulation  
17               that is, notwithstanding any other provision of law,  
18               not earlier than 5 years after the effective date of  
19               the regulation; and

20               (2) in proposing a date for such compliance,  
21               shall take into consideration—

22                       (A) the costs of achieving emissions reduc-  
23                       tions;

1 (B) any non-air quality health and environ-  
2 mental impact and energy requirements of the  
3 standards and requirements;

4 (C) the feasibility of implementing the  
5 standards and requirements, including the time  
6 needed to—

7 (i) obtain necessary permit approvals;

8 and

9 (ii) procure, install, and test control  
10 equipment;

11 (D) the availability of equipment, sup-  
12 pliers, and labor, given the requirements of the  
13 regulation and other proposed or finalized regu-  
14 lations of the Environmental Protection Agency;  
15 and

16 (E) potential net employment impacts.

17 (b) NEW SOURCES.—The date on which the Adminis-  
18 trator proposes a regulation pursuant to section 701(a)(1)  
19 establishing an emission standard under section 112 or  
20 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall  
21 be treated as the date on which the Administrator first  
22 proposes such a regulation for purposes of applying the  
23 definition of a new source under section 112(a)(4) of such  
24 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid

1 waste incineration unit under section 129(g)(2) of such  
2 Act (42 U.S.C. 7429(g)(2)).

3 (c) **RULE OF CONSTRUCTION.**—Nothing in this title  
4 shall be construed to restrict or otherwise affect the provi-  
5 sions of paragraphs (3)(B) and (4) of section 112(i) of  
6 the Clean Air Act (42 U.S.C. 7412(i)).

7 **SEC. 703. ENERGY RECOVERY AND CONSERVATION.**

8 Notwithstanding any other provision of law, and to  
9 ensure the recovery and conservation of energy consistent  
10 with the Solid Waste Disposal Act (42 U.S.C. 6901 et  
11 seq.; commonly referred to as the “Resource Conservation  
12 and Recovery Act”), in promulgating rules under section  
13 701(a) addressing the subject matter of the rules specified  
14 in paragraphs (3) and (4) of section 701(b), the Adminis-  
15 trator—

16 (1) shall adopt the definitions of the terms  
17 “commercial and industrial solid waste incineration  
18 unit”, “commercial and industrial waste”, and “con-  
19 tained gaseous material” in the rule entitled “Stand-  
20 ards of Performance for New Stationary Sources  
21 and Emission Guidelines for Existing Sources: Com-  
22 mercial and Industrial Solid Waste Incineration  
23 Units”, published at 65 Fed. Reg. 75338 (December  
24 1, 2000); and

1           (2) shall identify non-hazardous secondary ma-  
2           terial to be solid waste only if—

3                   (A) the material meets such definition of  
4           commercial and industrial waste; or

5                   (B) if the material is a gas, it meets such  
6           definition of contained gaseous material.

7 **SEC. 704. OTHER PROVISIONS.**

8           (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN  
9 PRACTICE.—In promulgating rules under section 701(a),  
10 the Administrator shall ensure that emissions standards  
11 for existing and new sources established under section 112  
12 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as  
13 applicable, can be met under actual operating conditions  
14 consistently and concurrently with emission standards for  
15 all other air pollutants regulated by the rule for the source  
16 category, taking into account variability in actual source  
17 performance, source design, fuels, inputs, controls, ability  
18 to measure the pollutant emissions, and operating condi-  
19 tions.

20           (b) REGULATORY ALTERNATIVES.—For each regula-  
21 tion promulgated pursuant to section 701(a), from among  
22 the range of regulatory alternatives authorized under the  
23 Clean Air Act (42 U.S.C. 7401 et seq.) including work  
24 practice standards under section 112(h) of such Act (42  
25 U.S.C. 7412(h)), the Administrator shall impose the least

1 burdensome, consistent with the purposes of such Act and  
2 Executive Order No. 13563 published at 76 Fed. Reg.  
3 3821 (January 21, 2011).

4 (c) DEDUCTION FOR CAPITAL EXPENDITURES RE-  
5 LATING TO ENERGY PROPERTY.—

6 (1) IN GENERAL.—

7 (A) IN GENERAL.—Part VI of subchapter  
8 B of chapter 1 is amended by inserting after  
9 section 179E the following new section:

10 **“SEC. 179F. ELECTION TO EXPENSE PROPERTY USED IN**  
11 **THE PRODUCTION OF ENERGY.**

12 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
13 elect to treat the cost of any property used in the produc-  
14 tion of energy as an expense which is not chargeable to  
15 capital account. Any cost so treated shall be allowed as  
16 a deduction for the taxable year in which the property is  
17 placed in service.

18 “(b) ELECTION.—

19 “(1) IN GENERAL.—An election under this sec-  
20 tion for any taxable year shall be made on the tax-  
21 payer’s return of the tax imposed by this chapter for  
22 the taxable year. Such election shall specify the  
23 property to which the election applies and shall be  
24 made in such manner as the Secretary may by regu-  
25 lations prescribe.

1           “(2) ELECTION IRREVOCABLE.—Any election  
2           made under this section may not be revoked except  
3           with the consent of the Secretary.

4           “(c) PROPERTY USED IN THE PRODUCTION OF EN-  
5           ERGY.—For purposes of this section, the term ‘property  
6           used in the production of energy’ means property—

7           “(1) used in the production of energy,

8           “(2) the original use of which commences with  
9           the taxpayer, and

10           “(3) which is placed in service by the taxpayer  
11           after the date of the enactment of this section.

12           “(d) COORDINATION.—No expenditures shall be  
13           taken into account under subsection (a) with respect to  
14           the portion of the cost of any property taken into account  
15           in determining a credit or deduction under any other sec-  
16           tion of this chapter.

17           “(e) BASIS REDUCTION.—For purposes of this sub-  
18           title, if a deduction is allowed under this section with re-  
19           spect to any property, the basis of such property shall be  
20           reduced by the amount of the deduction so allowed.

21           “(f) REPORTING.—No deduction shall be allowed  
22           under subsection (a) to any taxpayer for any taxable year  
23           unless such taxpayer files with the Secretary a report con-  
24           taining such information with respect to the operation of  
25           the mines of the taxpayer as the Secretary shall require.”.

1 (B) Section 1016(a) is amended by strik-  
2 ing “and” at the end of paragraph (36), by  
3 striking the period at the end of paragraph (37)  
4 and inserting “, and”, and by adding at the end  
5 the following new paragraph:

6 “(38) to the extent provided in section  
7 179F(e).”.

8 (C) Section 263(a)(1) of the Internal Rev-  
9 enue Code of 1986 (relating to capital expendi-  
10 tures) is amended by striking “or” at the end  
11 of subparagraph (K), by striking the period at  
12 the end of paragraph (L) and inserting “, or”,  
13 and by adding at the end the following new sub-  
14 paragraph:

15 “(M) expenditures for which a deduction is  
16 allowed under section 179F.”.

17 (D) Section 1245(a) of such Code is  
18 amended by inserting “179F,” after “179E,”  
19 both places it appears in paragraphs (2)(C) and  
20 (3)(C).

21 (E) The table of sections for part VI of  
22 subchapter B of chapter 1 of such Code is  
23 amended by inserting after the item relating to  
24 section 179E the following new item:

“Sec. 179F. Election to expense property used in the production of energy.”.



1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to taxable years begin-  
3           ning after December 31, 2012.

4 **SEC. 705. MANAGEMENT AND DISPOSAL OF COAL COMBUS-**  
5 **TION RESIDUALS.**

6           (a) AMENDMENT TO SUBTITLE D OF THE SOLID  
7 WASTE DISPOSAL ACT.—Subtitle D of the Solid Waste  
8 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-  
9 ing at the end the following new section:

10 **“SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COM-**  
11 **BUSTION RESIDUALS.**

12           “(a) STATE PERMIT PROGRAMS FOR COAL COMBUS-  
13 TION RESIDUALS.—Each State may adopt and implement  
14 a coal combustion residuals permit program.

15           “(b) STATE ACTIONS.—

16                 “(1) NOTIFICATION.—Not later than 6 months  
17 after the date of enactment of this section (except  
18 as provided by the deadline identified under sub-  
19 section (d)(2)(B)), the Governor of each State shall  
20 notify the Administrator, in writing, whether such  
21 State will adopt and implement a coal combustion  
22 residuals permit program.

23                 “(2) CERTIFICATION.—

24                         “(A) IN GENERAL.—Not later than 36  
25 months after the date of enactment of this sec-

1           tion (except as provided in subsections (f)(1)(A)  
2           and (f)(1)(C)), in the case of a State that has  
3           notified the Administrator that it will imple-  
4           ment a coal combustion residuals permit pro-  
5           gram, the head of the lead State agency respon-  
6           sible for implementing the coal combustion re-  
7           siduals permit program shall submit to the Ad-  
8           ministrator a certification that such coal com-  
9           bustion residuals permit program meets the  
10          specifications described in subsection (c)(1).

11           “(B) CONTENTS.—A certification sub-  
12          mitted under this paragraph shall include—

13                   “(i) a letter identifying the lead State  
14                   agency responsible for implementing the  
15                   coal combustion residuals permit program,  
16                   signed by the head of such agency;

17                   “(ii) identification of any other State  
18                   agencies involved with the implementation  
19                   of the coal combustion residuals permit  
20                   program;

21                   “(iii) a narrative description that pro-  
22                   vides an explanation of how the State will  
23                   ensure that the coal combustion residuals  
24                   permit program meets the requirements of

1 this section, including a description of the  
2 State's—

3 “(I) process to inspect or other-  
4 wise determine compliance with such  
5 permit program;

6 “(II) process to enforce the re-  
7 quirements of such permit program;  
8 and

9 “(III) public participation proc-  
10 ess for the promulgation, amendment,  
11 or repeal of regulations for, and the  
12 issuance of permits under, such per-  
13 mit program;

14 “(iv) a legal certification that the  
15 State has, at the time of certification, fully  
16 effective statutes or regulations necessary  
17 to implement a coal combustion residuals  
18 permit program that meets the specifica-  
19 tions described in subsection (c)(1); and

20 “(v) copies of State statutes and regu-  
21 lations described in clause (iv).

22 “(3) MAINTENANCE OF 4005(c) OR 3006 PRO-  
23 GRAM.—In order to adopt or implement a coal com-  
24 bustion residuals permit program under this section  
25 (including pursuant to subsection (f)), the State

1 agency responsible for implementing a coal combus-  
2 tion residuals permit program in a State shall main-  
3 tain an approved program under section 4005(c) or  
4 an authorized program under section 3006.

5 “(c) PERMIT PROGRAM SPECIFICATIONS.—

6 “(1) MINIMUM REQUIREMENTS.—The specifica-  
7 tions described in this subsection for a coal combus-  
8 tion residuals permit program are as follows:

9 “(A) The revised criteria described in  
10 paragraph (2) shall apply to a coal combustion  
11 residuals permit program, except as provided in  
12 paragraph (3).

13 “(B) Each structure shall be, in accord-  
14 ance with generally accepted engineering stand-  
15 ards for the structural integrity of such struc-  
16 tures, designed, constructed, and maintained to  
17 provide for containment of the maximum vol-  
18 umes of coal combustion residuals appropriate  
19 for the structure. If a structure is determined  
20 by the head of the agency responsible for imple-  
21 menting the coal combustion residuals permit  
22 program to be deficient, the head of such agen-  
23 cy has authority to require action to correct the  
24 deficiency according to a schedule determined  
25 by such agency. If the identified deficiency is

1 not corrected according to such schedule, the  
2 head of such agency has authority to require  
3 that the structure close in accordance with sub-  
4 section (h).

5 “(C) The coal combustion residuals permit  
6 program shall apply the revised criteria promul-  
7 gated pursuant to section 4010(e) for location,  
8 design, groundwater monitoring, corrective ac-  
9 tion, financial assurance, closure, and post-clo-  
10 sure described in paragraph (2) and the speci-  
11 fications described in this paragraph to surface  
12 impoundments.

13 “(D) If a structure that is classified as  
14 posing a high hazard potential pursuant to the  
15 guidelines published by the Federal Emergency  
16 Management Agency entitled ‘Federal Guide-  
17 lines for Dam Safety: Hazard Potential Classi-  
18 fication System for Dams’ (FEMA Publication  
19 Number 333) is determined by the head of the  
20 agency responsible for implementing the coal  
21 combustion residuals permit program to be defi-  
22 cient with respect to the structural integrity re-  
23 quirement in subparagraph (B), the head of  
24 such agency has authority to require action to  
25 correct the deficiency according to a schedule

1 determined by such agency. If the identified de-  
2 ficiency is not corrected according to such  
3 schedule, the head of such agency has authority  
4 to require that the structure close in accordance  
5 with subsection (h).

6 “(E) New structures that first receive coal  
7 combustion residuals after the date of enact-  
8 ment of this section shall be constructed with a  
9 base located a minimum of two feet above the  
10 upper limit of the natural water table.

11 “(F) In the case of a coal combustion re-  
12 siduals permit program implemented by a  
13 State, the State has the authority to inspect  
14 structures and implement and enforce such per-  
15 mit program.

16 “(G) In the case of a coal combustion re-  
17 siduals permit program implemented by a  
18 State, the State has the authority to address  
19 wind dispersal of dust from coal combustion re-  
20 siduals by requiring dust control measures, as  
21 determined appropriate by the head of the lead  
22 State agency responsible for implementing the  
23 coal combustion residuals permit program.

24 “(2) REVISED CRITERIA.—The revised criteria  
25 described in this paragraph are—

1           “(A) the revised criteria for design,  
2 groundwater monitoring, corrective action, clo-  
3 sure, and post-closure, for structures, includ-  
4 ing—

5           “(i) for new structures, and lateral ex-  
6 pansions of existing structures, that first  
7 receive coal combustion residuals after the  
8 date of enactment of this section, the re-  
9 vised criteria regarding design require-  
10 ments described in section 258.40 of title  
11 40, Code of Federal Regulations; and

12           “(ii) for all structures that receive  
13 coal combustion residuals after the date of  
14 enactment of this section, the revised cri-  
15 teria regarding groundwater monitoring  
16 and corrective action requirements de-  
17 scribed in subpart E of part 258 of title  
18 40, Code of Federal Regulations, except  
19 that, for the purposes of this paragraph,  
20 such revised criteria shall also include—

21           “(I) for the purposes of detection  
22 monitoring, the constituents boron,  
23 chloride, conductivity, fluoride, mer-  
24 cury, pH, sulfate, sulfide, and total  
25 dissolved solids; and

1                   “(II) for the purposes of assess-  
2                   ment monitoring, the constituents alu-  
3                   minum, boron, chloride, fluoride, iron,  
4                   manganese, molybdenum, pH, sulfate,  
5                   and total dissolved solids;

6                   “(B) the revised criteria for location re-  
7                   strictions described in—

8                   “(i) for new structures, and lateral ex-  
9                   pansions of existing structures, that first  
10                  receive coal combustion residuals after the  
11                  date of enactment of this section, sections  
12                  258.11 through 258.15 of title 40, Code of  
13                  Federal Regulations; and

14                  “(ii) for existing structures that re-  
15                  ceive coal combustion residuals after the  
16                  date of enactment of this section, sections  
17                  258.11 and 258.15 of title 40, Code of  
18                  Federal Regulations;

19                  “(C) for all structures that receive coal  
20                  combustion residuals after the date of enact-  
21                  ment of this section, the revised criteria for air  
22                  quality described in section 258.24 of title 40,  
23                  Code of Federal Regulations;

24                  “(D) for all structures that receive coal  
25                  combustion residuals after the date of enact-



1           ment of this section, the revised criteria for fi-  
2           nancial assurance described in subpart G of  
3           part 258 of title 40, Code of Federal Regula-  
4           tions;

5           “(E) for all structures that receive coal  
6           combustion residuals after the date of enact-  
7           ment of this section, the revised criteria for sur-  
8           face water described in section 258.27 of title  
9           40, Code of Federal Regulations;

10          “(F) for all structures that receive coal  
11          combustion residuals after the date of enact-  
12          ment of this section, the revised criteria for rec-  
13          ordkeeping described in section 258.29 of title  
14          40, Code of Federal Regulations;

15          “(G) for landfills and other land-based  
16          units, other than surface impoundments, that  
17          receive coal combustion residuals after the date  
18          of enactment of this section, the revised criteria  
19          for run-on and run-off control systems de-  
20          scribed in section 258.26 of title 40, Code of  
21          Federal Regulations; and

22          “(H) for surface impoundments that re-  
23          ceive coal combustion residuals after the date of  
24          enactment of this section, the revised criteria  
25          for run-off control systems described in section

1           258.26(a)(2) of title 40, Code of Federal Regu-  
2           lations.

3           “(3) APPLICABILITY OF CERTAIN REQUIRE-  
4           MENTS.—A State may determine that one or more  
5           of the requirements of the revised criteria described  
6           in paragraph (2) is not needed for the management  
7           of coal combustion residuals in that State, and may  
8           decline to apply such requirement as part of its coal  
9           combustion residuals permit program. If a State de-  
10          clines to apply a requirement under this paragraph,  
11          the State shall include in the certification under sub-  
12          section (b)(2) a description of such requirement and  
13          the reasons such requirement is not needed in the  
14          State. If the Administrator determines that a State  
15          determination under this paragraph does not accu-  
16          rately reflect the needs for the management of coal  
17          combustion residuals in the State, the Administrator  
18          may treat such State determination as a deficiency  
19          under subsection (d).

20          “(d) WRITTEN NOTICE AND OPPORTUNITY TO REM-  
21          EDY.—

22                 “(1) IN GENERAL.—The Administrator shall  
23                 provide to a State written notice and an opportunity  
24                 to remedy deficiencies in accordance with paragraph  
25                 (2) if at any time the State—

1           “(A) does not satisfy the notification re-  
2           quirement under subsection (b)(1);

3           “(B) has not submitted a certification  
4           under subsection (b)(2);

5           “(C) does not satisfy the maintenance re-  
6           quirement under subsection (b)(3); or

7           “(D) is not implementing a coal combus-  
8           tion residuals permit program that meets the  
9           specifications described in subsection (c)(1).

10          “(2) CONTENTS OF NOTICE; DEADLINE FOR RE-  
11          SPONSE.—A notice provided under this subsection  
12          shall—

13                 “(A) include findings of the Administrator  
14                 detailing any applicable deficiencies in—

15                         “(i) compliance by the State with the  
16                         notification requirement under subsection  
17                         (b)(1);

18                         “(ii) compliance by the State with the  
19                         certification requirement under subsection  
20                         (b)(2);

21                         “(iii) compliance by the State with the  
22                         maintenance requirement under subsection  
23                         (b)(3); and

24                         “(iv) the State coal combustion re-  
25                         siduals permit program in meeting the

1 specifications described in subsection  
2 (c)(1); and

3 “(B) identify, in collaboration with the  
4 State, a reasonable deadline, which shall be not  
5 sooner than 6 months after the State receives  
6 the notice, by which the State shall remedy the  
7 deficiencies detailed under subparagraph (A).

8 “(e) IMPLEMENTATION BY ADMINISTRATOR.—

9 “(1) IN GENERAL.—The Administrator shall  
10 implement a coal combustion residuals permit pro-  
11 gram for a State only in the following cir-  
12 cumstances:

13 “(A) If the Governor of such State notifies  
14 the Administrator under subsection (b)(1) that  
15 such State will not adopt and implement such  
16 a permit program.

17 “(B) If such State has received a notice  
18 under subsection (d) and, after any review  
19 brought by the State under section 7006, fails,  
20 by the deadline identified in such notice under  
21 subsection (d)(2)(B), to remedy the deficiencies  
22 detailed in such notice under subsection  
23 (d)(2)(A).

1           “(C) If such State informs the Adminis-  
2           trator, in writing, that such State will no longer  
3           implement such a permit program.

4           “(2) REQUIREMENTS.—If the Administrator  
5           implements a coal combustion residuals permit pro-  
6           gram for a State under paragraph (1), such permit  
7           program shall consist of the specifications described  
8           in subsection (c)(1).

9           “(3) ENFORCEMENT.—If the Administrator im-  
10          plements a coal combustion residuals permit pro-  
11          gram for a State under paragraph (1), the authori-  
12          ties referred to in section 4005(c)(2)(A) shall apply  
13          with respect to coal combustion residuals and struc-  
14          tures and the Administrator may use such authori-  
15          ties to inspect, gather information, and enforce the  
16          requirements of this section in the State.

17          “(f) STATE CONTROL AFTER IMPLEMENTATION BY  
18          ADMINISTRATOR.—

19                 “(1) STATE CONTROL.—

20                         “(A) NEW ADOPTION AND IMPLEMENTA-  
21                         TION BY STATE.—For a State for which the  
22                         Administrator is implementing a coal combus-  
23                         tion residuals permit program under subsection  
24                         (e)(1)(A), the State may adopt and implement  
25                         such a permit program by—

1           “(i) notifying the Administrator that  
2           the State will adopt and implement such a  
3           permit program;

4           “(ii) not later than 6 months after the  
5           date of such notification, submitting to the  
6           Administrator a certification under sub-  
7           section (b)(2); and

8           “(iii) receiving from the Adminis-  
9           trator—

10           “(I) a determination that the  
11           State coal combustion residuals per-  
12           mit program meets the specifications  
13           described in subsection (c)(1); and

14           “(II) a timeline for transition of  
15           control of the coal combustion residu-  
16           als permit program.

17           “(B) REMEDYING DEFICIENT PERMIT PRO-  
18           GRAM.—For a State for which the Adminis-  
19           trator is implementing a coal combustion re-  
20           siduals permit program under subsection  
21           (e)(1)(B), the State may adopt and implement  
22           such a permit program by—

23           “(i) remedying the deficiencies de-  
24           tailed in the notice provided under sub-  
25           section (d)(2)(A); and

1           “(ii) receiving from the Adminis-  
2           trator—

3                   “(I) a determination that the de-  
4                   ficiencies detailed in such notice have  
5                   been remedied; and

6                   “(II) a timeline for transition of  
7                   control of the coal combustion residu-  
8                   als permit program.

9           “(C) RESUMPTION OF IMPLEMENTATION  
10           BY STATE.—For a State for which the Adminis-  
11           trator is implementing a coal combustion re-  
12           siduals permit program under subsection  
13           (e)(1)(C), the State may adopt and implement  
14           such a permit program by—

15                   “(i) notifying the Administrator that  
16                   the State will adopt and implement such a  
17                   permit program;

18                   “(ii) not later than 6 months after the  
19                   date of such notification, submitting to the  
20                   Administrator a certification under sub-  
21                   section (b)(2); and

22                   “(iii) receiving from the Adminis-  
23                   trator—

24                   “(I) a determination that the  
25                   State coal combustion residuals per-

1 mit program meets the specifications  
2 described in subsection (e)(1); and

3 “(II) a timeline for transition of  
4 control of the coal combustion residu-  
5 als permit program.

6 “(2) REVIEW OF DETERMINATION.—

7 “(A) DETERMINATION REQUIRED.—The  
8 Administrator shall make a determination  
9 under paragraph (1) not later than 90 days  
10 after the date on which the State submits a cer-  
11 tification under paragraph (1)(A)(ii) or  
12 (1)(C)(ii), or notifies the Administrator that the  
13 deficiencies have been remedied pursuant to  
14 paragraph (1)(B)(i), as applicable.

15 “(B) REVIEW.—A State may obtain a re-  
16 view of a determination by the Administrator  
17 under paragraph (1) as if such determination  
18 was a final regulation for purposes of section  
19 7006.

20 “(3) IMPLEMENTATION DURING TRANSITION.—

21 “(A) EFFECT ON ACTIONS AND ORDERS.—  
22 Actions taken or orders issued pursuant to a  
23 coal combustion residuals permit program shall  
24 remain in effect if—



1           “(i) a State takes control of its coal  
2           combustion residuals permit program from  
3           the Administrator under paragraph (1); or

4           “(ii) the Administrator takes control  
5           of a coal combustion residuals permit pro-  
6           gram from a State under subsection (e).

7           “(B) CHANGE IN REQUIREMENTS.—Sub-  
8           paragraph (A) shall apply to such actions and  
9           orders until such time as the Administrator or  
10          the head of the lead State agency responsible  
11          for implementing the coal combustion residuals  
12          permit program, as applicable—

13           “(i) implements changes to the re-  
14           quirements of the coal combustion residu-  
15           als permit program with respect to the  
16           basis for the action or order; or

17           “(ii) certifies the completion of a cor-  
18           rective action that is the subject of the ac-  
19           tion or order.

20          “(4) SINGLE PERMIT PROGRAM.—If a State  
21          adopts and implements a coal combustion residuals  
22          permit program under this subsection, the Adminis-  
23          trator shall cease to implement the permit program  
24          implemented under subsection (e) for such State.

1       “(g) EFFECT ON DETERMINATION UNDER 4005(c)  
2 OR 3006.—The Administrator shall not consider the im-  
3 plementation of a coal combustion residuals permit pro-  
4 gram by the Administrator under subsection (e) in making  
5 a determination of approval for a permit program or other  
6 system of prior approval and conditions under section  
7 4005(c) or of authorization for a program under section  
8 3006.

9       “(h) CLOSURE.—If it is determined, pursuant to a  
10 coal combustion residuals permit program, that a struc-  
11 ture should close, the time period and method for the clo-  
12 sure of such structure shall be set forth in a closure plan  
13 that establishes a deadline for completion and that takes  
14 into account the nature and the site-specific characteris-  
15 ties of the structure to be closed. In the case of a surface  
16 impoundment, the closure plan shall require, at a min-  
17 imum, the removal of liquid and the stabilization of re-  
18 maining waste, as necessary to support the final cover.

19       “(i) AUTHORITY.—

20               “(1) STATE AUTHORITY.—Nothing in this sec-  
21 tion shall preclude or deny any right of any State to  
22 adopt or enforce any regulation or requirement re-  
23 specting coal combustion residuals that is more  
24 stringent or broader in scope than a regulation or  
25 requirement under this section.

1           “(2) AUTHORITY OF THE ADMINISTRATOR.—

2                   “(A) IN GENERAL.—Except as provided in  
3 subsection (e) of this section and section 6005  
4 of this title, the Administrator shall, with re-  
5 spect to the regulation of coal combustion re-  
6 siduals, defer to the States pursuant to this sec-  
7 tion.

8                   “(B) IMMINENT HAZARD.—Nothing in this  
9 section shall be construed to affect the author-  
10 ity of the Administrator under section 7003  
11 with respect to coal combustion residuals.

12                   “(C) TECHNICAL AND ENFORCEMENT AS-  
13 SISTANCE ONLY UPON REQUEST.—Upon re-  
14 quest from the head of a lead State agency that  
15 is implementing a coal combustion residuals  
16 permit program, the Administrator may provide  
17 to such State agency only the technical or en-  
18 forcement assistance requested.

19                   “(3) CITIZEN SUITS.—Nothing in this section  
20 shall be construed to affect the authority of a person  
21 to commence a civil action in accordance with sec-  
22 tion 7002.

23                   “(j) MINE RECLAMATION ACTIVITIES.—A coal com-  
24 bustion residuals permit program implemented under sub-  
25 section (e) by the Administrator shall not apply to the uti-

1 lization, placement, and storage of coal combustion residu-  
2 als at surface mining and reclamation operations.

3 “(k) DEFINITIONS.—In this section:

4 “(1) COAL COMBUSTION RESIDUALS.—The  
5 term ‘coal combustion residuals’ means—

6 “(A) the solid wastes listed in section  
7 3001(b)(3)(A)(i), including recoverable mate-  
8 rials from such wastes;

9 “(B) coal combustion wastes that are co-  
10 managed with wastes produced in conjunction  
11 with the combustion of coal, provided that such  
12 wastes are not segregated and disposed of sepa-  
13 rately from the coal combustion wastes and  
14 comprise a relatively small proportion of the  
15 total wastes being disposed in the structure;

16 “(C) fluidized bed combustion wastes;

17 “(D) wastes from the co-burning of coal  
18 with nonhazardous secondary materials pro-  
19 vided that coal makes up at least 50 percent of  
20 the total fuel burned; and

21 “(E) wastes from the co-burning of coal  
22 with materials described in subparagraph (A)  
23 that are recovered from monofills.

24 “(2) COAL COMBUSTION RESIDUALS PERMIT  
25 PROGRAM.—The term ‘coal combustion residuals

1 permit program' means a permit program or other  
2 system of prior approval and conditions that is  
3 adopted by or for a State for the management and  
4 disposal of coal combustion residuals to the extent  
5 such activities occur in structures in such State.

6 “(3) STRUCTURE.—The term ‘structure’ means  
7 a landfill, surface impoundment, or other land-based  
8 unit which may receive coal combustion residuals.

9 “(4) REVISED CRITERIA.—The term ‘revised  
10 criteria’ means the criteria promulgated for munic-  
11 ipal solid waste landfill units under section 4004(a)  
12 and under section 1008(a)(3), as revised under sec-  
13 tion 4010(c) in accordance with the requirement of  
14 such section that the criteria protect human health  
15 and the environment.”.

16 (b) CONFORMING AMENDMENT.—The table of con-  
17 tents contained in section 1001 of the Solid Waste Dis-  
18 posal Act is amended by inserting after the item relating  
19 to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

20 (c) 2000 REGULATORY DETERMINATION.—Nothing  
21 in this section, or the amendments made by this section,  
22 shall be construed to alter in any manner the Environ-  
23 mental Protection Agency’s regulatory determination enti-  
24 tled “Notice of Regulatory Determination on Wastes from  
25 the Combustion of Fossil Fuels”, published at 65 Fed.

1 Reg. 32214 (May 22, 2000), that the fossil fuel combus-  
 2 tion wastes addressed in that determination do not war-  
 3 rant regulation under subtitle C of the Solid Waste Dis-  
 4 posal Act (42 U.S.C. 6921 et seq.).

5 **TITLE VIII—ATTAINMENT OF NA-**  
 6 **TIONAL AMBIENT AIR QUAL-**  
 7 **ITY STANDARDS**

8 **SEC. 801. AIR QUALITY MONITORING AND MODELING**  
 9 **METHODOLOGIES.**

10 (a) NONATTAINMENT DESIGNATION TO BE BASED  
 11 ON MONITORING DATA.—Section 107 of the Clean Air Act  
 12 (42 U.S.C. 7407) is amended by adding at the end the  
 13 following:

14 “(f) NONATTAINMENT DESIGNATION TO BE BASED  
 15 ON MONITORING DATA.—Any designation or redesigna-  
 16 tion of an area or portion of an area within a State or  
 17 interstate area as a nonattainment area for a pollutant  
 18 within the meaning of subsection (d)(1)(A)(i) shall—

19 “(1) be based on monitoring data; and

20 “(2) not take into consideration modeling  
 21 data.”.

22 (b) AIR QUALITY MODELING METHODOLOGIES.—

23 (1) METHODOLOGIES.—Section 110 of the  
 24 Clean Air Act (42 U.S.C. 7410) is amended by add-  
 25 ing at the end the following:

1       “(d) AIR QUALITY MODELING METHODOLOGIES.—  
2 The Administrator shall, by regulation, set forth the air  
3 quality modeling methodologies required to be used for  
4 purposes of air quality modeling pursuant to subsection  
5 (a)(2)(K).”.

6           (2) REGULATIONS.—The Administrator of the  
7 Environmental Protection Agency shall promulgate  
8 final regulations, as required by section 110(d) of  
9 the Clean Air Act, as added by paragraph (1), not  
10 later than one year after the date of the enactment  
11 of this Act.

12 **SEC. 802. EXTENDING COMPLIANCE FOR NAAQS ATTAIN-**  
13 **MENT FOR DOWNWIND STATES.**

14       Section 181 of the Clean Air Act (42 U.S.C. 7511)  
15 is amended by adding at the end the following:

16       “(d) EXTENDED ATTAINMENT DATE FOR CERTAIN  
17 DOWNWIND AREAS.—

18           “(1) DEFINITIONS.—In this subsection:

19               “(A) The term ‘upwind area’ means an  
20 area that—

21                   “(i) affects nonattainment in another  
22 area (in this subsection referred to as the  
23 ‘downwind area’); and

24                   “(ii) is either—

1                   “(I) a nonattainment area with a  
2                   later attainment date than the down-  
3                   wind area; or

4                   “(II) an area in another State  
5                   that the Administrator has found to  
6                   be significantly contributing to non-  
7                   attainment in the downwind area in  
8                   violation of section 110(a)(2)(D) and  
9                   for which the Administrator has es-  
10                  tablished requirements through notice  
11                  and comment rulemaking to reduce  
12                  the emissions causing such significant  
13                  contribution.

14                  “(B) The term ‘current classification’  
15                  means the classification of a downwind area  
16                  under this section at the time of the determina-  
17                  tion under paragraph (2).

18                  “(2) EXTENSION.—Notwithstanding subsection  
19                  (b)(2), a downwind area that is not in attainment  
20                  within 18 months of the attainment deadline re-  
21                  quired under this section may seek an extension of  
22                  time to come into attainment by petitioning the Ad-  
23                  ministrator for such an extension. If the Adminis-  
24                  trator—



1           “(A) determines that the area is a down-  
2 wind area with respect to a particular national  
3 ambient air quality standard for ozone;

4           “(B) approves a plan revision for such  
5 area as provided in paragraph (3) prior to a re-  
6 classification under subsection (b)(2)(A); and

7           “(C) determines that the petitioning down-  
8 wind area has demonstrated that it is affected  
9 by transport from an upwind area to a degree  
10 that affects the area’s ability to attain,

11 the Administrator, in lieu of such reclassification,  
12 may extend the attainment date for such downwind  
13 area for such standard in accordance with paragraph  
14 (5).

15           “(3) APPROVAL.—In order to extend the attain-  
16 ment date for a downwind area under this sub-  
17 section, the Administrator may approve a revision of  
18 the applicable implementation plan for the downwind  
19 area for the national ambient air quality standard  
20 that—

21           “(A) complies with all requirements of this  
22 Act applicable under the current classification  
23 of the downwind area, including any require-  
24 ments applicable to the area under section  
25 172(c) for such standard;

1           “(B) includes any additional measures  
2           needed to demonstrate attainment by the ex-  
3           tended attainment date provided under this  
4           subsection, and provides for implementation of  
5           those measures as expeditiously as practicable;  
6           and

7           “(C) provides appropriate measures to en-  
8           sure that no area downwind of the area receiv-  
9           ing the extended attainment date will be af-  
10          fected by transport to a degree that affects the  
11          other area’s ability to attain.

12          “(4) PRIOR RECLASSIFICATION DETERMINA-  
13          TION.—If, after April 1, 2003, and prior to the time  
14          the 1-hour ozone standard no longer applies to a  
15          downwind area, the Administrator made a reclassi-  
16          fication determination under subsection (b)(2)(A)  
17          for such downwind area, and the Administrator ap-  
18          proves a plan consistent with subparagraphs (A) and  
19          (B) for such area, the reclassification shall be with-  
20          drawn and, for purposes of implementing the 8-hour  
21          ozone national ambient air quality standard, the  
22          area shall be treated as if the reclassification never  
23          occurred. Such plan must be submitted no later than  
24          12 months following enactment of this subsection,  
25          and—

1           “(A) the plan revision for the downwind  
2           area must comply with all control and planning  
3           requirements of this Act applicable under the  
4           classification that applied immediately prior to  
5           reclassification, including any requirements ap-  
6           plicable to the area under section 172(c) for  
7           such standard; and

8           “(B) the plan must include any additional  
9           measures needed to demonstrate attainment no  
10          later than the date on which the last reductions  
11          in pollution transport that have been found by  
12          the Administrator to significantly contribute to  
13          nonattainment are required to be achieved by  
14          the upwind area or areas.

15          “(5) EXTENDED DATE.—The attainment date  
16          extended under this subsection shall provide for at-  
17          tainment of such national ambient air quality stand-  
18          ard for ozone in the downwind area as expeditiously  
19          as practicable but no later than the new date that  
20          the area would have been subject to had it been re-  
21          classified under subsection (b)(2).

22          “(6) RULEMAKING.—Within 12 months after  
23          the enactment of this subsection, the Administrator  
24          shall, after notice and comment, promulgate rules to  
25          determine, for purposes of paragraphs (2) and (3),

1 when an area is affected by transport to a degree  
2 that affects the area's ability to attain. The purpose  
3 of such rules shall be to ensure that downwind areas  
4 are not unjustly penalized.”.

5 **TITLE IX—SUB-BASIN REPORT-**  
6 **ING OF GREENHOUSE GAS**  
7 **EMISSIONS**

8 **SEC. 901. SUB-BASIN REPORTING OF GREENHOUSE GAS**  
9 **EMISSIONS.**

10 Section 114 of the Clean Air Act (42 U.S.C. 7414)  
11 is amended by adding at the end the following:

12 “(e) REPORTING OF GREENHOUSE GAS EMISSIONS  
13 FROM PETROLEUM AND NATURAL GAS SYSTEMS.—In re-  
14 quiring any owner or operator of any facility in the petro-  
15 leum and natural gas system source category (as such  
16 terms are used in part 98 of title 40, Code of Federal  
17 Regulations, and any successor regulations) to report  
18 greenhouse gas emissions from facilities in such category,  
19 the Administrator shall allow the owner or operator, at  
20 its election—

21 “(1) to designate sub-basins consisting of simi-  
22 lar fields within a larger basin; and

23 “(2) to report such emissions from such sub-ba-  
24 sins instead of reporting such emissions from the  
25 larger basin.”.

1 **TITLE X—IMPLEMENTATION OF**  
2 **NATIONAL OCEAN POLICY**

3 **SEC. 1001. PROHIBITION ON USE OF FUNDS.**

4 (a) Federal departments and agencies are prohibited  
5 from performing activities to implement Executive Order  
6 13547.

7 **TITLE XI—OTHER PROVISIONS**

8 **SEC. 1101. ADMINISTRATIVE RECORD.**

9 The administrative record compiled by an agency re-  
10 garding an application for a permit, authorization, or  
11 other agency action involving a Priority Energy Project  
12 shall be the sole and exclusive record for any appeal or  
13 review of the permit action or other activity by that agency  
14 or other agency, as applicable. Upon final agency action,  
15 such record shall be closed and shall not be subject to any  
16 further evidentiary proceedings or requirements unless re-  
17 quested by the applicant.

18 **SEC. 1102. STATEMENT OF ENERGY EFFECTS.**

19 (a) PREPARATION.—

20 (1) REQUIREMENT.—An agency shall prepare  
21 and submit a Statement of Energy Effects to the  
22 Administrator of the Office of Information and Reg-  
23 ulatory Affairs of the Office of Management and  
24 Budget, for each proposed significant energy action.

1           (2) CONTENTS.—A Statement of Energy Ef-  
2           fects shall consist of a detailed statement by the  
3           agency responsible for the significant energy action  
4           relating to—

5                   (A) any adverse effects on energy supply,  
6                   distribution, or use (including a shortfall in  
7                   supply, price increases, and increased use of  
8                   foreign supplies) should the proposal be imple-  
9                   mented; and

10                   (B) reasonable alternatives to the action  
11                   with adverse energy effects, and the expected  
12                   effects of such alternatives on energy supply,  
13                   distribution, and use.

14           (3) GUIDANCE AND CONSULTATION.—The Ad-  
15           ministrators of the Office of Information and Regu-  
16           latory Affairs shall provide guidance to the agencies  
17           on the implementation of this section and shall con-  
18           sult with other agencies as appropriate in the imple-  
19           mentation of this section.

20           (b) PUBLICATION.—Agencies shall publish their  
21           Statements of Energy Effects, or a summary thereof, in  
22           each related notice of proposed rulemaking and in any re-  
23           sulting final rule.

24           (c) DEFINITIONS.—For purposes of this subsection—

1           (1) the term “agency” has the meaning given  
2 that term in paragraph (1) of section 3502 of title  
3 44, United States Code, except that the term does  
4 not include an independent regulatory agency, as de-  
5 fined in paragraph (5) of that section; and

6           (2) the term “significant energy action” means  
7 any action by an agency that is expected to lead to  
8 promulgation of a final regulation and that—

9                   (A) is likely to have a significant adverse  
10 effect on the supply, distribution, or use of en-  
11 ergy; or

12                   (B) is designated by the Administrator of  
13 the Office of Information and Regulatory Af-  
14 fairs as a significant energy action.

15 **SEC. 1103. PRIORITY-ENERGY PROJECT PERMIT DURATION.**

16           The approval to construct or operate a Priority En-  
17 ergy Project pursuant to any Federal permit, as applica-  
18 ble, shall remain valid and authorized for the later of—

19           (1) 18 months following the date on which the  
20 last permit needed by a Priority Energy Project to  
21 commence construction or operation is final and no  
22 longer subject to judicial review;

23           (2) 3 years; or

1           (3) in the case of a nationwide permit issued by  
2           the Army Corps of Engineers pursuant to part 330  
3           of title 33, Code of Federal Regulations, 5 years.

4 **SEC. 1104. EXEMPTION FOR TAKINGS OF MIGRATORY BIRD**  
5                           **INCIDENTAL TO ENERGY DEVELOPMENT AND**  
6                           **PRODUCTION.**

7           Section 6 of The Migratory Bird Treaty Act (16  
8 U.S.C. 707) is amended in subsection (a) by striking “not  
9 more than” and all that follows through the end of the  
10 subsection and inserting “not more than \$1,000.”.

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