

113TH CONGRESS
1ST SESSION

S. 17

To stimulate the economy, produce domestic energy, and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2013

Mr. VITTER (for himself, Mr. BARRASSO, Mr. BLUNT, Mr. CHAMBLISS, Mr. COATS, Mr. COCHRAN, Mr. CORNYN, Mr. CRAPO, Mr. CRUZ, Mr. ENZI, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. ISAKSON, Mr. JOHNSON of Wisconsin, Mr. RISCH, Mr. SHELBY, Mr. TOOMEY, Mr. WICKER, Mr. SESSIONS, Mr. LEE, and Mr. JOHANNIS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To stimulate the economy, produce domestic energy, and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy Production and Project Delivery Act of 2013”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OUTER CONTINENTAL SHELF LEASING

Sec. 101. Extension of leasing program.

Sec. 102. Lease sales.

Sec. 103. Applications for permits to drill.

Sec. 104. Lease sales for certain areas.

Sec. 105. Disposition of revenues.

TITLE II—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

Sec. 201. Definitions.

Sec. 202. Leasing program for lands within the Coastal Plain.

Sec. 203. Lease sales.

Sec. 204. Grant of leases by the Secretary.

Sec. 205. Lease terms and conditions.

Sec. 206. Policies regarding buying, building, and working for America.

Sec. 207. Coastal Plain environmental protection.

Sec. 208. Expedited judicial review.

Sec. 209. Treatment of revenues.

Sec. 210. Rights-of-way across the Coastal Plain.

Sec. 211. Conveyance.

TITLE III—REGULATORY STREAMLINING

Sec. 301. Jurisdiction over covered energy projects.

Sec. 302. Environmental legal fees.

Sec. 303. Master leasing plans.

Sec. 304. National monuments.

Sec. 305. Carbon dioxide and other greenhouse gas emissions reductions in
 China, India, and Russia.

Sec. 306. Employment effects of actions under Clean Air Act.

Sec. 307. Endangered species.

Sec. 308. Central Valley Project.

Sec. 309. Keystone XL permit approval.

Sec. 310. Drakes Bay Oyster Company.

3 **TITLE I—OUTER CONTINENTAL**
 4 **SHELF LEASING**

5 **SEC. 101. EXTENSION OF LEASING PROGRAM.**

6 (a) IN GENERAL.—Subject to subsection (c), the
 7 Draft Proposed Outer Continental Shelf Oil and Gas
 8 Leasing Program 2010–2015 issued by the Secretary of
 9 the Interior (referred to in this section as the “Secretary”)

1 under section 18 of the Outer Continental Shelf Lands
2 Act (43 U.S.C. 1344) shall be considered to be the final
3 oil and gas leasing program under that section for the pe-
4 riod of fiscal years 2013 through 2018.

5 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
6 The Secretary is considered to have issued a final environ-
7 mental impact statement for the program applicable to the
8 period described in subsection (a) in accordance with all
9 requirements under section 102(2)(C) of the National En-
10 vironmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

11 (c) EXCEPTIONS.—Lease Sales 214, 232, and 239
12 shall not be included in the final oil and gas leasing pro-
13 gram for the period of fiscal years 2013 through 2018.

14 (d) EASTERN GULF OF MEXICO NOT INCLUDED.—
15 Nothing in this section affects restrictions on oil and gas
16 leasing under the Gulf of Mexico Energy Security Act of
17 2006 (43 U.S.C. 1331 note; Public Law 109–432).

18 **SEC. 102. LEASE SALES.**

19 (a) IN GENERAL.—Except as otherwise provided in
20 this section, not later than 180 days after the date of en-
21 actment of this Act and every 270 days thereafter, the
22 Secretary of the Interior (referred to in this section as
23 the “Secretary”) shall conduct a lease sale in each outer
24 Continental Shelf planning area for which the Secretary
25 determines that there is a commercial interest in pur-

1 chasing Federal oil and gas leases for production on the
2 outer Continental Shelf.

3 (b) SUBSEQUENT DETERMINATIONS AND SALES.—If
4 the Secretary determines that there is not a commercial
5 interest in purchasing Federal oil and gas leases for pro-
6 duction on the outer Continental Shelf in a planning area
7 under this section, not later than 2 years after the date
8 of enactment of the determination and every 2 years there-
9 after, the Secretary shall—

10 (1) determine whether there is a commercial in-
11 terest in purchasing Federal oil and gas leases for
12 production on the outer Continental Shelf in the
13 planning area; and

14 (2) if the Secretary determines that there is a
15 commercial interest described in subsection (a), con-
16 duct a lease sale in the planning area.

17 (c) EXCLUSION FROM 5-YEAR LEASE PROGRAM.—
18 If a planning area for which there is a commercial interest
19 described in subsection (a) was not included in a 5-year
20 lease program, the Secretary shall include leasing in the
21 planning area in the subsequent 5-year lease program.

22 (d) PETITIONS.—If a person petitions the Secretary
23 to conduct a lease sale for an outer Continental Shelf plan-
24 ning area in which the person has a commercial interest,

1 the Secretary shall conduct a lease sale for the area in
2 accordance with subsection (a).

3 **SEC. 103. APPLICATIONS FOR PERMITS TO DRILL.**

4 Section 5 of the Outer Continental Shelf Lands Act
5 (43 U.S.C. 1334) is amended by adding at the end the
6 following:

7 “(k) APPLICATIONS FOR PERMITS TO DRILL.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the Secretary shall approve or disapprove an applica-
10 tion for a permit to drill submitted under this Act
11 not later than 20 days after the date the application
12 is submitted to the Secretary.

13 “(2) DISAPPROVAL.—If the Secretary dis-
14 approves an application for a permit to drill sub-
15 mitted under paragraph (1), the Secretary shall—

16 “(A) provide to the applicant a description
17 of the reasons for the disapproval of the appli-
18 cation;

19 “(B) allow the applicant to resubmit an
20 application during the 10-day period beginning
21 on the date of the receipt of the description by
22 the applicant; and

23 “(C) approve or disapprove any resub-
24 mitted application not later than 10 days after

1 the date the application is submitted to the Sec-
2 retary.”.

3 **SEC. 104. LEASE SALES FOR CERTAIN AREAS.**

4 (a) **IN GENERAL.**—As soon as practicable but not
5 later than 1 year after the date of enactment of this Act,
6 the Secretary of the Interior shall hold Lease Sale 220
7 for areas offshore of the State of Virginia.

8 (b) **COMPLIANCE WITH OTHER LAWS.**—For pur-
9 poses of the Lease Sales described in subsection (a), the
10 Environmental Impact Statement for the 2010-2015-Year
11 OCS Plan and the applicable Multi-Sale Environmental
12 Impact Statement shall be considered to satisfy the Na-
13 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
14 et seq.).

15 (c) **ENERGY PROJECTS IN GULF OF MEXICO.**—

16 (1) **JURISDICTION.**—The United States Court
17 of Appeals for the Fifth Circuit shall have exclusive
18 jurisdiction over challenges to offshore energy
19 projects and permits to drill carried out in the Gulf
20 of Mexico.

21 (2) **FILING DEADLINE.**—Any civil action to
22 challenge a project or permit described in paragraph
23 (1) shall be filed not later than 60 days after the
24 date of approval of the project or the issuance of the
25 permit.

1 **SEC. 105. DISPOSITION OF REVENUES.**

2 (a) DEFINITIONS.—Section 102 of the Gulf of Mexico
3 Energy Security Act of 2006 (43 U.S.C. 1331 note; Public
4 Law 109–432) is amended—

5 (1) by redesignating paragraphs (5) through
6 (11) as paragraphs (6) through (12), respectively;

7 (2) by inserting after paragraph (4) the fol-
8 lowing:

9 “(5) COASTAL STATE.—The term ‘coastal
10 State’ means a State with a coastal seaward bound-
11 ary within 200 nautical miles distance of the geo-
12 graphical center of a leased tract in—

13 “(A) an outer Continental Shelf area in
14 the Gulf of Mexico OCS Region State Adjacent
15 Zones and OCS Planning Areas; and

16 “(B) effective for fiscal year 2024 and
17 each fiscal year thereafter, an outer Continental
18 Shelf area in any OCS Region State Adjacent
19 Zones and OCS Planning Areas.”;

20 (3) in paragraph (10) (as so redesignated), by
21 striking subparagraph (A) and inserting the fol-
22 lowing:

23 “(A) IN GENERAL.—The term ‘qualified
24 outer Continental Shelf revenues’ means all
25 rentals, royalties, bonus bids, and other sums

1 due and payable to the United States from
2 leases entered into on or after—

3 “(i) December 20, 2006, with respect
4 to coastal States located in the Gulf of
5 Mexico OCS Region; or

6 “(ii) October 1, 2023, with respect to
7 coastal States located in—

8 “(I) the Atlantic OCS Region;

9 “(II) the Pacific OCS Region; or

10 “(III) the Alaska OCS Region.”;

11 and

12 (4) in paragraph (11) (as so redesignated), by
13 striking “Gulf producing State” each place it ap-
14 pears and inserting “coastal State”.

15 (b) DISPOSITION OF REVENUES.—Section 105 of the
16 Gulf of Mexico Energy Security Act of 2006 (43 U.S.C.
17 1331 note; Public Law 109–432) is amended—

18 (1) in the section heading, by striking “**FROM**
19 **181 AREA, 181 SOUTH AREA, AND 2002-2007**
20 **PLANNING AREAS OF GULF OF MEXICO**”;

21 (2) by striking “Gulf producing State” each
22 place it appears (other than subsection (b)(1)) and
23 inserting “coastal State”;

24 (3) in subsection (a)(2), by striking subpara-
25 graph (B) and inserting the following:

1 “(B) 25 percent—

2 “(i) of the qualified outer Continental
3 Shelf revenues described in section
4 102(10)(A)(i)—

5 “(I) to provide financial assist-
6 ance to States in accordance with sec-
7 tion 6 of the Land and Water Con-
8 servation Fund Act of 1965 (16
9 U.S.C. 460l–8), which shall be consid-
10 ered to be income to the Land and
11 Water Conservation Fund for pur-
12 poses of section 2 of that Act (16
13 U.S.C. 460l–5), to a maximum
14 amount of \$125,000,000; and

15 “(II) for any amounts in excess
16 of the amount described in subclause
17 (I), to the Highway Trust Fund
18 (other than the Mass Transit Ac-
19 count); and

20 “(ii) beginning in fiscal year 2024, of
21 the qualified outer Continental Shelf reve-
22 nues described in section 102(10)(A)(ii), to
23 the Highway Trust Fund (other than the
24 Mass Transit Account).”;

25 (4) in subsection (b)—

1 (A) in the subsection heading, by striking
2 “GULF PRODUCING STATES” and inserting
3 “COASTAL STATES”; and

4 (B) in paragraph (2)—

5 (i) in the paragraph heading, by strik-
6 ing “FISCAL YEAR 2017 AND THEREAFTER”
7 and inserting “FISCAL YEARS 2017
8 THROUGH 2023”; and

9 (ii) in subparagraph (A), in the mat-
10 ter preceding clause (i), by striking “fiscal
11 year 2017 and each fiscal year thereafter”
12 and inserting “each of fiscal years 2017
13 through 2023”;

14 (C) by redesignating paragraph (3) as
15 paragraph (4);

16 (D) by inserting after paragraph (2) the
17 following:

18 “(3) ALLOCATION AMONG COASTAL STATES FOR
19 FISCAL YEAR 2024 AND THEREAFTER.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), effective for fiscal years 2024 and
22 each fiscal year thereafter, the amount made
23 available under subsection (a)(2)(A) shall be al-
24 located to each coastal State in amounts (based
25 on a formula established by the Secretary by

1 regulation) that are inversely proportional to
2 the respective distances between the point on
3 the coastline of each coastal State that is clos-
4 est to the geographic center of the applicable
5 leased tract and the geographic center of the
6 leased tract.

7 “(B) MINIMUM ALLOCATION.—The
8 amount allocated to a coastal State each fiscal
9 year under subparagraph (A) shall be at least
10 10 percent of the amounts available under sub-
11 section (a)(2)(A).”; and

12 (E) in paragraph (4) (as redesignated by
13 subparagraph (C)), by striking “paragraphs (1)
14 and (2)” and inserting “paragraphs (1), (2),
15 and (3)”; and

16 (5) in subsection (f), by striking paragraph (1)
17 and inserting the following:

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the total amount of qualified outer Continental Shelf
20 revenues made available under subsection (a)(2)
21 shall not exceed—

22 “(A) in the case of an outer Continental
23 Shelf area in the Gulf of Mexico OCS Region
24 State Adjacent Zones and OCS Planning
25 Areas—

1 “(i) \$1,000,000,000 for each of fiscal
2 years 2017 through 2024; and

3 “(ii) \$2,000,000,000 for each of fiscal
4 years 2025 through 2055; and

5 “(B) in the case of an outer Continental
6 Shelf area in OCS Region State Adjacent Zones
7 and OCS Planning Areas other than the Zones
8 and Areas described in subparagraph (A), for
9 each of fiscal years 2024 through 2055,
10 \$500,000,000 for each such area located in—

11 “(i) the Atlantic OCS Region;

12 “(ii) the Pacific OCS Region; or

13 “(iii) the Alaska OCS Region.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section take effect on October 1, 2013.

16 **TITLE II—LEASING PROGRAM**
17 **FOR LAND WITHIN COASTAL**
18 **PLAIN**

19 **SEC. 201. DEFINITIONS.**

20 In this title:

21 (1) COASTAL PLAIN.—The term “Coastal
22 Plain” means that area described in appendix I to
23 part 37 of title 50, Code of Federal Regulations.

24 (2) PEER REVIEWED.—The term “peer re-
25 viewed” means reviewed—

1 (A) by individuals chosen by the National
2 Academy of Sciences with no contractual rela-
3 tionship with, or those who have no application
4 for a grant or other funding pending with, the
5 Federal agency with leasing jurisdiction; or

6 (B) if individuals described in subpara-
7 graph (A) are not available, by the top individ-
8 uals in the specified biological fields, as deter-
9 mined by the National Academy of Sciences.

10 (3) SECRETARY.—The term “Secretary”, except
11 as otherwise provided, means the Secretary of the
12 Interior or the Secretary’s designee.

13 **SEC. 202. LEASING PROGRAM FOR LANDS WITHIN THE**
14 **COASTAL PLAIN.**

15 (a) IN GENERAL.—The Secretary shall take such ac-
16 tions as are necessary—

17 (1) to establish and implement, in accordance
18 with this title and acting through the Director of the
19 Bureau of Land Management in consultation with
20 the Director of the United States Fish and Wildlife
21 Service, a competitive oil and gas leasing program
22 that will result in the exploration, development, and
23 production of the oil and gas resources of the Coast-
24 al Plain; and

1 (2) to administer the provisions of this title
2 through regulations, lease terms, conditions, restric-
3 tions, prohibitions, stipulations, and other provisions
4 that ensure the oil and gas exploration, development,
5 and production activities on the Coastal Plain will
6 result in no significant adverse effect on fish and
7 wildlife, their habitat, subsistence resources, and the
8 environment, including, in furtherance of this goal,
9 by requiring the application of the best commercially
10 available technology for oil and gas exploration, de-
11 velopment, and production to all exploration, devel-
12 opment, and production operations under this title
13 in a manner that ensures the receipt of fair market
14 value by the public for the mineral resources to be
15 leased.

16 (b) REPEAL OF EXISTING RESTRICTION.—

17 (1) REPEAL.—Section 1003 of the Alaska Na-
18 tional Interest Lands Conservation Act (16 U.S.C.
19 3143) is repealed.

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

23 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
24 TAIN OTHER LAWS.—

1 (1) COMPATIBILITY.—For purposes of the Na-
2 tional Wildlife Refuge System Administration Act of
3 1966 (16 U.S.C. 668dd et seq.), the oil and gas
4 leasing program and activities authorized by this
5 section in the Coastal Plain are deemed to be com-
6 patible with the purposes for which the Arctic Na-
7 tional Wildlife Refuge was established, and no fur-
8 ther findings or decisions are required to implement
9 this determination.

10 (2) ADEQUACY OF THE DEPARTMENT OF THE
11 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
12 STATEMENT.—The “Final Legislative Environ-
13 mental Impact Statement” (April 1987) on the
14 Coastal Plain prepared pursuant to section 1002 of
15 the Alaska National Interest Lands Conservation
16 Act (16 U.S.C. 3142) and section 102(2)(C) of the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4332(2)(C)) is deemed to satisfy the require-
19 ments under the National Environmental Policy Act
20 of 1969 that apply with respect to prelease activities
21 under this title, including actions authorized to be
22 taken by the Secretary to develop and promulgate
23 the regulations for the establishment of a leasing
24 program authorized by this title before the conduct
25 of the first lease sale.

1 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
2 TIONS.—Before conducting the first lease sale under
3 this title, the Secretary shall prepare an environ-
4 mental impact statement under the National Envi-
5 ronmental Policy Act of 1969 with respect to the ac-
6 tions authorized by this title that are not referred to
7 in paragraph (2). Notwithstanding any other law,
8 the Secretary is not required to identify nonleasing
9 alternative courses of action or to analyze the envi-
10 ronmental effects of such courses of action. The Sec-
11 retary shall only identify a preferred action for such
12 leasing and a single leasing alternative, and analyze
13 the environmental effects and potential mitigation
14 measures for those two alternatives. The identifica-
15 tion of the preferred action and related analysis for
16 the first lease sale under this title shall be completed
17 within 18 months after the date of enactment of this
18 Act. The Secretary shall only consider public com-
19 ments that specifically address the Secretary’s pre-
20 ferred action and that are filed within 20 days after
21 publication of an environmental analysis. Notwith-
22 standing any other law, compliance with this para-
23 graph is deemed to satisfy all requirements for the
24 analysis and consideration of the environmental ef-
25 fects of proposed leasing under this title.

1 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
2 ITY.—Nothing in this title shall be considered to expand
3 or limit State and local regulatory authority.

4 (e) SPECIAL AREAS.—

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

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

19 (3) EXCLUSION FROM LEASING OR SURFACE
20 OCCUPANCY.—The Secretary may exclude any Spe-
21 cial Area from leasing. If the Secretary leases a Spe-
22 cial Area, or any part thereof, for purposes of oil
23 and gas exploration, development, production, and
24 related activities, there shall be no surface occu-
25 pancy of the lands comprising the Special Area.

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

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

11 (g) REGULATIONS.—

12 (1) IN GENERAL.—The Secretary shall pre-
13 scribe such regulations as may be necessary to carry
14 out this title, including regulations relating to pro-
15 tection of the fish and wildlife, their habitat, subsist-
16 ence resources, and environment of the Coastal
17 Plain, by no later than 15 months after the date of
18 enactment of this Act.

19 (2) REVISION OF REGULATIONS.—The Sec-
20 retary shall, through a rule making conducted in ac-
21 cordance with section 553 of title 5, United States
22 Code, periodically review and, if appropriate, revise
23 the regulations issued under subsection (a) to reflect
24 a preponderance of the best available scientific evi-
25 dence that has been peer reviewed and obtained by

1 following appropriate, documented scientific proce-
2 dures, the results of which can be repeated using
3 those same procedures.

4 **SEC. 203. LEASE SALES.**

5 (a) IN GENERAL.—Lands may be leased under this
6 title to any person qualified to obtain a lease for deposits
7 of oil and gas under the Mineral Leasing Act (30 U.S.C.
8 181 et seq.).

9 (b) PROCEDURES.—The Secretary shall, by regula-
10 tion and no later than 180 days after the date of enact-
11 ment of this Act, establish procedures for—

12 (1) receipt and consideration of sealed nomina-
13 tions for any area of the Coastal Plain for inclusion
14 in, or exclusion (as provided in subsection (c)) from,
15 a lease sale;

16 (2) the holding of lease sales after such nomina-
17 tion process; and

18 (3) public notice of and comment on designa-
19 tion of areas to be included in, or excluded from, a
20 lease sale.

21 (c) LEASE SALE BIDS.—Lease sales under this title
22 may be conducted through an Internet leasing program,
23 if the Secretary determines that such a system will result
24 in savings to the taxpayer, an increase in the number of

1 bidders participating, and higher returns than oral bidding
2 or a sealed bidding system.

3 (d) SALE ACREAGES AND SCHEDULE.—

4 (1) The Secretary shall offer for lease under
5 this title those tracts the Secretary considers to have
6 the greatest potential for the discovery of hydro-
7 carbons, taking into consideration nominations re-
8 ceived pursuant to subsection (b)(1).

9 (2) The Secretary shall offer for lease under
10 this title no less than 50,000 acres for lease within
11 22 months after the date of the enactment of this
12 Act.

13 (3) The Secretary shall offer for lease under
14 this title no less than an additional 50,000 acres at
15 6-, 12-, and 18-month intervals following offering
16 under paragraph (2).

17 (4) The Secretary shall conduct four additional
18 sales under the same terms and schedule no later
19 than two years after the date of the last sale under
20 paragraph (3), if sufficient interest in leasing exists
21 to warrant, in the Secretary's judgment, the conduct
22 of such sales.

23 (5) The Secretary shall evaluate the bids in
24 each sale and issue leases resulting from such sales,

1 within 90 days after the date of the completion of
2 such sale.

3 **SEC. 204. GRANT OF LEASES BY THE SECRETARY.**

4 (a) IN GENERAL.—The Secretary may grant to the
5 highest responsible qualified bidder in a lease sale con-
6 ducted under section 203 any lands to be leased on the
7 Coastal Plain upon payment by the such bidder of such
8 bonus as may be accepted by the Secretary.

9 (b) SUBSEQUENT TRANSFERS.—No lease issued
10 under this title may be sold, exchanged, assigned, sublet,
11 or otherwise transferred except with the approval of the
12 Secretary. Prior to any such approval the Secretary shall
13 consult with, and give due consideration to the views of,
14 the Attorney General.

15 **SEC. 205. LEASE TERMS AND CONDITIONS.**

16 (a) IN GENERAL.—An oil or gas lease issued under
17 this title shall—

18 (1) provide for the payment of a royalty of not
19 less than 12½ percent in amount or value of the
20 production removed or sold under the lease, as de-
21 termined by the Secretary under the regulations ap-
22 plicable to other Federal oil and gas leases;

23 (2) provide that the Secretary may close, on a
24 seasonal basis, portions of the Coastal Plain to ex-
25 ploratory drilling activities as necessary to protect

1 caribou calving areas and other species of fish and
2 wildlife based on a preponderance of the best avail-
3 able scientific evidence that has been peer reviewed
4 and obtained by following appropriate, documented
5 scientific procedures, the results of which can be re-
6 peated using those same procedures;

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

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

20 (5) provide that the standard of reclamation for
21 lands required to be reclaimed under this title shall
22 be, as nearly as practicable, a condition capable of
23 supporting the uses which the lands were capable of
24 supporting prior to any exploration, development, or
25 production activities, or upon application by the les-

1 see, to a higher or better use as certified by the Sec-
2 retary;

3 (6) contain terms and conditions relating to
4 protection of fish and wildlife, their habitat, subsist-
5 ence resources, and the environment as required
6 pursuant to section 202(a)(2);

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

16 (8) prohibit the export of oil produced under
17 the lease; and

18 (9) contain such other provisions as the Sec-
19 retary determines necessary to ensure compliance
20 with this title and the regulations issued under this
21 title.

22 (b) NEGOTIATED LABOR AGREEMENTS.—The Sec-
23 retary, as a term and condition of each lease under this
24 title, shall require that the lessee and its agents and con-
25 tractors negotiate to obtain an agreement for the employ-

1 ment of laborers and mechanics on production, mainte-
2 nance, and construction under the lease.

3 **SEC. 206. POLICIES REGARDING BUYING, BUILDING, AND**
4 **WORKING FOR AMERICA.**

5 (a) CONGRESSIONAL INTENT.—It is the intent of the
6 Congress that—

7 (1) this title will support a healthy and growing
8 United States domestic energy sector that, in turn,
9 helps to reinvigorate American manufacturing,
10 transportation, and service sectors by employing the
11 vast talents of United States workers to assist in the
12 development of energy from domestic sources; and

13 (2) Congress will monitor the deployment of
14 personnel and material onshore and offshore to en-
15 courage the development of American technology
16 and manufacturing to enable United States workers
17 to benefit from this title through good jobs and ca-
18 reers, as well as the establishment of important in-
19 dustrial facilities to support expanded access to
20 American resources.

21 (b) REQUIREMENT.—The Secretary of the Interior
22 shall when possible, and practicable, encourage the use of
23 United States workers and equipment manufactured in
24 the United States in all construction related to mineral
25 development on the Coastal Plain.

1 **SEC. 207. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 The Secretary shall, consistent with the requirements of
5 section 202, administer this title through regulations,
6 lease terms, conditions, restrictions, prohibitions, stipula-
7 tions, and other provisions that—

8 (1) ensure the oil and gas exploration, develop-
9 ment, and production activities on the Coastal Plain
10 will result in no significant adverse effect on fish
11 and wildlife, their habitat, and the environment;

12 (2) require the application of the best commer-
13 cially available technology for oil and gas explo-
14 ration, development, and production on all new ex-
15 ploration, development, and production operations;
16 and

17 (3) ensure that the maximum amount of sur-
18 face acreage covered by production and support fa-
19 cilities, including airstrips and any areas covered by
20 gravel berms or piers for support of pipelines, does
21 not exceed 10,000 acres on the Coastal Plain for
22 each 100,000 acres of area leased.

23 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

24 The Secretary shall also require, with respect to any pro-
25 posed drilling and related activities, that—

1 (1) a site-specific analysis be made of the prob-
2 able effects, if any, that the drilling or related activi-
3 ties will have on fish and wildlife, their habitat, sub-
4 sistence resources, and the environment;

5 (2) a plan be implemented to avoid, minimize,
6 and mitigate (in that order and to the extent prac-
7 ticable) any significant adverse effect identified
8 under paragraph (1); and

9 (3) the development of the plan shall occur
10 after consultation with the agency or agencies hav-
11 ing jurisdiction over matters mitigated by the plan.

12 (c) REGULATIONS TO PROTECT COASTAL PLAIN
13 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
14 AND THE ENVIRONMENT.—Before implementing the leas-
15 ing program authorized by this title, the Secretary shall
16 prepare and promulgate regulations, lease terms, condi-
17 tions, restrictions, prohibitions, stipulations, and other
18 measures designed to ensure that the activities undertaken
19 on the Coastal Plain under this title are conducted in a
20 manner consistent with the purposes and environmental
21 requirements of this title.

22 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
23 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
24 proposed regulations, lease terms, conditions, restrictions,
25 prohibitions, and stipulations for the leasing program

1 under this title shall require compliance with all applicable
2 provisions of Federal and State environmental law, and
3 shall also require the following:

4 (1) Standards at least as effective as the safety
5 and environmental mitigation measures set forth in
6 items 1 through 29 at pages 167 through 169 of the
7 “Final Legislative Environmental Impact State-
8 ment” (April 1987) on the Coastal Plain.

9 (2) Seasonal limitations on exploration, develop-
10 ment, and related activities, where necessary, to
11 avoid significant adverse effects during periods of
12 concentrated fish and wildlife breeding, denning,
13 nesting, spawning, and migration based on a prepon-
14 derance of the best available scientific evidence that
15 has been peer reviewed and obtained by following
16 appropriate, documented scientific procedures, the
17 results of which can be repeated using those same
18 procedures.

19 (3) That exploration activities, except for sur-
20 face geological studies, be limited to the period be-
21 tween approximately November 1 and May 1 each
22 year and that exploration activities shall be sup-
23 ported, if necessary, by ice roads, winter trails with
24 adequate snow cover, ice pads, ice airstrips, and air
25 transport methods, except that such exploration ac-

1 activities may occur at other times if the Secretary
2 finds that such exploration will have no significant
3 adverse effect on the fish and wildlife, their habitat,
4 and the environment of the Coastal Plain.

5 (4) Design safety and construction standards
6 for all pipelines and any access and service roads,
7 that—

8 (A) minimize, to the maximum extent pos-
9 sible, adverse effects upon the passage of mi-
10 migratory species such as caribou; and

11 (B) minimize adverse effects upon the flow
12 of surface water by requiring the use of cul-
13 verts, bridges, and other structural devices.

14 (5) Prohibitions on general public access and
15 use on all pipeline access and service roads.

16 (6) Stringent reclamation and rehabilitation re-
17 quirements, consistent with the standards set forth
18 in this title, requiring the removal from the Coastal
19 Plain of all oil and gas development and production
20 facilities, structures, and equipment upon completion
21 of oil and gas production operations, except that the
22 Secretary may exempt from the requirements of this
23 paragraph those facilities, structures, or equipment
24 that the Secretary determines would assist in the
25 management of the Arctic National Wildlife Refuge

1 and that are donated to the United States for that
2 purpose.

3 (7) Appropriate prohibitions or restrictions on
4 access by all modes of transportation.

5 (8) Appropriate prohibitions or restrictions on
6 sand and gravel extraction.

7 (9) Consolidation of facility siting.

8 (10) Appropriate prohibitions or restrictions on
9 use of explosives.

10 (11) Avoidance, to the extent practicable, of
11 springs, streams, and river systems; the protection
12 of natural surface drainage patterns, wetlands, and
13 riparian habitats; and the regulation of methods or
14 techniques for developing or transporting adequate
15 supplies of water for exploratory drilling.

16 (12) Avoidance or minimization of air traffic-re-
17 lated disturbance to fish and wildlife.

18 (13) Treatment and disposal of hazardous and
19 toxic wastes, solid wastes, reserve pit fluids, drilling
20 muds and cuttings, and domestic wastewater, includ-
21 ing an annual waste management report, a haz-
22 ardous materials tracking system, and a prohibition
23 on chlorinated solvents, in accordance with applica-
24 ble Federal and State environmental law.

1 (14) Fuel storage and oil spill contingency plan-
2 ning.

3 (15) Research, monitoring, and reporting re-
4 quirements.

5 (16) Field crew environmental briefings.

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

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

11 (19) Appropriate seasonal and safety zone des-
12 ignations around well sites, within which subsistence
13 hunting and trapping shall be limited.

14 (20) Reasonable stipulations for protection of
15 cultural and archeological resources.

16 (21) All other protective environmental stipula-
17 tions, restrictions, terms, and conditions deemed
18 necessary by the Secretary.

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

23 (1) The stipulations and conditions that govern
24 the National Petroleum Reserve-Alaska leasing pro-
25 gram, as set forth in the 1999 Northeast National

1 Petroleum Reserve-Alaska Final Integrated Activity
2 Plan/Environmental Impact Statement.

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

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

12 (f) FACILITY CONSOLIDATION PLANNING.—

13 (1) IN GENERAL.—The Secretary shall, after
14 providing for public notice and comment, prepare
15 and update periodically a plan to govern, guide, and
16 direct the siting and construction of facilities for the
17 exploration, development, production, and transpor-
18 tation of Coastal Plain oil and gas resources.

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

21 (A) Avoiding unnecessary duplication of fa-
22 cilities and activities.

23 (B) Encouraging consolidation of common
24 facilities and activities.

1 (C) Locating or confining facilities and ac-
2 tivities to areas that will minimize impact on
3 fish and wildlife, their habitat, and the environ-
4 ment.

5 (D) Utilizing existing facilities wherever
6 practicable.

7 (E) Enhancing compatibility between wild-
8 life values and development activities.

9 (g) ACCESS TO PUBLIC LANDS.—The Secretary
10 shall—

11 (1) manage public lands in the Coastal Plain
12 subject to section 811 of the Alaska National Inter-
13 est Lands Conservation Act (16 U.S.C. 3121); and

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

17 **SEC. 208. EXPEDITED JUDICIAL REVIEW.**

18 (a) FILING OF COMPLAINT.—

19 (1) DEADLINE.—Subject to paragraph (2), any
20 complaint seeking judicial review—

21 (A) of any provision of this title shall be
22 filed by not later than 1 year after the date of
23 enactment of this Act; or

24 (B) of any action of the Secretary under
25 this title shall be filed—

1 (i) except as provided in clause (ii),
2 within the 90-day period beginning on the
3 date of the action being challenged; or

4 (ii) in the case of a complaint based
5 solely on grounds arising after such period,
6 within 90 days after the complainant knew
7 or reasonably should have known of the
8 grounds for the complaint.

9 (2) VENUE.—Any complaint seeking judicial re-
10 view of any provision of this title or any action of
11 the Secretary under this title may be filed only in
12 the United States Court of Appeals for the District
13 of Columbia.

14 (3) LIMITATION ON SCOPE OF CERTAIN RE-
15 VIEW.—Judicial review of a Secretarial decision to
16 conduct a lease sale under this title, including the
17 environmental analysis thereof, shall be limited to
18 whether the Secretary has complied with this title
19 and shall be based upon the administrative record of
20 that decision. The Secretary's identification of a pre-
21 ferred course of action to enable leasing to proceed
22 and the Secretary's analysis of environmental effects
23 under this title shall be presumed to be correct un-
24 less shown otherwise by clear and convincing evi-
25 dence to the contrary.

1 (b) LIMITATION ON OTHER REVIEW.—Actions of the
2 Secretary with respect to which review could have been
3 obtained under this section shall not be subject to judicial
4 review in any civil or criminal proceeding for enforcement.

5 (c) LIMITATION ON ATTORNEYS' FEES AND COURT
6 COSTS.—No person seeking judicial review of any action
7 under this title shall receive payment from the Federal
8 Government for their attorneys' fees and other court costs,
9 including under any provision of law enacted by the Equal
10 Access to Justice Act (5 U.S.C. 504 note).

11 **SEC. 209. TREATMENT OF REVENUES.**

12 Notwithstanding any other provision of law, 90 per-
13 cent of the amount of bonus, rental, and royalty revenues
14 from Federal oil and gas leasing and operations author-
15 ized under this title shall be deposited in the Treasury.

16 **SEC. 210. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

17 (a) IN GENERAL.—The Secretary shall issue rights-
18 of-way and easements across the Coastal Plain for the
19 transportation of oil and gas produced under leases under
20 this title—

21 (1) except as provided in paragraph (2), under
22 section 28 of the Mineral Leasing Act (30 U.S.C.
23 185), without regard to title XI of the Alaska Na-
24 tional Interest Lands Conservation Act (16 U.S.C.
25 3161 et seq.); and

1 (2) under title XI of the Alaska National Inter-
2 est Lands Conservation Act (30 U.S.C. 3161 et
3 seq.), for access authorized by sections 1110 and
4 1111 of that Act (16 U.S.C. 3170 and 3171).

5 (b) TERMS AND CONDITIONS.—The Secretary shall
6 include in any right-of-way or easement issued under sub-
7 section (a) such terms and conditions as may be necessary
8 to ensure that transportation of oil and gas does not result
9 in a significant adverse effect on the fish and wildlife, sub-
10 sistence resources, their habitat, and the environment of
11 the Coastal Plain, including requirements that facilities be
12 sited or designed so as to avoid unnecessary duplication
13 of roads and pipelines.

14 (c) REGULATIONS.—The Secretary shall include in
15 regulations under section 202(g) provisions granting
16 rights-of-way and easements described in subsection (a)
17 of this section.

18 **SEC. 211. CONVEYANCE.**

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

1 (1) to the Kaktovik Inupiat Corporation the
 2 surface estate of the lands described in paragraph 1
 3 of Public Land Order 6959, to the extent necessary
 4 to fulfill the Corporation’s entitlement under sec-
 5 tions 12 and 14 of the Alaska Native Claims Settle-
 6 ment Act (43 U.S.C. 1611 and 1613) in accordance
 7 with the terms and conditions of the Agreement be-
 8 tween the Department of the Interior, the United
 9 States Fish and Wildlife Service, the Bureau of
 10 Land Management, and the Kaktovik Inupiat Cor-
 11 poration dated January 22, 1993; and

12 (2) to the Arctic Slope Regional Corporation
 13 the remaining subsurface estate to which it is enti-
 14 tled pursuant to the August 9, 1983, agreement be-
 15 tween the Arctic Slope Regional Corporation and the
 16 United States of America.

17 **TITLE III—REGULATORY**
 18 **STREAMLINING**

19 **SEC. 301. JURISDICTION OVER COVERED ENERGY**
 20 **PROJECTS.**

21 (a) DEFINITION OF COVERED ENERGY PROJECT.—
 22 In this section, the term “covered energy project” means
 23 any action or decision by a Federal official regarding—

24 (1) the leasing of Federal land (including sub-
 25 merged land) for the exploration, development, pro-

1 duction, processing, or transmission of oil, natural
2 gas, or any other source or form of energy, including
3 actions and decisions regarding the selection or of-
4 fering of Federal land for such leasing; or

5 (2) any action under such a lease, except that
6 this section and Act shall not apply to a dispute be-
7 tween the parties to a lease entered into a provision
8 of law authorizing the lease regarding obligations
9 under the lease or the alleged breach of the lease.

10 (b) EXCLUSIVE JURISDICTION OVER CAUSES AND
11 CLAIMS RELATING TO COVERED ENERGY PROJECTS.—

12 Notwithstanding any other provision of law, the United
13 States District Court for the District of Columbia shall
14 have exclusive jurisdiction to hear all causes and claims
15 under this section or any other Act that arise from any
16 covered energy project, except for any such cause or claim
17 arising in the United States Court of Appeals for the Fifth
18 Circuit.

19 (c) TIME FOR FILING COMPLAINT.—

20 (1) IN GENERAL.—Each case or claim described
21 in subsection (b) shall be filed not later than the end
22 of the 60-day period beginning on the date of the ac-
23 tion or decision by a Federal official that constitutes
24 the covered energy project concerned.

1 (2) PROHIBITION.—Any cause or claim de-
2 scribed in subsection (b) that is not filed within the
3 time period described in paragraph (1) shall be
4 barred.

5 (d) DISTRICT COURT FOR DISTRICT OF COLUMBIA
6 DEADLINE.—

7 (1) IN GENERAL.—Each proceeding that is sub-
8 ject to subsection (b) shall—

9 (A) be resolved as expeditiously as prac-
10 ticable and in any event not more than 180
11 days after the cause or claim is filed; and

12 (B) take precedence over all other pending
13 matters before the district court.

14 (2) FAILURE TO COMPLY WITH DEADLINE.—If
15 an interlocutory or final judgment, decree, or order
16 has not been issued by the district court by the
17 deadline required under this section, the cause or
18 claim shall be dismissed with prejudice and all rights
19 relating to the cause or claim shall be terminated.

20 (e) ABILITY TO SEEK APPELLATE REVIEW.—An in-
21 terlocutory or final judgment, decree, or order of the dis-
22 trict court under this section may be reviewed by no other
23 court except the Supreme Court.

1 **SEC. 302. ENVIRONMENTAL LEGAL FEES.**

2 Section 504 of title 5, United States Code, is amend-
3 ed by adding at the end the following:

4 “(g) ENVIRONMENTAL LEGAL FEES.—Notwith-
5 standing section 1304 of title 31, no award may be made
6 under this section and no amounts may be obligated or
7 expended from the Claims and Judgment Fund of the
8 United States Treasury to pay any legal fees of an envi-
9 ronmental nongovernmental organization related to an ac-
10 tion that (with respect to the United States)—

11 “(1) prevents, terminates, or reduces access to
12 or the production of—

13 “(A) energy;

14 “(B) a mineral resource;

15 “(C) water by agricultural producers;

16 “(D) a resource by commercial or rec-
17 reational fishermen; or

18 “(E) grazing or timber production on Fed-
19 eral land;

20 “(2) diminishes the private property value of a
21 property owner; or

22 “(3) eliminates or prevents 1 or more jobs.”.

23 **SEC. 303. MASTER LEASING PLANS.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law, the Secretary of the Interior, acting through
26 the Bureau of Land Management, shall not establish a

1 master leasing plan as part of any guidance issued by the
2 Secretary.

3 (b) **EXISTING MASTER LEASING PLANS.**—Instruc-
4 tion Memorandum No. 2010–117 and any other master
5 leasing plan described in subsection (a) issued on or before
6 the date of enactment of this Act shall have no force or
7 effect.

8 **SEC. 304. NATIONAL MONUMENTS.**

9 Section 2 of the Act of June 8, 1906 (commonly
10 known as the “Antiquities Act of 1906”) (16 U.S.C. 431),
11 is amended in the first sentence by striking “, in his dis-
12 cretion, to declare by public proclamation” and inserting
13 “to declare, subject to approval by an Act of Congress,”.

14 **SEC. 305. CARBON DIOXIDE AND OTHER GREENHOUSE GAS**
15 **EMISSIONS REDUCTIONS IN CHINA, INDIA,**
16 **AND RUSSIA.**

17 (a) **DEFINITION OF ADMINISTRATOR.**—In this sec-
18 tion, the term “Administrator” means the Administrator
19 of the Environmental Protection Agency.

20 (b) **FINDINGS.**—Congress finds that—

21 (1) in 1997, the Senate adopted Senate Resolu-
22 tion 98, 105th Congress, agreed to July 25, 1997,
23 which expressed the sense of the Senate that the
24 United States should not accept any agreement that
25 would mandate new commitments to limit or reduce

1 greenhouse gas emissions by developed countries un-
2 less the agreement also mandated new specific
3 scheduled commitments to limit or reduce green-
4 house gas emissions by developing countries within
5 the same compliance period; and

6 (2) the Administrator continues to move for-
7 ward with the regulation of carbon dioxide emis-
8 sions, however, the People's Republic of China,
9 India, and the Russian Federation do not impose
10 similar regulations on carbon dioxide emissions.

11 (c) CARBON DIOXIDE OR GREENHOUSE GAS EMIS-
12 SIONS REDUCTIONS.—Notwithstanding any other provi-
13 sion of law, the Administrator or the head of any other
14 Federal agency or department shall not regulate or con-
15 tinue to implement or enforce any regulations, proposals,
16 or actions establishing any carbon dioxide or greenhouse
17 gas emissions reductions until the Administrator, the Ad-
18 ministrator of the Energy Information Agency, and the
19 Secretary of Commerce certify in writing that—

20 (1) the People's Republic of China, India, and
21 the Russian Federation have proposed, implemented,
22 and enforced measures requiring carbon dioxide and
23 other greenhouse gas emissions reductions; and

24 (2) the reductions described in paragraph (1)
25 are substantially similar to the carbon dioxide and

1 other greenhouse gas emission reductions proposed
2 by the Administrator or the head of any other Fed-
3 eral agency or department for the United States.

4 (d) REPEAL.—Any regulation, proposal, or action in
5 effect before, on, or after the date of enactment of this
6 Act, but before the date on which the certification under
7 subsection (c) is made, that requires any carbon dioxide
8 or other greenhouse gas emissions reduction shall have no
9 force or effect.

10 **SEC. 306. EMPLOYMENT EFFECTS OF ACTIONS UNDER**
11 **CLEAN AIR ACT.**

12 Section 321(b) of the Clean Air Act (42 U.S.C.
13 7621(b)) is amended—

14 (1) by designating the first through eighth sen-
15 tences as paragraphs (1) through (8), respectively;
16 and

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

18 “(9) ECONOMIC ANALYSIS.—Not later than 30
19 days before conducting a public hearing or providing
20 notice of a determination that a hearing is not nec-
21 essary with respect to a requirement described in
22 paragraph (1), the Administrator shall—

23 “(A) conduct a full economic analysis of
24 the requirement; and

1 “(B) make the data, methodologies, and
2 results of the analysis available to the public.

3 “(10) ECONOMIC REVIEW BOARD.—

4 “(A) IN GENERAL.—Not later than 30
5 days after the date on which the Administrator
6 makes the results of an economic analysis of a
7 requirement available to the public under para-
8 graph (9)(B), the Secretary of Commerce shall
9 establish an economic review board consisting of
10 a representative from each Federal agency with
11 jurisdiction over affected industries to assess—

12 “(i) the cumulative economic impact
13 of the requirement, including the direct, in-
14 direct, quantifiable, and qualitative effects;

15 “(ii) the cost of compliance with the
16 requirement;

17 “(iii) the effect of the requirement on
18 the retirement or closure of domestic busi-
19 nesses;

20 “(iv) energy sectors that could be ex-
21 pected to retire units as a result of the re-
22 quirement;

23 “(v) the impact of the requirement on
24 the price of electricity, oil, gas, coal, and
25 renewable resources;

1 “(vi) the economic harm to consumers
2 resulting from the requirement;

3 “(vii) the impact of the requirement
4 on the ability of industries and businesses
5 in the United States to compete with in-
6 dustries and businesses in other countries,
7 with respect to competitiveness in both do-
8 mestic and foreign markets;

9 “(viii) the regions of the United
10 States that are forecasted to be—

11 “(I) most affected from the di-
12 rect and indirect adverse impacts of
13 the requirement from the retirement
14 of impacted units and increased prices
15 for retail electricity, transportation
16 fuels, heating oil, and petrochemicals;
17 and

18 “(II) least affected from adverse
19 impacts described in subclause (I) due
20 to the creation of new jobs and eco-
21 nomic growth that are expected to re-
22 sult directly and indirectly from en-
23 ergy construction projects;

24 “(ix) the adverse impacts of the re-
25 quirement on electric reliability that are

1 expected to result from the retirement of
2 electric generation;

3 “(x) the geographical distribution of
4 the projected adverse electric reliability im-
5 pacts of the requirement;

6 “(xi) Federal, State, and local policies
7 that have been or will be implemented to
8 support energy infrastructure in the
9 United States, including policies that pro-
10 mote fuel diversity, affordable and reliable
11 electricity, and energy security;

12 “(xii) the potential economic impacts
13 as a result of outsourcing; and

14 “(xiii) other direct and indirect im-
15 pacts that are expected to result from the
16 cumulative obligation to comply with the
17 requirement.

18 “(B) REPORT.—Not later than 30 days
19 after the date on which the economic review
20 board completes the assessment of a require-
21 ment under subparagraph (A), the economic re-
22 view board shall submit to Congress, the Presi-
23 dent, and the Secretary a report that describes
24 the results of the assessment.

1 “(C) REGULATIONS.—The Administrator
2 shall not promulgate regulations to implement a
3 requirement described in paragraph (1) until at
4 least 60 days after the date of submission of
5 the report on the requirement under subpara-
6 graph (B).”.

7 **SEC. 307. ENDANGERED SPECIES.**

8 (a) EMERGENCIES.—Section 10 of the Endangered
9 Species Act of 1973 (16 U.S.C. 1539) is amended by add-
10 ing at the end the following:

11 “(k) EMERGENCIES.—On the declaration of an emer-
12 gency by the Governor of a State, the Secretary shall, for
13 the duration of the emergency, temporarily exempt from
14 the prohibition against taking, and the prohibition against
15 the adverse modification of critical habitat, under this Act
16 any action that is reasonably necessary to avoid or amelio-
17 rate the impact of the emergency, including fighting or
18 preventing forest fires and the building, rebuilding, or op-
19 eration of any water supply or flood control project by a
20 Federal agency.”.

21 (b) PROHIBITION OF CONSIDERATION OF IMPACT OF
22 GREENHOUSE GASES AND CLIMATE CHANGE.—

23 (1) IN GENERAL.—The Endangered Species Act
24 of 1973 (16 U.S.C. 1531 et seq.) is amended by
25 adding at the end the following:

1 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**
 2 **GREENHOUSE GASES AND CLIMATE CHANGE.**

3 “(a) DEFINITION OF GREENHOUSE GAS.—In this
 4 section, the term ‘greenhouse gas’ means any of—

5 “(1) carbon dioxide;

6 “(2) methane;

7 “(3) nitrous oxide;

8 “(4) sulfur hexafluoride;

9 “(5) a hydrofluorocarbon;

10 “(6) a perfluorocarbon; or

11 “(7) any other anthropogenic gas designated by
 12 the Secretary for purposes of this section.

13 “(b) IMPACT OF GREENHOUSE GASES AND CLIMATE
 14 CHANGE.—The impact of any greenhouse gas or climate
 15 change on any species of fish or wildlife or plant shall not
 16 be considered for any purpose in the implementation of
 17 this Act.”.

18 (2) CONFORMING AMENDMENT.—The table of
 19 contents in the first section of the Endangered Spe-
 20 cies Act of 1973 (16 U.S.C. prec. 1531) is amended
 21 by adding at the end the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gases and climate change.”.

1 **SEC. 308. CENTRAL VALLEY PROJECT.**

2 The Act of August 27, 1954 (68 Stat. 879, chapter
3 1012; 16 U.S.C. 695d et seq.) is amended by adding at
4 the end the following:

5 **“SEC. 9. EFFECT OF BIOLOGICAL OPINIONS.**

6 “Notwithstanding any other provision of law, in con-
7 nection with the Central Valley Project, the Bureau of
8 Reclamation and an agency of the State of California op-
9 erating a water project in connection with the Project shall
10 not restrict operations of an applicable project pursuant
11 to any biological opinion issued under the Endangered
12 Species Act of 1973 (16 U.S.C. 1531 et seq.), if the re-
13 striction would result in a level of allocation of water that
14 is less than the historical maximum level of allocation of
15 water under the project.”.

16 **SEC. 309. KEYSTONE XL PERMIT APPROVAL.**

17 (a) IN GENERAL.—Notwithstanding Executive Order
18 No. 13337 (3 U.S.C. 301 note), Executive Order No.
19 11423 (3 U.S.C. 301 note), section 301 of title 3, United
20 States Code, and any other Executive order or provision
21 of law, no presidential permit shall be required for the
22 pipeline described in the application filed on May 4, 2012,
23 by TransCanada Corporation to the Department of State
24 for the northern portion of the Keystone XL pipeline from
25 the Canadian border to the border between the States of
26 South Dakota and Nebraska.

1 (b) ENVIRONMENTAL IMPACT STATEMENT.—The
2 final environmental impact statement issued by the Sec-
3 retary of State on August 26, 2011, regarding the pipeline
4 referred to in subsection (a), shall be considered to satisfy
5 all requirements of the National Environmental Policy Act
6 of 1969 (42 U.S.C. 4321 et seq.).

7 (c) INTRASTATE PORTION.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, the route of the Keystone XL pipe-
10 line through the State of Nebraska reviewed in the
11 Final Evaluation Report conducted pursuant to Neb.
12 Rev. Stat. § 57–1503(1) and approved by the Gov-
13 ernor of the State shall be considered approved.

14 (2) ENVIRONMENTAL IMPACT STATEMENTS.—
15 The Final Evaluation Report described in paragraph
16 (1) shall be considered to satisfy all requirements of
17 the National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.).

19 (d) CRITICAL HABITAT.—No area necessary to con-
20 struct or maintain the Keystone XL pipeline shall be con-
21 sidered critical habitat under the Endangered Species Act
22 of 1973 (16 U.S.C. 1531 et seq.) or any other provision
23 of law.

24 (e) PERMITS.—Any Federal permit or authorization
25 issued before the date of enactment of this Act for the

1 pipeline and cross-border facilities described in subsections
2 (a) and (b), and the related facilities in the United States,
3 shall remain in effect.

4 (f) FEDERAL JUDICIAL REVIEW.—The pipeline and
5 cross-border facilities described in subsections (a) and (b),
6 and the related facilities in the United States, that are
7 approved by this section, and any permit, right-of-way, or
8 other action taken to construct or complete the project
9 pursuant to Federal law, shall only be subject to judicial
10 review on direct appeal to the United States Court of Ap-
11 peals for the District of Columbia Circuit.

12 **SEC. 310. DRAKES BAY OYSTER COMPANY.**

13 Notwithstanding any other provision of law (includ-
14 ing the memorandum of the Secretary of the Interior
15 dated November 29, 2012, with the subject entitled “Point
16 Reyes National Seashore–Drakes Bay Oyster Com-
17 pany”)—

18 (1) the Secretary of the Interior, acting through
19 the Director of the National Park Service, shall—

20 (A) reinstate, for a period of not less than
21 10 years, the reservation of use and occupancy
22 and special use permits to conduct commercial
23 operations within Point Reyes National Sea-
24 shore in the State of California held by Drakes
25 Bay Oyster Company, which expired on Novem-

1 ber 30, 2012, subject to the terms and condi-
2 tions contained in those permits, as in effect on
3 November 29, 2012; and

4 (B) on receipt of a request from Drakes
5 Bay Oyster Company (or a successor in inter-
6 est), renew those reinstated permits for an ad-
7 ditional 10-year period; and

8 (2) Drakes Estero in the State of California
9 shall not be converted to a designated wilderness.

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