

110TH CONGRESS
2D SESSION

H. R. 5805

To establish a new solar energy future for America through public-private partnership and energy leasing for reliable and affordable energy for the American people, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2008

Mr. PEARCE introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To establish a new solar energy future for America through public-private partnership and energy leasing for reliable and affordable energy for the American people, 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.**

4 This Act may be cited as the “Zeroing In American
5 Energy Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) Establishing a clean energy future requires
2 new innovative technologies.

3 (2) Solar energy offers the United States tre-
4 mendous domestic energy opportunities.

5 (3) The Southwestern United States is the
6 Saudi Arabia of solar energy.

7 (4) The publication Scientific American, in its
8 January of 2008 issue, theorized a “Grand Plan for
9 Solar” that suggests theoretically solar power could
10 provide 69 percent of America’s electricity by 2050.

11 (5) Establishing a new solar energy future will
12 require a strong public-private partnership.

13 **SEC. 3. DEVELOPING SOLAR ENERGY ON FEDERAL LANDS.**

14 (a) IN GENERAL.—The Secretary of the Interior shall
15 carry out in accordance with this section a program for
16 the leasing of Federal lands for the the advancement, de-
17 velopment, assessment, installation, and operation of com-
18 mercial photovoltaic and concentrating solar power energy
19 systems.

20 (b) IDENTIFICATION OF LANDS FOR LEASING.—

21 (1) LANDS SELECTION.—The Secretary of the
22 Interior, acting through the Director of the Bureau
23 of Land Management and in consultation with the
24 Secretary of Energy, shall—

(A) identify lease sites comprising a total of 6,400,000 acres of Federal lands under the jurisdiction of the Bureau of Land Management in the States of Arizona, California, New Mexico, Nevada, and Utah, that are suitable and feasible for the installation and operation of photovoltaic and concentrating solar power energy systems, subject to valid existing rights; and

(B) incorporate solar energy development into the relevant agency land use and resource management plans or equivalent plans for the lands identified under subparagraph (A).

(2) MINIMUM AND MAXIMUM ACREAGE OF SITES.—Each individual lease site identified under paragraph (1)(A) shall be a minimum of 1280 acres and shall not exceed 12,800 acres.

(3) LANDS RELEASED FOR LEASING.—The Secretary shall release for leasing under this section lease sites identified under paragraph (1), in acreages that meet the following annual milestones:

(A) By 2010, 79,012 acres.

(B) By 2011, 316,049 acres.

(C) By 2012, 711,111 acres.

(D) By 2013, 1,300,000 acres.

1 (E) By 2014, 2,000,000 acres.

2 (F) By 2015, 2,800,000 acres.

3 (G) By 2016, 3,700,000 acres.

4 (H) By 2017, 4,650,000 acres.

5 (I) By 2018, 5,800,000 acres.

6 (J) By 2019, 6,400,000 acres.

7 (4) LANDS NOT INCLUDED.—The following
8 Federal lands shall not be included within a solar
9 lands leasing program:

10 (A) Components of the National Land-
11 scape Conservation System.

12 (B) Wilderness and Wilderness Study
13 Areas.

14 (C) Wild and Scenic Rivers.

15 (D) National Scenic and Historic Trails.

16 (E) Monuments.

17 (F) Resource Natural Areas.

18 (c) COMPETITIVE LEASE SALE REQUIREMENTS
19 LEASING PROCEDURES.—

20 (1) NOMINATIONS.—The Secretary shall accept
21 at any time nominations of land identified under
22 subsection (b) for leasing under this Act, from any
23 qualified person.

24 (2) COMPETITIVE LEASE SALE REQUIRED.—

1 (A) IN GENERAL.—Except as otherwise
2 specifically provided by this Act, all land to be
3 leased under this Act that is not subject to leas-
4 ing under subsection (3) shall be leased to the
5 highest responsible qualified bidder, as deter-
6 mined by the Secretary.

7 (B) ANNUAL SALES REQUIRED.—The Sec-
8 retary shall hold a competitive lease sale under
9 this Act at least once every year for land in a
10 State with respect to which there is a nomina-
11 tion pending under paragraph (1) of land other-
12 wise available for leasing.

13 (3) NONCOMPETITIVE LEASING.—The Secretary
14 shall make available for a period of 2 years for non-
15 competitive leasing any tract for which a competitive
16 lease sale is held under paragraph (2), but for which
17 the Secretary does not receive any bids in such sale.

18 (4) PENDING LEASE APPLICATIONS.—It shall
19 be a priority for the Secretary to ensure timely com-
20 pletion of administrative actions and process applica-
21 tions for leasing of Federal lands described in sub-
22 section (b)(1)(A) for installation and operation of
23 photovoltaic and concentrating solar power energy
24 systems, that are pending on the date of enactment
25 of this subsection.

1 (d) LEASING TIME PERIOD.—Any lease of lands
 2 under this section shall be effective for a period of 30
 3 years, with an option to renew once for an additional pe-
 4 riod of 30 years.

5 **SEC. 4. ROYALTY.**

6 (a) RESERVATION OF ROYALTY.—

7 (1) IN GENERAL.—Production of solar energy
 8 under a lease under this Act shall be subject to a
 9 royalty described in paragraph (2), which shall be
 10 assessed and collected by the Secretary of the Inte-
 11 rior, acting through the Minerals Management Serv-
 12 ice. The leaseholder shall be liable for payment of
 13 such royalty.

14 (2) ROYALTY FOR PROJECTS UNDER THE FED-
 15 ERAL SOLAR LANDS LEASING PROGRAM.—The roy-
 16 alty under paragraph (1) shall be—

17 (A) 0.25 percent per kw/h on energy pro-
 18 duced under the lease in years 1 through 5 of
 19 the lease;

20 (B) 0.5 percent per kw/h on energy pro-
 21 duced under the lease in years 5 through 15 of
 22 the lease;

23 (C) 1 percent per kw/h on energy produced
 24 under the lease in years 15 through 30 of the
 25 lease; and

1 (D) 1 percent per kw/h on energy produced
2 under the lease after year 30.

3 (3) REVENUE SHARING.—Of the amount re-
4 ceived by the United States as royalty under this
5 subsection for a leased tract—

6 (A) one-third shall be paid to the State in
7 which the lands are located; and

8 (B) one-third shall be paid to the county in
9 which the lands are located.

10 (b) DUTIES OF LEASEHOLDERS.—

11 (1) PAYMENT OF ROYALTY.—A person who is
12 required to make any royalty payment under this
13 section shall make such payments to the United
14 States at such times and in such manner as the Sec-
15 retary may by rule prescribe.

16 (2) JOINT AND SEVERABLE LIABILITY.—Any
17 person liable for royalty payments under this section
18 who assigns any payment obligation shall remain
19 jointly and severally liable for all royalty payments
20 due for the claim for the period.

21 (3) AFFIRMATION OF PAYMENT RESPONSIBI-
22 LITY.—Any person paying royalties under this sec-
23 tion shall file a written instrument, together with the
24 first royalty payment, affirming that such person is
25 responsible for making proper payments for all

1 amounts due for all time periods for which such per-
2 son has a payment responsibility. Such responsibility
3 for the periods referred to in the preceding sentence
4 shall include any and all additional amounts billed
5 by the Secretary and determined to be due by final
6 agency or judicial action.

7 (4) RECORDKEEPING.—Records required by the
8 Secretary under this section shall be maintained for
9 7 years after release of financial assurance unless
10 the Secretary notifies the leaseholder that the Sec-
11 retary has initiated an audit or investigation involv-
12 ing such records and that such records must be
13 maintained for a longer period. In any case when an
14 audit or investigation is underway, records shall be
15 maintained until the Secretary releases the operator
16 of the obligation to maintain such records.

17 (5) AUDITS.—The Secretary may conduct such
18 audits of all leaseholders directly or indirectly in-
19 volved in the production of solar energy on lands
20 leased under this section as the Secretary considers
21 necessary for the purposes of ensuring compliance
22 with the requirements of this section. For purposes
23 of performing such audits, the Secretary shall, at
24 reasonable times and upon request, have access to,
25 and may copy, all books, papers, and other docu-

1 ments that relate to compliance with any provision
2 of this section by any person.

3 (6) PROVISION OF PROTECTED INFORMA-
4 TION.—Trade secrets, proprietary, and other con-
5 fidential information protected from disclosure under
6 section 552 of title 5, United States Code, popularly
7 known as the Freedom of Information Act, shall be
8 made available by the Secretary to other Federal
9 agencies as necessary to assure compliance with this
10 Act and other Federal laws.

11 (7) UNDERREPORTING.—

12 (A) PENALTY.—If there is any under-
13 reporting of royalty owed on energy produced
14 under a lease for any production month by any
15 person liable for royalty payments under this
16 section, the Secretary shall assess a penalty of
17 not greater than 10 percent of the amount of
18 that underreporting.

19 (B) WAIVER OR REDUCTION AUTHOR-
20 IZED.—The Secretary may waive or reduce a
21 penalty assessed under this paragraph if the
22 person liable for royalty payments under this
23 section corrects the underreporting before the
24 date such person receives notice from the Sec-
25 retary that an underreporting may have oc-

1 curred, or before 90 days after the date of the
2 enactment of this section, whichever is later.

3 (C) WAIVER REQUIRED.—The Secretary
4 shall waive any portion of an assessment under
5 this paragraph attributable to that portion of
6 the underreporting for which the person respon-
7 sible for paying the royalty demonstrates that—

8 (i) such person had written authoriza-
9 tion from the Secretary to report royalty
10 on the value of the production on basis on
11 which it was reported;

12 (ii) such person had substantial au-
13 thority for reporting royalty on the value
14 of the production on the basis on which it
15 was reported;

16 (iii) such person previously had noti-
17 fied the Secretary, in such manner as the
18 Secretary may by rule prescribe, of rel-
19 evant reasons or facts affecting the royalty
20 treatment of specific production which led
21 to the underreporting; or

22 (iv) such person meets any other ex-
23 ception which the Secretary may, by rule,
24 establish.

1 (D) TREATMENT AS FEDERAL SHARE.—

2 Subsection (b)(4) shall not apply to penalties
3 received by the United States under this para-
4 graph.

5 (E) UNDERREPORTING DEFINED.—For the

6 purposes of this subsection, the term “under-
7 reporting” means the difference between the
8 royalty on the value of the production that
9 should have been reported and the royalty on
10 the value of the production that was reported,
11 if the value that should have been reported is
12 greater than the value that was reported.

13 **SEC. 5. PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-**
14 **MENT.**

15 (a) IN GENERAL.—Not later than 18 months after
16 the date of enactment of this Act, in accordance with sec-
17 tion 102(2)(C) of the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4332(2)(C)), the Secretary of the Inte-
19 rior shall complete a programmatic environmental impact
20 statement for the solar leasing program under section 3.

21 (b) FINAL REGULATION.—Not later than 6 months
22 after the completion of the programmatic environmental
23 impact statement under this section, the Secretary shall
24 publish a final regulation implementing this section.

1 **SEC. 6. STUDY.**

2 Not later than 2 years after the date of enactment
3 of this Act, the Secretary of the Interior shall complete
4 a study of—

5 (1) Federal lands available for possible consid-
6 eration of leasing for a compressed air energy stor-
7 age system;

8 (2) barriers to additional access to Federal
9 lands for transimission of energy produced under
10 leases awarded under the solar energy leasing pro-
11 gram under this Act; and

12 (3) the need for energy transmission corridors
13 on public lands to address identified congestion or
14 constraints.

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