

Calendar No. 727

110TH CONGRESS
2D SESSION**S. 2973**

To promote the energy security of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2008

Mr. DOMENICI (for himself, Mr. BUNNING, Mr. SESSIONS, Mrs. HUTCHISON, Mr. BOND, Mr. INHOFE, Ms. MURKOWSKI, Mr. BARRASSO, Mr. BENNETT, Mr. WICKER, Mr. CHAMBLISS, Mr. STEVENS, Mr. CORNYN, Mr. ENZI, Mr. ISAKSON, Mr. THUNE, Mr. VOINOVICH, and Mr. ALLARD) introduced the following bill; which was read the first time

MAY 6, 2008

Read the second time and placed on the calendar

A BILL

To promote the energy security of the United States, 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 “American Energy Production Act of 2008”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Definition of Secretary.

TITLE I—TRADITIONAL RESOURCES

Subtitle A—Outer Continental Shelf

- Sec. 101. Publication of projected State lines on outer Continental Shelf.
 Sec. 102. Production of oil and natural gas in new producing areas.
 Sec. 103. Conforming amendment.

Subtitle B—Leasing Program for Land Within Coastal Plain

- Sec. 111. Definitions.
 Sec. 112. Leasing program for land within the Coastal Plain.
 Sec. 113. Lease sales.
 Sec. 114. Grant of leases by the Secretary.
 Sec. 115. Lease terms and conditions.
 Sec. 116. Coastal plain environmental protection.
 Sec. 117. Expedited judicial review.
 Sec. 118. Rights-of-way and easements across Coastal Plain.
 Sec. 119. Conveyance.
 Sec. 120. Local government impact aid and community service assistance.
 Sec. 121. Prohibition on exports.
 Sec. 122. Allocation of revenues.

Subtitle C—Permitting

- Sec. 131. Refinery permitting process.
 Sec. 132. Removal of additional fee for new applications for permits to drill.

Subtitle D—Strategic Petroleum Reserve

- Sec. 141. Suspension of petroleum acquisition for Strategic Petroleum Reserve.

Subtitle E—Restoration of State Revenue

- Sec. 151. Restoration of State revenue.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

- Sec. 201. Definition of renewable biomass.
 Sec. 202. Advanced battery manufacturing incentive program.
 Sec. 203. Biofuels infrastructure and additives research and development.
 Sec. 204. Study of increased consumption of ethanol-blended gasoline with
 higher levels of ethanol.
 Sec. 205. Study of diesel vehicle attributes.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

- Sec. 211. Short title.
 Sec. 212. Definitions.

Sec. 213. Clean coal-derived fuel program.

Subtitle C—Oil Shale

Sec. 221. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.

Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development

Sec. 231. Procurement and acquisition of alternative fuels.

Sec. 232. Multiyear contract authority for the Department of Defense for the procurement of synthetic fuels.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Energy.

4 **TITLE I—TRADITIONAL**
5 **RESOURCES**
6 **Subtitle A—Outer Continental**
7 **Shelf**

8 **SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON**
9 **OUTER CONTINENTAL SHELF.**

10 Section 4(a)(2)(A) of the Outer Continental Shelf
11 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

12 (1) by designating the first, second, and third
13 sentences as clause (i), (iii), and (iv), respectively;

14 (2) in clause (i) (as so designated), by inserting
15 before the period at the end the following: “not later
16 than 90 days after the date of enactment of the
17 American Energy Production Act of 2008”; and

18 (3) by inserting after clause (i) (as so des-
19 ignated) the following:

1 “(ii)(I) The projected lines shall also be used for the
2 purpose of preleasing and leasing activities conducted in
3 new producing areas under section 32.

4 “(II) This clause shall not affect any property right
5 or title to Federal submerged land on the outer Conti-
6 nental Shelf.

7 “(III) In carrying out this clause, the President shall
8 consider the offshore administrative boundaries beyond
9 State submerged lands for planning, coordination, and ad-
10 ministrative purposes of the Department of the Interior,
11 but may establish different boundaries.”.

12 **SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
13 **PRODUCING AREAS.**

14 The Outer Continental Shelf Lands Act (43 U.S.C.
15 1331 et seq.) is amended by adding at the end the fol-
16 lowing:

17 **“SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
18 **PRODUCING AREAS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COASTAL POLITICAL SUBDIVISION.—The
21 term ‘coastal political subdivision’ means a political
22 subdivision of a new producing State any part of
23 which political subdivision is—

24 “(A) within the coastal zone (as defined in
25 section 304 of the Coastal Zone Management

1 Act of 1972 (16 U.S.C. 1453)) of the new pro-
2 ducing State as of the date of enactment of this
3 section; and

4 “(B) not more than 200 nautical miles
5 from the geographic center of any leased tract.

6 “(2) MORATORIUM AREA.—

7 “(A) IN GENERAL.—The term ‘moratorium
8 area’ means an area covered by sections 104
9 through 105 of the Department of the Interior,
10 Environment, and Related Agencies Appropria-
11 tions Act, 2008 (Public Law 110–161; 121
12 Stat. 2118) (as in effect on the day before the
13 date of enactment of this section).

14 “(B) EXCLUSION.—The term ‘moratorium
15 area’ does not include an area located in the
16 Gulf of Mexico.

17 “(3) NEW PRODUCING AREA.—The term ‘new
18 producing area’ means any moratorium area within
19 the offshore administrative boundaries beyond the
20 submerged land of a State that is located greater
21 than 50 miles from the coastline of the State.

22 “(4) NEW PRODUCING STATE.—The term ‘new
23 producing State’ means a State that has, within the
24 offshore administrative boundaries beyond the sub-
25 merged land of the State, a new producing area

1 available for oil and gas leasing under subsection
2 (b).

3 “(5) OFFSHORE ADMINISTRATIVE BOUND-
4 ARIES.—The term ‘offshore administrative bound-
5 aries’ means the administrative boundaries estab-
6 lished by the Secretary beyond State submerged land
7 for planning, coordination, and administrative pur-
8 poses of the Department of the Interior and pub-
9 lished in the Federal Register on January 3, 2006
10 (71 Fed. Reg. 127).

11 “(6) QUALIFIED OUTER CONTINENTAL SHELF
12 REVENUES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 outer Continental Shelf revenues’ means all
15 rentals, royalties, bonus bids, and other sums
16 due and payable to the United States from
17 leases entered into on or after the date of en-
18 actment of this section for new producing areas.

19 “(B) EXCLUSIONS.—The term ‘qualified
20 outer Continental Shelf revenues’ does not in-
21 clude—

22 “(i) revenues from a bond or other
23 surety forfeited for obligations other than
24 the collection of royalties;

25 “(ii) revenues from civil penalties;

1 “(iii) royalties taken by the Secretary
2 in-kind and not sold;

3 “(iv) revenues generated from leases
4 subject to section 8(g); or

5 “(v) any revenues considered qualified
6 outer Continental Shelf revenues under
7 section 102 of the Gulf of Mexico Energy
8 Security Act of 2006 (43 U.S.C. 1331
9 note; Public Law 109–432).

10 “(b) PETITION FOR LEASING NEW PRODUCING
11 AREAS.—

12 “(1) IN GENERAL.—Beginning on the date on
13 which the President delineates projected State lines
14 under section 4(a)(2)(A)(ii), the Governor of a State
15 with a new producing area within the offshore ad-
16 ministrative boundaries beyond the submerged land
17 of the State may submit to the Secretary a petition
18 requesting that the Secretary make the new pro-
19 ducing area available for oil and gas leasing.

20 “(2) ACTION BY SECRETARY.—Notwithstanding
21 section 18, as soon as practicable after receipt of a
22 petition under paragraph (1), the Secretary shall ap-
23 prove the petition if the Secretary determines that
24 leasing the new producing area would not create an

1 unreasonable risk of harm to the marine, human, or
2 coastal environment.

3 “(c) DISPOSITION OF QUALIFIED OUTER CONTI-
4 NENTAL SHELF REVENUES FROM NEW PRODUCING
5 AREAS.—

6 “(1) IN GENERAL.—Notwithstanding section 9
7 and subject to the other provisions of this sub-
8 section, for each applicable fiscal year, the Secretary
9 of the Treasury shall deposit—

10 “(A) 50 percent of qualified outer Conti-
11 nental Shelf revenues in the general fund of the
12 Treasury; and

13 “(B) 50 percent of qualified outer Conti-
14 nental Shelf revenues in a special account in
15 the Treasury from which the Secretary shall
16 disburse—

17 “(i) 75 percent to new producing
18 States in accordance with paragraph (2);
19 and

20 “(ii) 25 percent to provide financial
21 assistance to States in accordance with
22 section 6 of the Land and Water Conserva-
23 tion Fund Act of 1965 (16 U.S.C. 460/
24 –8), which shall be considered income to
25 the Land and Water Conservation Fund

1 for purposes of section 2 of that Act (16
2 U.S.C. 460l-5).

3 “(2) ALLOCATION TO NEW PRODUCING STATES
4 AND COASTAL POLITICAL SUBDIVISIONS.—

5 “(A) ALLOCATION TO NEW PRODUCING
6 STATES.—Effective for fiscal year 2008 and
7 each fiscal year thereafter, the amount made
8 available under paragraph (1)(B)(i) shall be al-
9 located to each new producing State in amounts
10 (based on a formula established by the Sec-
11 retary by regulation) proportional to the
12 amount of qualified outer Continental Shelf rev-
13 enues generated in the new producing area off-
14 shore each State.

15 “(B) PAYMENTS TO COASTAL POLITICAL
16 SUBDIVISIONS.—

17 “(i) IN GENERAL.—The Secretary
18 shall pay 20 percent of the allocable share
19 of each new producing State, as deter-
20 mined under subparagraph (A), to the
21 coastal political subdivisions of the new
22 producing State.

23 “(ii) ALLOCATION.—The amount paid
24 by the Secretary to coastal political sub-
25 divisions shall be allocated to each coastal

1 political subdivision in accordance with
2 subparagraphs (B) and (C) of section
3 31(b)(4).

4 “(3) MINIMUM ALLOCATION.—The amount allo-
5 cated to a new producing State for each fiscal year
6 under paragraph (2) shall be at least 5 percent of
7 the amounts available under for the fiscal year
8 under paragraph (1)(B)(i).

9 “(4) TIMING.—The amounts required to be de-
10 posited under subparagraph (B) of paragraph (1)
11 for the applicable fiscal year shall be made available
12 in accordance with that subparagraph during the fis-
13 cal year immediately following the applicable fiscal
14 year.

15 “(5) AUTHORIZED USES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), each new producing State and coast-
18 al political subdivision shall use all amounts re-
19 ceived under paragraph (2) in accordance with
20 all applicable Federal and State laws, only for
21 1 or more of the following purposes:

22 “(i) Projects and activities for the
23 purposes of coastal protection, including
24 conservation, coastal restoration, hurricane

1 protection, and infrastructure directly af-
2 fected by coastal wetland losses.

3 “(ii) Mitigation of damage to fish,
4 wildlife, or natural resources.

5 “(iii) Implementation of a federally
6 approved marine, coastal, or comprehensive
7 conservation management plan.

8 “(iv) Mitigation of the impact of outer
9 Continental Shelf activities through the
10 funding of onshore infrastructure projects.

11 “(v) Planning assistance and the ad-
12 ministrative costs of complying with this
13 section.

14 “(B) LIMITATION.—Not more than 3 per-
15 cent of amounts received by a new producing
16 State or coastal political subdivision under
17 paragraph (2) may be used for the purposes de-
18 scribed in subparagraph (A)(v).

19 “(6) ADMINISTRATION.—Amounts made avail-
20 able under paragraph (1)(B) shall—

21 “(A) be made available, without further
22 appropriation, in accordance with this sub-
23 section;

24 “(B) remain available until expended; and

1 “(C) be in addition to any amounts appro-
2 priated under—

3 “(i) other provisions of this Act;

4 “(ii) the Land and Water Conserva-
5 tion Fund Act of 1965 (16 U.S.C. 460l-
6 4 et seq.); or

7 “(iii) any other provision of law.

8 “(d) DISPOSITION OF QUALIFIED OUTER CONTI-
9 NENTAL SHELF REVENUES FROM OTHER AREAS.—Not-
10 withstanding section 9, for each applicable fiscal year, the
11 terms and conditions of subsection (c) shall apply to the
12 disposition of qualified outer Continental Shelf revenues
13 that—

14 “(1) are derived from oil or gas leasing in an
15 area that is not included in the current 5-year plan
16 of the Secretary for oil or gas leasing; and

17 “(2) are not assumed in the budget of the
18 United States Government submitted by the Presi-
19 dent under section 1105 of title 31, United States
20 Code.”.

21 **SEC. 103. CONFORMING AMENDMENT.**

22 Sections 104 through 105 of the Department of the
23 Interior, Environment, and Related Agencies Appropria-
24 tions Act, 2008 (Public Law 110–161; 121 Stat. 2118)
25 are repealed.

1 **Subtitle B—Leasing Program for**
2 **Land Within Coastal Plain**

3 **SEC. 111. DEFINITIONS.**

4 In this subtitle:

5 (1) COASTAL PLAIN.—The term “Coastal
6 Plain” means that area identified as the “1002
7 Coastal Plain Area” on the map.

8 (2) FEDERAL AGREEMENT.—The term “Fed-
9 eral Agreement” means the Federal Agreement and
10 Grant Right-of-Way for the Trans-Alaska Pipeline
11 issued on January 23, 1974, in accordance with sec-
12 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
13 and the Trans-Alaska Pipeline Authorization Act
14 (43 U.S.C. 1651 et seq.).

15 (3) FINAL STATEMENT.—The term “Final
16 Statement” means the final legislative environmental
17 impact statement on the Coastal Plain, dated April
18 1987, and prepared pursuant to section 1002 of the
19 Alaska National Interest Lands Conservation Act
20 (16 U.S.C. 3142) and section 102(2)(C) of the Na-
21 tional Environmental Policy Act of 1969 (42 U.S.C.
22 4332(2)(C)).

23 (4) MAP.—The term “map” means the map en-
24 titled “Arctic National Wildlife Refuge”, dated Sep-

1 tember 2005, and prepared by the United States Ge-
2 ological Survey.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior (or the designee of the
5 Secretary), acting through the Director of the Bu-
6 reau of Land Management in consultation with the
7 Director of the United States Fish and Wildlife
8 Service and in coordination with a State coordinator
9 appointed by the Governor of the State of Alaska.

10 **SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE**
11 **COASTAL PLAIN.**

12 (a) IN GENERAL.—

13 (1) AUTHORIZATION.—Congress authorizes the
14 exploration, leasing, development, production, and
15 economically feasible and prudent transportation of
16 oil and gas in and from the Coastal Plain.

17 (2) ACTIONS.—The Secretary shall take such
18 actions as are necessary—

19 (A) to establish and implement, in accord-
20 ance with this subtitle, a competitive oil and
21 gas leasing program that will result in an envi-
22 ronmentally sound program for the exploration,
23 development, and production of the oil and gas
24 resources of the Coastal Plain while taking into
25 consideration the interests and concerns of resi-

1 dents of the Coastal Plain, which is the home-
2 land of the Kaktovikmiut Inupiat; and

3 (B) to administer this subtitle through reg-
4 ulations, lease terms, conditions, restrictions,
5 prohibitions, stipulations, and other provisions
6 that—

7 (i) ensure the oil and gas exploration,
8 development, and production activities on
9 the Coastal Plain will result in no signifi-
10 cant adverse effect on fish and wildlife,
11 their habitat, subsistence resources, and
12 the environment; and

13 (ii) require the application of the best
14 commercially available technology for oil
15 and gas exploration, development, and pro-
16 duction to all exploration, development,
17 and production operations under this sub-
18 title in a manner that ensures the receipt
19 of fair market value by the public for the
20 mineral resources to be leased.

21 (b) REPEAL.—

22 (1) REPEAL.—Section 1003 of the Alaska Na-
23 tional Interest Lands Conservation Act (16 U.S.C.
24 3143) is repealed.

1 (2) CONFORMING AMENDMENT.—The table of
2 contents contained in section 1 of that Act (16
3 U.S.C. 3101 note) is amended by striking the item
4 relating to section 1003.

5 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
6 TAIN OTHER LAWS.—

7 (1) COMPATIBILITY.—For purposes of the Na-
8 tional Wildlife Refuge System Administration Act of
9 1966 (16 U.S.C. 668dd et seq.)—

10 (A) the oil and gas pre-leasing and leasing
11 program, and activities authorized by this sec-
12 tion in the Coastal Plain, shall be considered to
13 be compatible with the purposes for which the
14 Arctic National Wildlife Refuge was established;
15 and

16 (B) no further findings or decisions shall
17 be required to implement that program and
18 those activities.

19 (2) ADEQUACY OF THE DEPARTMENT OF THE
20 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
21 STATEMENT.—The Final Statement shall be consid-
22 ered to satisfy the requirements under the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.) that apply with respect to pre-leasing activi-
25 ties, including exploration programs and actions au-

1 thorized to be taken by the Secretary to develop and
2 promulgate the regulations for the establishment of
3 a leasing program authorized by this subtitle before
4 the conduct of the first lease sale.

5 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
6 TIONS.—

7 (A) IN GENERAL.—Before conducting the
8 first lease sale under this subtitle, the Secretary
9 shall prepare an environmental impact state-
10 ment in accordance with the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et
12 seq.) with respect to the actions authorized by
13 this subtitle that are not referred to in para-
14 graph (2).

15 (B) IDENTIFICATION AND ANALYSIS.—
16 Notwithstanding any other provision of law, in
17 carrying out this paragraph, the Secretary shall
18 not be required—

19 (i) to identify nonleasing alternative
20 courses of action; or

21 (ii) to analyze the environmental ef-
22 fects of those courses of action.

23 (C) IDENTIFICATION OF PREFERRED AC-
24 TION.—Not later than 18 months after the date
25 of enactment of this Act, the Secretary shall—

1 (i) identify only a preferred action and
2 a single leasing alternative for the first
3 lease sale authorized under this subtitle;
4 and

5 (ii) analyze the environmental effects
6 and potential mitigation measures for
7 those 2 alternatives.

8 (D) PUBLIC COMMENTS.—In carrying out
9 this paragraph, the Secretary shall consider
10 only public comments that are filed not later
11 than 20 days after the date of publication of a
12 draft environmental impact statement.

13 (E) EFFECT OF COMPLIANCE.—Notwith-
14 standing any other provision of law, compliance
15 with this paragraph shall be considered to sat-
16 isfy all requirements for the analysis and con-
17 sideration of the environmental effects of pro-
18 posed leasing under this subtitle.

19 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
20 ITY.—Nothing in this subtitle expands or limits any State
21 or local regulatory authority.

22 (e) SPECIAL AREAS.—

23 (1) DESIGNATION.—

24 (A) IN GENERAL.—The Secretary, after
25 consultation with the State of Alaska, the

1 North Slope Borough, Alaska, and the City of
2 Kaktovik, Alaska, may designate not more than
3 45,000 acres of the Coastal Plain as a special
4 area if the Secretary determines that the special
5 area would be of such unique character and in-
6 terest as to require special management and
7 regulatory protection.

8 (B) SADLEROCHIT SPRING AREA.—The
9 Secretary shall designate as a special area in
10 accordance with subparagraph (A) the
11 Sadlerochit Spring area, comprising approxi-
12 mately 4,000 acres as depicted on the map.

13 (2) MANAGEMENT.—The Secretary shall man-
14 age each special area designated under this sub-
15 section in a manner that—

16 (A) respects and protects the Native people
17 of the area; and

18 (B) preserves the unique and diverse char-
19 acter of the area, including fish, wildlife, sub-
20 sistence resources, and cultural values of the
21 area.

22 (3) EXCLUSION FROM LEASING OR SURFACE
23 OCCUPANCY.—

1 (A) IN GENERAL.—The Secretary may ex-
2 clude any special area designated under this
3 subsection from leasing.

4 (B) NO SURFACE OCCUPANCY.—If the Sec-
5 retary leases all or a portion of a special area
6 for the purposes of oil and gas exploration, de-
7 velopment, production, and related activities,
8 there shall be no surface occupancy of the land
9 comprising the special area.

10 (4) DIRECTIONAL DRILLING.—Notwithstanding
11 any other provision of this subsection, the Secretary
12 may lease all or a portion of a special area under
13 terms that permit the use of horizontal drilling tech-
14 nology from sites on leases located outside the spe-
15 cial area.

16 (f) LIMITATION ON CLOSED AREAS.—The Secretary
17 may not close land within the Coastal Plain to oil and gas
18 leasing or to exploration, development, or production ex-
19 cept in accordance with this subtitle.

20 (g) REGULATIONS.—

21 (1) IN GENERAL.—Not later than 15 months
22 after the date of enactment of this Act, in consulta-
23 tion with appropriate agencies of the State of Alas-
24 ka, the North Slope Borough, Alaska, and the City
25 of Kaktovik, Alaska, the Secretary shall issue such

1 regulations as are necessary to carry out this sub-
2 title, including rules and regulations relating to pro-
3 tection of the fish and wildlife, fish and wildlife habi-
4 tat, and subsistence resources of the Coastal Plain.

5 (2) REVISION OF REGULATIONS.—The Sec-
6 retary may periodically review and, as appropriate,
7 revise the rules and regulations issued under para-
8 graph (1) to reflect any significant scientific or engi-
9 neering data that come to the attention of the Sec-
10 retary.

11 **SEC. 113. LEASE SALES.**

12 (a) IN GENERAL.—Land may be leased pursuant to
13 this subtitle to any person qualified to obtain a lease for
14 deposits of oil and gas under the Mineral Leasing Act (30
15 U.S.C. 181 et seq.).

16 (b) PROCEDURES.—The Secretary shall, by regula-
17 tion, establish procedures for—

18 (1) receipt and consideration of sealed nomina-
19 tions for any area in the Coastal Plain for inclusion
20 in, or exclusion (as provided in subsection (c)) from,
21 a lease sale;

22 (2) the holding of lease sales after that nomina-
23 tion process; and

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

4 (c) LEASE SALE BIDS.—Bidding for leases under
5 this subtitle shall be by sealed competitive cash bonus bids.

6 (d) ACREAGE MINIMUM IN FIRST SALE.—For the
7 first lease sale under this subtitle, the Secretary shall offer
8 for lease those tracts the Secretary considers to have the
9 greatest potential for the discovery of hydrocarbons, tak-
10 ing into consideration nominations received pursuant to
11 subsection (b)(1), but in no case less than 200,000 acres.

12 (e) TIMING OF LEASE SALES.—The Secretary
13 shall—

14 (1) not later than 22 months after the date of
15 enactment of this Act, conduct the first lease sale
16 under this subtitle;

17 (2) not later than September 30, 2012, conduct
18 a second lease sale under this subtitle; and

19 (3) conduct additional sales at appropriate in-
20 tervals if sufficient interest in exploration or devel-
21 opment exists to warrant the conduct of the addi-
22 tional sales.

23 **SEC. 114. GRANT OF LEASES BY THE SECRETARY.**

24 (a) IN GENERAL.—Upon payment by a lessee of such
25 bonus as may be accepted by the Secretary, the Secretary

1 may grant to the highest responsible qualified bidder in
2 a lease sale conducted pursuant to section 113 a lease for
3 any land on the Coastal Plain.

4 (b) SUBSEQUENT TRANSFERS.—

5 (1) IN GENERAL.—No lease issued under this
6 subtitle may be sold, exchanged, assigned, sublet, or
7 otherwise transferred except with the approval of the
8 Secretary.

9 (2) CONDITION FOR APPROVAL.—Before grant-
10 ing any approval described in paragraph (1), the
11 Secretary shall consult with and give due consider-
12 ation to the opinion of the Attorney General.

13 **SEC. 115. LEASE TERMS AND CONDITIONS.**

14 (a) IN GENERAL.—An oil or gas lease issued pursu-
15 ant to this subtitle shall—

16 (1) provide for the payment of a royalty of not
17 less than 16½ percent of the amount or value of the
18 production removed or sold from the lease, as deter-
19 mined by the Secretary in accordance with regula-
20 tions applicable to other Federal oil and gas leases;

21 (2) provide that the Secretary may close, on a
22 seasonal basis, such portions of the Coastal Plain to
23 exploratory drilling activities as are necessary to
24 protect caribou calving areas and other species of
25 fish and wildlife;

1 (3) require that each lessee of land within the
2 Coastal Plain shall be fully responsible and liable for
3 the reclamation of land within the Coastal Plain and
4 any other Federal land that is adversely affected in
5 connection with exploration, development, produc-
6 tion, or transportation activities within the Coastal
7 Plain conducted by the lessee or by any of the sub-
8 contractors or agents of the lessee;

9 (4) provide that the lessee may not delegate or
10 convey, by contract or otherwise, that reclamation
11 responsibility and liability to another person without
12 the express written approval of the Secretary;

13 (5) provide that the standard of reclamation for
14 land required to be reclaimed under this subtitle
15 shall be, to the maximum extent practicable—

16 (A) a condition capable of supporting the
17 uses that the land was capable of supporting
18 prior to any exploration, development, or pro-
19 duction activities; or

20 (B) upon application by the lessee, to a
21 higher or better standard, as approved by the
22 Secretary;

23 (6) contain terms and conditions relating to
24 protection of fish and wildlife, fish and wildlife habi-

1 tat, subsistence resources, and the environment as
2 required under section 112(a)(2);

3 (7) provide that each lessee, and each agent
4 and contractor of a lessee, use their best efforts to
5 provide a fair share of employment and contracting
6 for Alaska Natives and Alaska Native Corporations
7 from throughout the State of Alaska, as determined
8 by the level of obligation previously agreed to in the
9 Federal Agreement; and

10 (8) contain such other provisions as the Sec-
11 retary determines to be necessary to ensure compli-
12 ance with this subtitle and regulations issued under
13 this subtitle.

14 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
15 as a term and condition of each lease under this subtitle,
16 and in recognizing the proprietary interest of the Federal
17 Government in labor stability and in the ability of con-
18 struction labor and management to meet the particular
19 needs and conditions of projects to be developed under the
20 leases issued pursuant to this subtitle (including the spe-
21 cial concerns of the parties to those leases), shall require
22 that each lessee, and each agent and contractor of a lessee,
23 under this subtitle negotiate to obtain a project labor
24 agreement for the employment of laborers and mechanics

1 on production, maintenance, and construction under the
2 lease.

3 **SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

6 In accordance with section 112, the Secretary shall admin-
7 ister this subtitle through regulations, lease terms, condi-
8 tions, restrictions, prohibitions, stipulations, or other pro-
9 visions that—

10 (1) ensure, to the maximum extent practicable,
11 that oil and gas exploration, development, and pro-
12 duction activities on the Coastal Plain will result in
13 no significant adverse effect on fish and wildlife, fish
14 and wildlife habitat, and the environment;

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

20 (3) ensure that the maximum surface acreage
21 covered in connection with the leasing program by
22 production and support facilities, including airstrips
23 and any areas covered by gravel berms or piers for
24 support of pipelines, does not exceed 2,000 acres on
25 the Coastal Plain.

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

2 The Secretary shall require, with respect to any proposed
3 drilling and related activities on the Coastal Plain, that—

4 (1) a site-specific environmental analysis be
5 made of the probable effects, if any, that the drilling
6 or related activities will have on fish and wildlife,
7 fish and wildlife habitat, subsistence resources, sub-
8 sistence uses, and the environment;

9 (2) a plan be implemented to avoid, minimize,
10 and mitigate (in that order and to the maximum ex-
11 tent practicable) any significant adverse effect iden-
12 tified under paragraph (1); and

13 (3) the development of the plan occur after con-
14 sultation with—

15 (A) each agency having jurisdiction over
16 matters mitigated by the plan;

17 (B) the State of Alaska;

18 (C) North Slope Borough, Alaska; and

19 (D) the City of Kaktovik, Alaska.

20 (c) REGULATIONS TO PROTECT COASTAL PLAIN

21 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,

22 AND THE ENVIRONMENT.—Before implementing the leas-

23 ing program authorized by this subtitle, the Secretary

24 shall prepare and issue regulations, lease terms, condi-

25 tions, restrictions, prohibitions, stipulations, or other

1 measures designed to ensure, to the maximum extent prac-
2 ticable, that the activities carried out on the Coastal Plain
3 under this subtitle are conducted in a manner consistent
4 with the purposes and environmental requirements of this
5 subtitle.

6 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
7 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
8 proposed regulations, lease terms, conditions, restrictions,
9 prohibitions, and stipulations for the leasing program
10 under this subtitle shall require—

11 (1) compliance with all applicable provisions of
12 Federal and State environmental law (including reg-
13 ulations);

14 (2) implementation of and compliance with—

15 (A) standards that are at least as effective
16 as the safety and environmental mitigation
17 measures, as described in items 1 through 29
18 on pages 167 through 169 of the Final State-
19 ment, on the Coastal Plain;

20 (B) seasonal limitations on exploration, de-
21 velopment, and related activities, as necessary,
22 to avoid significant adverse effects during peri-
23 ods of concentrated fish and wildlife breeding,
24 denning, nesting, spawning, and migration;

1 (C) design safety and construction stand-
2 ards for all pipelines and any access and service
3 roads that minimize, to the maximum extent
4 practicable, adverse effects on—

5 (i) the passage of migratory species
6 (such as caribou); and

7 (ii) the flow of surface water by re-
8 quiring the use of culverts, bridges, or
9 other structural devices;

10 (D) prohibitions on general public access
11 to, and use of, all pipeline access and service
12 roads;

13 (E) stringent reclamation and rehabilita-
14 tion requirements in accordance with this sub-
15 title for the removal from the Coastal Plain of
16 all oil and gas development and production fa-
17 cilities, structures, and equipment on comple-
18 tion of oil and gas production operations, except
19 in a case in which the Secretary determines
20 that those facilities, structures, or equipment—

21 (i) would assist in the management of
22 the Arctic National Wildlife Refuge; and

23 (ii) are donated to the United States
24 for that purpose;

1 (F) appropriate prohibitions or restrictions

2 on—

3 (i) access by all modes of transpor-

4 tation;

5 (ii) sand and gravel extraction; and

6 (iii) use of explosives;

7 (G) reasonable stipulations for protection

8 of cultural and archaeological resources;

9 (H) measures to protect groundwater and

10 surface water, including—

11 (i) avoidance, to the maximum extent

12 practicable, of springs, streams, and river

13 systems;

14 (ii) the protection of natural surface

15 drainage patterns and wetland and ripar-

16 ian habitats; and

17 (iii) the regulation of methods or tech-

18 niques for developing or transporting ade-

19 quate supplies of water for exploratory

20 drilling; and

21 (I) research, monitoring, and reporting re-

22 quirements;

23 (3) that exploration activities (except surface

24 geological studies) be limited to the period between

25 approximately November 1 and May 1 of each year

1 and be supported, if necessary, by ice roads, winter
2 trails with adequate snow cover, ice pads, ice air-
3 strips, and air transport methods (except that those
4 exploration activities may be permitted at other
5 times if the Secretary determines that the explo-
6 ration will have no significant adverse effect on fish
7 and wildlife, fish and wildlife habitat, subsistence re-
8 sources, and the environment of the Coastal Plain);

9 (4) consolidation of facility siting;

10 (5) avoidance or reduction of air traffic-related
11 disturbance to fish and wildlife;

12 (6) treatment and disposal of hazardous and
13 toxic wastes, solid wastes, reserve pit fluids, drilling
14 muds and cuttings, and domestic wastewater, includ-
15 ing, in accordance with applicable Federal and State
16 environmental laws (including regulations)—

17 (A) preparation of an annual waste man-
18 agement report;

19 (B) development and implementation of a
20 hazardous materials tracking system; and

21 (C) prohibition on the use of chlorinated
22 solvents;

23 (7) fuel storage and oil spill contingency plan-
24 ning;

1 (8) conduct of periodic field crew environmental
2 briefings;

3 (9) avoidance of significant adverse effects on
4 subsistence hunting, fishing, and trapping;

5 (10) compliance with applicable air and water
6 quality standards;

7 (11) appropriate seasonal and safety zone des-
8 ignations around well sites, within which subsistence
9 hunting and trapping shall be limited; and

10 (12) development and implementation of such
11 other protective environmental requirements, restric-
12 tions, terms, or conditions as the Secretary, after
13 consultation with the State of Alaska, North Slope
14 Borough, Alaska, and the City of Kaktovik, Alaska,
15 determines to be necessary.

16 (e) CONSIDERATIONS.—In preparing and issuing reg-
17 ulations, lease terms, conditions, restrictions, prohibitions,
18 or stipulations under this section, the Secretary shall take
19 into consideration—

20 (1) the stipulations and conditions that govern
21 the National Petroleum Reserve-Alaska leasing pro-
22 gram, as set forth in the 1999 Northeast National
23 Petroleum Reserve-Alaska Final Integrated Activity
24 Plan/Environmental Impact Statement;

1 (2) the environmental protection standards that
2 governed the initial Coastal Plain seismic exploration
3 program under parts 37.31 through 37.33 of title
4 50, Code of Federal Regulations (or successor regu-
5 lations); and

6 (3) the land use stipulations for exploratory
7 drilling on the KIC-ASRC private land described in
8 Appendix 2 of the agreement between Arctic Slope
9 Regional Corporation and the United States dated
10 August 9, 1983.

11 (f) FACILITY CONSOLIDATION PLANNING.—

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

19 (2) OBJECTIVES.—The objectives of the plan
20 shall be—

21 (A) the avoidance of unnecessary duplica-
22 tion of facilities and activities;

23 (B) the encouragement of consolidation of
24 common facilities and activities;

1 (C) the location or confinement of facilities
2 and activities to areas that will minimize impact
3 on fish and wildlife, fish and wildlife habitat,
4 subsistence resources, and the environment;

5 (D) the use of existing facilities, to the
6 maximum extent practicable; and

7 (E) the enhancement of compatibility be-
8 tween wildlife values and development activities.

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

11 (1) manage public land in the Coastal Plain in
12 accordance with subsections (a) and (b) of section
13 811 of the Alaska National Interest Lands Con-
14 servation Act (16 U.S.C. 3121); and

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

18 **SEC. 117. EXPEDITED JUDICIAL REVIEW.**

19 (a) FILING OF COMPLAINTS.—

20 (1) DEADLINE.—A complaint seeking judicial
21 review of a provision of this subtitle or an action of
22 the Secretary under this subtitle shall be filed—

23 (A) except as provided in subparagraph

24 (B), during the 90-day period beginning on the

1 date on which the action being challenged was
2 carried out; or

3 (B) in the case of a complaint based solely
4 on grounds arising after the 90-day period de-
5 scribed in subparagraph (A), during the 90-day
6 period beginning on the date on which the com-
7 plainant knew or reasonably should have known
8 about the grounds for the complaint.

9 (2) VENUE.—A complaint seeking judicial re-
10 view of a provision of this subtitle or an action of
11 the Secretary under this subtitle shall be filed in the
12 United States Court of Appeals for the District of
13 Columbia.

14 (3) SCOPE.—

15 (A) IN GENERAL.—Judicial review of a de-
16 cision of the Secretary under this subtitle (in-
17 cluding an environmental analysis of such a
18 lease sale) shall be—

19 (i) limited to a review of whether the
20 decision is in accordance with this subtitle;
21 and

22 (ii) based on the administrative record
23 of the decision.

24 (B) PRESUMPTIONS.—Any identification
25 by the Secretary of a preferred course of action

1 relating to a lease sale, and any analysis by the
2 Secretary of environmental effects, under this
3 subtitle shall be presumed to be correct unless
4 proven otherwise by clear and convincing evi-
5 dence.

6 (b) **LIMITATION ON OTHER REVIEW.**—Any action of
7 the Secretary that is subject to judicial review under this
8 section shall not be subject to judicial review in any civil
9 or criminal proceeding for enforcement.

10 **SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COAST-**
11 **AL PLAIN.**

12 For purposes of section 1102(4)(A) of the Alaska Na-
13 tional Interest Lands Conservation Act (16 U.S.C.
14 3162(4)(A)), any rights-of-way or easements across the
15 Coastal Plain for the exploration, development, produc-
16 tion, or transportation of oil and gas shall be considered
17 to be established incident to the management of the Coast-
18 al Plain under this section.

19 **SEC. 119. CONVEYANCE.**

20 Notwithstanding section 1302(h)(2) of the Alaska
21 National Interest Lands Conservation Act (16 U.S.C.
22 3192(h)(2)), to remove any cloud on title to land, and to
23 clarify land ownership patterns in the Coastal Plain, the
24 Secretary shall—

1 (1) to the extent necessary to fulfill the entitle-
2 ment of the Kaktovik Inupiat Corporation under sec-
3 tions 12 and 14 of the Alaska Native Claims Settle-
4 ment Act (43 U.S.C. 1611, 1613), as determined by
5 the Secretary, convey to that Corporation the sur-
6 face estate of the land described in paragraph (1) of
7 Public Land Order 6959, in accordance with the
8 terms and conditions of the agreement between the
9 Secretary, the United States Fish and Wildlife Serv-
10 ice, the Bureau of Land Management, and the
11 Kaktovik Inupiat Corporation, dated January 22,
12 1993; and

13 (2) convey to the Arctic Slope Regional Cor-
14 poration the remaining subsurface estate to which
15 that Corporation is entitled under the agreement be-
16 tween that corporation and the United States, dated
17 August 9, 1983.

18 **SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
19 **NITY SERVICE ASSISTANCE.**

20 (a) ESTABLISHMENT OF FUND.—

21 (1) IN GENERAL.—As a condition on the receipt
22 of funds under section 122(2), the State of Alaska
23 shall establish in the treasury of the State, and ad-
24 minister in accordance with this section, a fund to
25 be known as the “Coastal Plain Local Government

1 Impact Aid Assistance Fund” (referred to in this
2 section as the “Fund”).

3 (2) DEPOSITS.—Subject to paragraph (1), the
4 Secretary of the Treasury shall deposit into the
5 Fund, \$35,000,000 each year from the amount
6 available under section 122(2)(A).

7 (3) INVESTMENT.—The Governor of the State
8 of Alaska (referred to in this section as the “Gov-
9 ernor”) shall invest amounts in the Fund in interest-
10 bearing securities of the United States or the State
11 of Alaska.

12 (b) ASSISTANCE.—The Governor, in cooperation with
13 the Mayor of the North Slope Borough, shall use amounts
14 in the Fund to provide assistance to North Slope Borough,
15 Alaska, the City of Kaktovik, Alaska, and any other bor-
16 ough, municipal subdivision, village, or other community
17 in the State of Alaska that is directly impacted by explo-
18 ration for, or the production of, oil or gas on the Coastal
19 Plain under this subtitle, or any Alaska Native Regional
20 Corporation acting on behalf of the villages and commu-
21 nities within its region whose lands lie along the right of
22 way of the Trans Alaska Pipeline System, as determined
23 by the Governor.

24 (c) APPLICATION.—

1 (1) IN GENERAL.—To receive assistance under
2 subsection (b), a community or Regional Corporation
3 described in that subsection shall submit to the Gov-
4 ernor, or to the Mayor of the North Slope Borough,
5 an application in such time, in such manner, and
6 containing such information as the Governor may re-
7 quire.

8 (2) ACTION BY NORTH SLOPE BOROUGH.—The
9 Mayor of the North Slope Borough shall submit to
10 the Governor each application received under para-
11 graph (1) as soon as practicable after the date on
12 which the application is received.

13 (3) ASSISTANCE OF GOVERNOR.—The Governor
14 shall assist communities in submitting applications
15 under this subsection, to the maximum extent prac-
16 ticable.

17 (d) USE OF FUNDS.—A community or Regional Cor-
18 poration that receives funds under subsection (b) may use
19 the funds—

20 (1) to plan for mitigation, implement a mitiga-
21 tion plan, or maintain a mitigation project to ad-
22 dress the potential effects of oil and gas exploration
23 and development on environmental, social, cultural,
24 recreational, and subsistence resources of the com-
25 munity;

1 (2) to develop, carry out, and maintain—

2 (A) a project to provide new or expanded
3 public facilities; or

4 (B) services to address the needs and prob-
5 lems associated with the effects described in
6 paragraph (1), including firefighting, police,
7 water and waste treatment, first responder, and
8 other medical services;

9 (3) to compensate residents of the Coastal
10 Plain for significant damage to environmental, so-
11 cial, cultural, recreational, or subsistence resources;
12 and

13 (4) in the City of Kaktovik, Alaska—

14 (A) to develop a mechanism for providing
15 members of the Kaktovikmiut Inupiat commu-
16 nity an opportunity to—

17 (i) monitor development on the Coast-
18 al Plain; and

19 (ii) provide information and rec-
20 ommendations to the Governor based on
21 traditional aboriginal knowledge of the nat-
22 ural resources, flora, fauna, and ecological
23 processes of the Coastal Plain; and

24 (B) to establish a local coordination office,
25 to be managed by the Mayor of the North Slope

1 Borough, in coordination with the City of
2 Kaktovik, Alaska—

3 (i) to coordinate with and advise de-
4 velopers on local conditions and the history
5 of areas affected by development;

6 (ii) to provide to the Committee on
7 Resources of the House of Representatives
8 and the Committee on Energy and Natural
9 Resources of the Senate annual reports on
10 the status of the coordination between de-
11 velopers and communities affected by de-
12 velopment;

13 (iii) to collect from residents of the
14 Coastal Plain information regarding the
15 impacts of development on fish, wildlife,
16 habitats, subsistence resources, and the en-
17 vironment of the Coastal Plain; and

18 (iv) to ensure that the information
19 collected under clause (iii) is submitted
20 to—

21 (I) developers; and

22 (II) any appropriate Federal
23 agency.

1 **SEC. 121. PROHIBITION ON EXPORTS.**

2 An oil or gas lease issued under this subtitle shall
3 prohibit the exportation of oil or gas produced under the
4 lease.

5 **SEC. 122. ALLOCATION OF REVENUES.**

6 Notwithstanding the Mineral Leasing Act (30 U.S.C.
7 181 et seq.) or any other provision of law, of the adjusted
8 bonus, rental, and royalty receipts from Federal oil and
9 gas leasing and operations authorized under this subtitle:

10 (1) 50 percent shall be deposited in the general
11 fund of the Treasury.

12 (2) The remainder shall be available as follows:

13 (A) \$35,000,000 shall be deposited by the
14 Secretary of the Treasury into the fund created
15 under section 120(a)(1).

16 (B) The remainder shall be disbursed to
17 the State of Alaska.

18 **Subtitle C—Permitting**

19 **SEC. 131. REFINERY PERMITTING PROCESS.**

20 (a) DEFINITIONS.—In this section:

21 (1) ADMINISTRATOR.—The term “Adminis-
22 trator” means the Administrator of the Environ-
23 mental Protection Agency.

24 (2) INDIAN TRIBE.—The term “Indian tribe”
25 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 (3) PERMIT.—The term “permit” means any
4 permit, license, approval, variance, or other form of
5 authorization that a refiner is required to obtain—

6 (A) under any Federal law; or

7 (B) from a State or Indian tribal govern-
8 ment agency delegated authority by the Federal
9 Government, or authorized under Federal law,
10 to issue permits.

11 (4) REFINER.—The term “refiner” means a
12 person that—

13 (A) owns or operates a refinery; or

14 (B) seeks to become an owner or operator
15 of a refinery.

16 (5) REFINERY.—

17 (A) IN GENERAL.—The term “refinery”
18 means—

19 (i) a facility at which crude oil is re-
20 fined into transportation fuel or other pe-
21 troleum products; and

22 (ii) a coal liquification or coal-to-liquid
23 facility at which coal is processed into syn-
24 thetic crude oil or any other fuel.

1 (B) INCLUSIONS.—The term “refinery” in-
2 cludes an expansion of a refinery.

3 (6) REFINERY EXPANSION.—The term “refin-
4 ery expansion” means a physical change in a refin-
5 ery that results in an increase in the capacity of the
6 refinery.

7 (7) REFINERY PERMITTING AGREEMENT.—The
8 term “refinery permitting agreement” means an
9 agreement entered into between the Administrator
10 and a State or Indian tribe under subsection (b).

11 (8) SECRETARY.—The term “Secretary” means
12 the Secretary of Commerce.

13 (9) STATE.—The term “State” means—

14 (A) a State;

15 (B) the District of Columbia;

16 (C) the Commonwealth of Puerto Rico;

17 and

18 (D) any other territory or possession of the

19 United States.

20 (b) STREAMLINING OF REFINERY PERMITTING
21 PROCESS.—

22 (1) IN GENERAL.—At the request of the Gov-
23 ernor of a State or the governing body of an Indian
24 tribe, the Administrator shall enter into a refinery
25 permitting agreement with the State or Indian tribe

1 under which the process for obtaining all permits
2 necessary for the construction and operation of a re-
3 finery shall be streamlined using a systematic inter-
4 disciplinary multimedia approach as provided in this
5 section.

6 (2) AUTHORITY OF ADMINISTRATOR.—Under a
7 refinery permitting agreement—

8 (A) the Administrator shall have authority,
9 as applicable and necessary, to—

10 (i) accept from a refiner a consoli-
11 dated application for all permits that the
12 refiner is required to obtain to construct
13 and operate a refinery;

14 (ii) in consultation and cooperation
15 with each Federal, State, or Indian tribal
16 government agency that is required to
17 make any determination to authorize the
18 issuance of a permit, establish a schedule
19 under which each agency shall—

20 (I) concurrently consider, to the
21 maximum extent practicable, each de-
22 termination to be made; and

23 (II) complete each step in the
24 permitting process; and

1 (iii) issue a consolidated permit that
2 combines all permits issued under the
3 schedule established under clause (ii); and

4 (B) the Administrator shall provide to
5 State and Indian tribal government agencies—

6 (i) financial assistance in such
7 amounts as the agencies reasonably require
8 to hire such additional personnel as are
9 necessary to enable the government agen-
10 cies to comply with the applicable schedule
11 established under subparagraph (A)(ii);
12 and

13 (ii) technical, legal, and other assist-
14 ance in complying with the refinery permit-
15 ting agreement.

16 (3) AGREEMENT BY THE STATE.—Under a re-
17 finery permitting agreement, a State or governing
18 body of an Indian tribe shall agree that—

19 (A) the Administrator shall have each of
20 the authorities described in paragraph (2); and

21 (B) each State or Indian tribal government
22 agency shall—

23 (i) in accordance with State law, make
24 such structural and operational changes in
25 the agencies as are necessary to enable the

1 agencies to carry out consolidated project-
2 wide permit reviews concurrently and in
3 coordination with the Environmental Pro-
4 tection Agency and other Federal agencies;
5 and

6 (ii) comply, to the maximum extent
7 practicable, with the applicable schedule
8 established under paragraph (2)(A)(ii).

9 (4) DEADLINES.—

10 (A) NEW REFINERIES.—In the case of a
11 consolidated permit for the construction of a
12 new refinery, the Administrator and the State
13 or governing body of an Indian tribe shall ap-
14 prove or disapprove the consolidated permit not
15 later than—

16 (i) 360 days after the date of the re-
17 ceipt of the administratively complete ap-
18 plication for the consolidated permit; or

19 (ii) on agreement of the applicant, the
20 Administrator, and the State or governing
21 body of the Indian tribe, 90 days after the
22 expiration of the deadline established
23 under clause (i).

24 (B) EXPANSION OF EXISTING REFIN-
25 ERIES.—In the case of a consolidated permit

1 for the expansion of an existing refinery, the
2 Administrator and the State or governing body
3 of an Indian tribe shall approve or disapprove
4 the consolidated permit not later than—

5 (i) 120 days after the date of the re-
6 ceipt of the administratively complete ap-
7 plication for the consolidated permit; or

8 (ii) on agreement of the applicant, the
9 Administrator, and the State or governing
10 body of the Indian tribe, 30 days after the
11 expiration of the deadline established
12 under clause (i).

13 (5) FEDERAL AGENCIES.—Each Federal agency
14 that is required to make any determination to au-
15 thorize the issuance of a permit shall comply with
16 the applicable schedule established under paragraph
17 (2)(A)(ii).

18 (6) JUDICIAL REVIEW.—Any civil action for re-
19 view of any permit determination under a refinery
20 permitting agreement shall be brought exclusively in
21 the United States district court for the district in
22 which the refinery is located or proposed to be lo-
23 cated.

24 (7) EFFICIENT PERMIT REVIEW.—In order to
25 reduce the duplication of procedures, the Adminis-

1 trator shall use State permitting and monitoring
2 procedures to satisfy substantially equivalent Fed-
3 eral requirements under this title.

4 (8) SEVERABILITY.—If 1 or more permits that
5 are required for the construction or operation of a
6 refinery are not approved on or before any deadline
7 established under paragraph (4), the Administrator
8 may issue a consolidated permit that combines all
9 other permits that the refiner is required to obtain
10 other than any permits that are not approved.

11 (9) SAVINGS.—Nothing in this subsection af-
12 fects the operation or implementation of otherwise
13 applicable law regarding permits necessary for the
14 construction and operation of a refinery.

15 (10) CONSULTATION WITH LOCAL GOVERN-
16 MENTS.—Congress encourages the Administrator,
17 States, and tribal governments to consult, to the
18 maximum extent practicable, with local governments
19 in carrying out this subsection.

20 (11) AUTHORIZATION OF APPROPRIATIONS.—
21 There are authorized to be appropriated such sums
22 as are necessary to carry out this subsection.

23 (12) EFFECT ON LOCAL AUTHORITY.—Nothing
24 in this subsection affects—

1 (A) the authority of a local government
2 with respect to the issuance of permits; or

3 (B) any requirement or ordinance of a
4 local government (such as a zoning regulation).

5 (c) FISCHER-TROPSCH FUELS.—

6 (1) IN GENERAL.—In cooperation with the Sec-
7 retary of Energy, the Secretary of Defense, the Ad-
8 ministrator of the Federal Aviation Administration,
9 Secretary of Health and Human Services, and
10 Fischer-Tropsch industry representatives, the Ad-
11 ministrator shall—

12 (A) conduct a research and demonstration
13 program to evaluate the air quality benefits of
14 ultra-clean Fischer-Tropsch transportation fuel,
15 including diesel and jet fuel;

16 (B) evaluate the use of ultra-clean Fischer-
17 Tropsch transportation fuel as a mechanism for
18 reducing engine exhaust emissions; and

19 (C) submit recommendations to Congress
20 on the most effective use and associated bene-
21 fits of these ultra-clean fuel for reducing public
22 exposure to exhaust emissions.

23 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
24 Administrator shall, to the extent necessary, issue
25 any guidance or technical support documents that

1 would facilitate the effective use and associated ben-
2 efit of Fischer-Tropsch fuel and blends.

3 (3) REQUIREMENTS.—The program described
4 in paragraph (1) shall consider—

5 (A) the use of neat (100 percent) Fischer-
6 Tropsch fuel and blends with conventional
7 crude oil-derived fuel for heavy-duty and light-
8 duty diesel engines and the aviation sector; and

9 (B) the production costs associated with
10 domestic production of those ultra clean fuel
11 and prices for consumers.

12 (4) REPORTS.—The Administrator shall submit
13 to the Committee on Environment and Public Works
14 and the Committee on Energy and Natural Re-
15 sources of the Senate and the Committee on Energy
16 and Commerce of the House of Representatives—

17 (A) not later than 1 year, an interim re-
18 port on actions taken to carry out this sub-
19 section; and

20 (B) not later than 2 years, a final report
21 on actions taken to carry out this subsection.

22 **SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLI-**
23 **CATIONS FOR PERMITS TO DRILL.**

24 The second undesignated paragraph of the matter
25 under the heading “MANAGEMENT OF LANDS AND RE-

1 SOURCES” under the heading “BUREAU OF LAND MAN-
2 AGEMENT” of title I of the Department of the Interior,
3 Environment, and Related Agencies Appropriations Act,
4 2008 (Public Law 110–161; 121 Stat. 2098) is amended
5 by striking “to be reduced” and all that follows through
6 “each new application.”

7 **Subtitle D—Strategic Petroleum** 8 **Reserve**

9 **SEC. 141. SUSPENSION OF PETROLEUM ACQUISITION FOR** 10 **STRATEGIC PETROLEUM RESERVE.**

11 (a) IN GENERAL.—Except as provided in subsection
12 (b) and notwithstanding any other provision of law, during
13 the 180-day period beginning on the date of enactment
14 of this Act—

15 (1) the Secretary of the Interior shall suspend
16 acquisition of petroleum for the Strategic Petroleum
17 Reserve through the royalty-in-kind program; and

18 (2) the Secretary of Energy shall suspend ac-
19 quisition of petroleum for the Strategic Petroleum
20 Reserve through any other acquisition method.

21 (b) RESUMPTION.—Effective beginning on the day
22 after the end of the period described in subsection (a)—

23 (1) the Secretary of the Interior may resume
24 acquisition of petroleum for the Strategic Petroleum
25 Reserve through the royalty-in-kind program; and

1 (2) the Secretary of Energy may resume acqui-
 2 sition of petroleum for the Strategic Petroleum Re-
 3 serve through any other acquisition method.

4 **Subtitle E—Restoration of State** 5 **Revenue**

6 **SEC. 151. RESTORATION OF STATE REVENUE.**

7 The matter under the heading “ADMINISTRATIVE
 8 PROVISIONS” under the heading “MINERALS MANAGE-
 9 MENT SERVICE” of title I of the Department of the Inte-
 10 rior, Environment, and Related Agencies Appropriations
 11 Act, 2008 (Public Law 110–161; 121 Stat. 2109) is
 12 amended by striking “Notwithstanding” and all that fol-
 13 lows through “Treasury.”.

14 **TITLE II—ALTERNATIVE** 15 **RESOURCES**

16 **Subtitle A—Renewable Fuel and** 17 **Advanced Energy Technology**

18 **SEC. 201. DEFINITION OF RENEWABLE BIOMASS.**

19 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
 20 7545(o)(1)) is amended by striking subparagraph (I) and
 21 inserting the following:

22 “(I) RENEWABLE BIOMASS.—The term ‘re-
 23 newable biomass’ means—

24 “(i) nonmerchutable materials or
 25 precommercial thinnings that—

1 “(I) are byproducts of preventive
2 treatments, such as trees, wood,
3 brush, thinnings, chips, and slash,
4 that are removed—

5 “(aa) to reduce hazardous
6 fuels;

7 “(bb) to reduce or contain
8 disease or insect infestation; or

9 “(cc) to restore forest
10 health;

11 “(II) would not otherwise be used
12 for higher-value products; and

13 “(III) are harvested from Na-
14 tional Forest System land or public
15 land (as defined in section 103 of the
16 Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1702))—

18 “(aa) where permitted by
19 law; and

20 “(bb) in accordance with ap-
21 plicable land management plans
22 and the requirements for old-
23 growth maintenance, restoration,
24 and management direction of
25 paragraphs (2), (3), and (4) of

1 subsection (e) and the require-
2 ments for large-tree retention of
3 subsection (f) of section 102 of
4 the Healthy Forests Restoration
5 Act of 2003 (16 U.S.C. 6512); or

6 “(ii) any organic matter that is avail-
7 able on a renewable or recurring basis
8 from non-Federal land or from land be-
9 longing to an Indian tribe, or an Indian in-
10 dividual, that is held in trust by the United
11 States or subject to a restriction against
12 alienation imposed by the United States,
13 including—

14 “(I) renewable plant material, in-
15 cluding—

16 “(aa) feed grains;

17 “(bb) other agricultural
18 commodities;

19 “(cc) other plants and trees;
20 and

21 “(dd) algae; and

22 “(II) waste material, including—

23 “(aa) crop residue;

1 “(bb) other vegetative waste
2 material (including wood waste
3 and wood residues);

4 “(cc) animal waste and by-
5 products (including fats, oils,
6 greases, and manure); and

7 “(dd) food waste and yard
8 waste.”.

9 **SEC. 202. ADVANCED BATTERY MANUFACTURING INCEN-**
10 **TIVE PROGRAM.**

11 (a) DEFINITIONS.—In this section:

12 (1) ADVANCED BATTERY.—The term “advanced
13 battery” means an electrical storage device suitable
14 for vehicle applications.

15 (2) ENGINEERING INTEGRATION COSTS.—The
16 term “engineering integration costs” includes the
17 cost of engineering tasks relating to—

18 (A) incorporation of qualifying components
19 into the design of advanced batteries; and

20 (B) design of tooling and equipment and
21 developing manufacturing processes and mate-
22 rial suppliers for production facilities that
23 produce qualifying components or advanced bat-
24 teries.

1 (b) ADVANCED BATTERY MANUFACTURING FACIL-
2 ITY.—The Secretary shall provide facility funding awards
3 under this section to advanced battery manufacturers to
4 pay not more than 30 percent of the cost of reequipping,
5 expanding, or establishing a manufacturing facility in the
6 United States to produce advanced batteries.

7 (c) PERIOD OF AVAILABILITY.—An award under sub-
8 section (b) shall apply to—

9 (1) facilities and equipment placed in service
10 before December 30, 2020; and

11 (2) engineering integration costs incurred dur-
12 ing the period beginning on the date of enactment
13 of this Act and ending on December 30, 2020.

14 (d) DIRECT LOAN PROGRAM.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, and subject to the
17 availability of appropriated funds, the Secretary
18 shall carry out a program to provide a total of not
19 more than \$25,000,000 in loans to eligible individ-
20 uals and entities (as determined by the Secretary)
21 for the costs of activities described in subsection (b).

22 (2) SELECTION OF ELIGIBLE PROJECTS.—The
23 Secretary shall select eligible projects to receive
24 loans under this subsection in cases in which, as de-
25 termined by the Secretary, the award recipient—

1 (A) is financially viable without the receipt
2 of additional Federal funding associated with
3 the proposed project;

4 (B) will provide sufficient information to
5 the Secretary for the Secretary to ensure that
6 the qualified investment is expended efficiently
7 and effectively; and

8 (C) has met such other criteria as may be
9 established and published by the Secretary.

10 (3) RATES, TERMS, AND REPAYMENT OF
11 LOANS.—A loan provided under this subsection—

12 (A) shall have an interest rate that, as of
13 the date on which the loan is made, is equal to
14 the cost of funds to the Department of the
15 Treasury for obligations of comparable matu-
16 rity;

17 (B) shall have a term equal to the lesser
18 of—

19 (i) the projected life, in years, of the
20 eligible project to be carried out using
21 funds from the loan, as determined by the
22 Secretary; and

23 (ii) 25 years;

24 (C) may be subject to a deferral in repay-
25 ment for not more than 5 years after the date

1 on which the eligible project carried out using
2 funds from the loan first begins operations, as
3 determined by the Secretary; and

4 (D) shall be made by the Federal Finance-
5 ing Bank.

6 (e) FEES.—The cost of administering a loan made
7 under this section shall not exceed \$100,000.

8 (f) SET ASIDE FOR SMALL MANUFACTURERS.—

9 (1) DEFINITION OF COVERED FIRM.—In this
10 subsection, the term “covered firm” means a firm
11 that—

12 (A) employs fewer than 500 individuals;
13 and

14 (B) manufactures automobiles or compo-
15 nents of automobiles.

16 (2) SET ASIDE.—Of the amount of funds used
17 to provide awards for each fiscal year under sub-
18 section (b), the Secretary shall use not less than 10
19 percent to provide awards to covered firms or con-
20 sortia led by a covered firm.

21 (g) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as are nec-
23 essary to carry out this section for each of fiscal years
24 2009 through 2013.

1 **SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RE-**
2 **SEARCH AND DEVELOPMENT.**

3 (a) IN GENERAL.—The Assistant Administrator of
4 the Office of Research and Development of the Environ-
5 mental Protection Agency (referred to in this section as
6 the “Assistant Administrator”), in consultation with the
7 Secretary and the National Institute of Standards and
8 Technology, shall carry out a program of research and de-
9 velopment of materials to be added to biofuels to make
10 the biofuels more compatible with infrastructure used to
11 store and deliver petroleum-based fuels to the point of
12 final sale.

13 (b) REQUIREMENTS.—In carrying out the program
14 described in subsection (a), the Assistant Administrator
15 shall address—

- 16 (1) materials to prevent or mitigate—
- 17 (A) corrosion of metal, plastic, rubber,
18 cork, fiberglass, glues, or any other material
19 used in pipes and storage tanks;
- 20 (B) dissolving of storage tank sediments;
- 21 (C) clogging of filters;
- 22 (D) contamination from water or other
23 adulterants or pollutants;
- 24 (E) poor flow properties relating to low
25 temperatures;

1 (F) oxidative and thermal instability in
2 long-term storage and use; and

3 (G) microbial contamination;

4 (2) problems associated with electrical conduc-
5 tivity;

6 (3) alternatives to conventional methods for re-
7 furbishment and cleaning of gasoline and diesel
8 tanks, including tank lining applications;

9 (4) strategies to minimize emissions from infra-
10 structure;

11 (5) issues with respect to certification by a na-
12 tionally recognized testing laboratory of components
13 for fuel-dispensing devices that specifically reference
14 compatibility with alcohol-blended fuels and other
15 biofuels that contain greater than 15 percent alco-
16 hol;

17 (6) challenges for design, reforming, storage,
18 handling, and dispensing hydrogen fuel from various
19 feedstocks, including biomass, from neighborhood
20 fueling stations, including codes and standards de-
21 velopment necessary beyond that carried out under
22 section 809 of the Energy Policy Act of 2005 (42
23 U.S.C. 16158);

1 (7) issues with respect to at which point in the
2 fuel supply chain additives optimally should be
3 added to fuels; and

4 (8) other problems, as identified by the Assist-
5 ant Administrator, in consultation with the Sec-
6 retary and the National Institute of Standards and
7 Technology.

8 **SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETH-**
9 **ANOL-BLENDED GASOLINE WITH HIGHER**
10 **LEVELS OF ETHANOL.**

11 (a) IN GENERAL.—The Secretary, in cooperation
12 with the Secretary of Agriculture, the Administrator of the
13 Environmental Protection Agency, and the Secretary of
14 Transportation, and after providing notice and an oppor-
15 tunity for public comment, shall conduct a study of the
16 feasibility of increasing consumption in the United States
17 of ethanol-blended gasoline with levels of ethanol that are
18 not less than 10 percent and not more than 40 percent.

19 (b) STUDY.—The study under subsection (a) shall in-
20 clude—

21 (1) a review of production and infrastructure
22 constraints on increasing consumption of ethanol;

23 (2) an evaluation of the economic, market, and
24 energy-related impacts of State and regional dif-
25 ferences in ethanol blends;

1 (3) an evaluation of the economic, market, and
2 energy-related impacts on gasoline retailers and con-
3 sumers of separate and distinctly labeled fuel stor-
4 age facilities and dispensers;

5 (4) an evaluation of the environmental impacts
6 of mid-level ethanol blends on evaporative and ex-
7 haust emissions from on-road, off-road, and marine
8 engines, recreational boats, vehicles, and equipment;

9 (5) an evaluation of the impacts of mid-level
10 ethanol blends on the operation, durability, and per-
11 formance of on-road, off-road, and marine engines,
12 recreational boats, vehicles, and equipment;

13 (6) an evaluation of the safety impacts of mid-
14 level ethanol blends on consumers that own and op-
15 erate off-road and marine engines, recreational
16 boats, vehicles, or equipment; and

17 (7) an evaluation of the impacts of increased
18 use of renewable fuels derived from food crops on
19 the price and supply of agricultural commodities in
20 both domestic and global markets.

21 (c) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the Secretary shall submit to
23 Congress a report describing the results of the study con-
24 ducted under this section.

1 **SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.**

2 (a) IN GENERAL.—The Secretary, in consultation
3 with the Administrator of the Environmental Protection
4 Agency and the Secretary of Transportation, shall conduct
5 a study to identify—

6 (1) the environmental and efficiency attributes
7 of diesel-fueled vehicles as the vehicles compare to
8 comparable gasoline fueled, E-85 fueled, and hybrid
9 vehicles;

10 (2) the technical, economic, regulatory, environ-
11 mental, and other obstacles to increasing the usage
12 of diesel-fueled vehicles;

13 (3) the legislative, administrative, and other ac-
14 tions that could reduce or eliminate the obstacles
15 identified under paragraph (2); and

16 (4) the costs and benefits associated with re-
17 ducing or eliminating the obstacles identified under
18 paragraph (2).

19 (b) REPORT.—Not later than 90 days after the date
20 of enactment of this Act, the Secretary shall submit to
21 the Committee on Energy and Natural Resources of the
22 Senate and the Committee on Energy and Commerce of
23 the House of Representatives a report describing the re-
24 sults of the study conducted under subsection (a).

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.

4 **Subtitle B—Clean Coal-Derived**
5 **Fuels for Energy Security**

6 **SEC. 211. SHORT TITLE.**

7 This subtitle may be cited as the “Clean Coal-Derived
8 Fuels for Energy Security Act of 2008”.

9 **SEC. 212. DEFINITIONS.**

10 In this subtitle:

11 (1) CLEAN COAL-DERIVED FUEL.—

12 (A) IN GENERAL.—The term “clean coal-
13 derived fuel” means aviation fuel, motor vehicle
14 fuel, home heating oil, or boiler fuel that is—

15 (i) substantially derived from the coal
16 resources of the United States; and

17 (ii) refined or otherwise processed at a
18 facility located in the United States that
19 captures up to 100 percent of the carbon
20 dioxide emissions that would otherwise be
21 released at the facility.

22 (B) INCLUSIONS.—The term “clean coal-
23 derived fuel” may include any other resource
24 that is extracted, grown, produced, or recovered
25 in the United States.

1 (2) COVERED FUEL.—The term “covered fuel”
2 means—

3 (A) aviation fuel;

4 (B) motor vehicle fuel;

5 (C) home heating oil; and

6 (D) boiler fuel.

7 (3) SMALL REFINERY.—The term “small refin-
8 ery” means a refinery for which the average aggre-
9 gate daily crude oil throughput for a calendar year
10 (as determined by dividing the aggregate throughput
11 for the calendar year by the number of days in the
12 calendar year) does not exceed 75,000 barrels.

13 **SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.**

14 (a) PROGRAM.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the President
17 shall promulgate regulations to ensure that covered
18 fuel sold or introduced into commerce in the United
19 States (except in noncontiguous States or terri-
20 tories), on an annual average basis, contains the ap-
21 plicable volume of clean coal-derived fuel determined
22 in accordance with paragraph (4).

23 (2) PROVISIONS OF REGULATIONS.—Regardless
24 of the date of promulgation, the regulations promul-
25 gated under paragraph (1)—

1 (A) shall contain compliance provisions ap-
2 plicable to refineries, blenders, distributors, and
3 importers, as appropriate, to ensure that—

4 (i) the requirements of this subsection
5 are met; and

6 (ii) clean coal-derived fuels produced
7 from facilities for the purpose of compli-
8 ance with this subtitle result in life cycle
9 greenhouse gas emissions that are not
10 greater than gasoline; and

11 (B) shall not—

12 (i) restrict geographic areas in the
13 contiguous United States in which clean
14 coal-derived fuel may be used; or

15 (ii) impose any per-gallon obligation
16 for the use of clean coal-derived fuel.

17 (3) RELATIONSHIP TO OTHER REGULATIONS.—

18 Regulations promulgated under this paragraph shall,
19 to the maximum extent practicable, incorporate the
20 program structure, compliance and reporting re-
21 quirements established under the final regulations
22 promulgated to implement the renewable fuel pro-
23 gram established by the amendment made by section
24 1501(a)(2) of the Energy Policy Act of 2005 (Public
25 Law 109–58; 119 Stat. 1067).

1 (4) APPLICABLE VOLUME.—

2 (A) CALENDAR YEARS 2015 THROUGH
3 2022.—For the purpose of this subsection, the
4 applicable volume for any of calendar years
5 2015 through 2022 shall be determined in ac-
6 cordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0.

7 (B) CALENDAR YEAR 2023 AND THERE-
8 AFTER.—Subject to subparagraph (C), for the
9 purposes of this subsection, the applicable vol-
10 ume for calendar year 2023 and each calendar
11 year thereafter shall be determined by the
12 President, in coordination with the Secretary
13 and the Administrator of the Environmental
14 Protection Agency, based on a review of the im-
15 plementation of the program during calendar
16 years 2015 through 2022, including a review
17 of—

18 (i) the impact of clean coal-derived
19 fuels on the energy security of the United
20 States;

1 (ii) the expected annual rate of future
2 production of clean coal-derived fuels; and

3 (iii) the impact of the use of clean
4 coal-derived fuels on other factors, includ-
5 ing job creation, rural economic develop-
6 ment, and the environment.

7 (C) MINIMUM APPLICABLE VOLUME.—For
8 the purpose of this subsection, the applicable
9 volume for calendar year 2023 and each cal-
10 endar year thereafter shall be equal to the prod-
11 uct obtained by multiplying—

12 (i) the number of gallons of covered
13 fuel that the President estimates will be
14 sold or introduced into commerce in the
15 calendar year; and

16 (ii) the ratio that—

17 (I) 6,000,000,000 gallons of
18 clean coal-derived fuel; bears to

19 (II) the number of gallons of cov-
20 ered fuel sold or introduced into com-
21 merce in calendar year 2022.

22 (b) APPLICABLE PERCENTAGES.—

23 (1) PROVISION OF ESTIMATE OF VOLUMES OF
24 CERTAIN FUEL SALES.—Not later than October 31
25 of each of calendar years 2015 through 2021, the

1 Administrator of the Energy Information Adminis-
2 tration shall provide to the President an estimate,
3 with respect to the following calendar year, of the
4 volumes of covered fuel projected to be sold or intro-
5 duced into commerce in the United States.

6 (2) DETERMINATION OF APPLICABLE PERCENT-
7 AGES.—

8 (A) IN GENERAL.—Not later than Novem-
9 ber 30 of each of calendar years 2015 through
10 2022, based on the estimate provided under
11 paragraph (1), the President shall determine
12 and publish in the Federal Register, with re-
13 spect to the following calendar year, the clean
14 coal-derived fuel obligation that ensures that
15 the requirements of subsection (a) are met.

16 (B) REQUIRED ELEMENTS.—The clean
17 coal-derived fuel obligation determined for a
18 calendar year under subparagraph (A) shall—

19 (i) be applicable to refineries, blend-
20 ers, and importers, as appropriate;

21 (ii) be expressed in terms of a volume
22 percentage of covered fuel sold or intro-
23 duced into commerce in the United States;
24 and

1 (iii) subject to paragraph (3)(A), con-
2 sist of a single applicable percentage that
3 applies to all categories of persons speci-
4 fied in clause (i).

5 (3) ADJUSTMENTS.—In determining the appli-
6 cable percentage for a calendar year, the President
7 shall make adjustments—

8 (A) to prevent the imposition of redundant
9 obligations on any person specified in para-
10 graph (2)(B)(i); and

11 (B) to account for the use of clean coal-de-
12 rived fuel during the previous calendar year by
13 small refineries that are exempt under sub-
14 section (f).

15 (c) VOLUME CONVERSION FACTORS FOR CLEAN
16 COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

17 (1) IN GENERAL.—For the purpose of sub-
18 section (a), the President shall assign values to spe-
19 cific types of clean coal-derived fuel for the purpose
20 of satisfying the fuel volume requirements of sub-
21 section (a)(4) in accordance with this subsection.

22 (2) ENERGY CONTENT RELATIVE TO DIESEL
23 FUEL.—For clean coal-derived fuels, 1 gallon of the
24 clean coal-derived fuel shall be considered to be the

1 equivalent of 1 gallon of diesel fuel multiplied by the
2 ratio that—

3 (A) the number of British thermal units of
4 energy produced by the combustion of 1 gallon
5 of the clean coal-derived fuel (as measured
6 under conditions determined by the Secretary);
7 bears to

8 (B) the number of British thermal units of
9 energy produced by the combustion of 1 gallon
10 of diesel fuel (as measured under conditions de-
11 termined by the Secretary to be comparable to
12 conditions described in subparagraph (A)).

13 (d) CREDIT PROGRAM.—

14 (1) IN GENERAL.—The President, in consulta-
15 tion with the Secretary and the clean coal-derived
16 fuel requirement of this section.

17 (2) MARKET TRANSPARENCY.—In carrying out
18 the credit program under this subsection, the Presi-
19 dent shall facilitate price transparency in markets
20 for the sale and trade of credits, with due regard for
21 the public interest, the integrity of those markets,
22 fair competition, and the protection of consumers.

23 (e) WAIVERS.—

24 (1) IN GENERAL.—The President, in consulta-
25 tion with the Secretary and the Administrator of the

1 Environmental Protection Agency, may waive the re-
2 quirements of subsection (a) in whole or in part on
3 petition by 1 or more States by reducing the na-
4 tional quantity of clean coal-derived fuel required
5 under subsection (a), based on a determination by
6 the President (after public notice and opportunity
7 for comment), that—

8 (A) implementation of the requirement
9 would severely harm the economy or environ-
10 ment of a State, a region, or the United States;
11 or

12 (B) extreme and unusual circumstances
13 exist that prevent distribution of an adequate
14 supply of domestically-produced clean coal-de-
15 rived fuel to consumers in the United States.

16 (2) PETITIONS FOR WAIVERS.—The President,
17 in consultation with the Secretary and the Adminis-
18 trator of the Environmental Protection Agency, shall
19 approve or disapprove a State petition for a waiver
20 of the requirements of subsection (a) within 90 days
21 after the date on which the petition is received by
22 the President.

23 (3) TERMINATION OF WAIVERS.—A waiver
24 granted under paragraph (1) shall terminate after 1
25 year, but may be renewed by the President after

1 consultation with the Secretary and the Adminis-
2 trator of the Environmental Protection Agency.

3 (f) SMALL REFINERIES.—

4 (1) TEMPORARY EXEMPTION.—

5 (A) IN GENERAL.—The requirements of
6 subsection (a) shall not apply to small refineries
7 until calendar year 2018.

8 (B) EXTENSION OF EXEMPTION.—

9 (i) STUDY BY SECRETARY.—Not later
10 than December 31, 2013, the Secretary
11 shall submit to the President and Congress
12 a report describing the results of a study
13 to determine whether compliance with the
14 requirements of subsection (a) would im-
15 pose a disproportionate economic hardship
16 on small refineries.

17 (ii) EXTENSION OF EXEMPTION.—In
18 the case of a small refinery that the Sec-
19 retary determines under clause (i) would
20 be subject to a disproportionate economic
21 hardship if required to comply with sub-
22 section (a), the President shall extend the
23 exemption under subparagraph (A) for the
24 small refinery for a period of not less than
25 2 additional years.

1 (2) PETITIONS BASED ON DISPROPORTIONATE
2 ECONOMIC HARDSHIP.—

3 (A) EXTENSION OF EXEMPTION.—A small
4 refinery may at any time petition the President
5 for an extension of the exemption under para-
6 graph (1) for the reason of disproportionate
7 economic hardship.

8 (B) EVALUATION OF PETITIONS.—In eval-
9 uating a petition under subparagraph (A), the
10 President, in consultation with the Secretary,
11 shall consider the findings of the study under
12 paragraph (1)(B) and other economic factors.

13 (C) DEADLINE FOR ACTION ON PETI-
14 TIONS.—The President shall act on any petition
15 submitted by a small refinery for a hardship ex-
16 emption not later than 90 days after the date
17 of receipt of the petition.

18 (3) OPT-IN FOR SMALL REFINERIES.—A small
19 refinery shall be subject to the requirements of sub-
20 section (a) if the small refinery notifies the Presi-
21 dent that the small refinery waives the exemption
22 under paragraph (1).

23 (g) PENALTIES AND ENFORCEMENT.—

24 (1) CIVIL PENALTIES.—

1 (A) IN GENERAL.—Any person that vio-
2 lates a regulation promulgated under subsection
3 (a), or that fails to furnish any information re-
4 quired under such a regulation, shall be liable
5 to the United States for a civil penalty of not
6 more than the total of—

7 (i) \$25,000 for each day of the viola-
8 tion; and

9 (ii) the amount of economic benefit or
10 savings received by the person resulting
11 from the violation, as determined by the
12 President.

13 (B) COLLECTION.—Civil penalties under
14 subparagraph (A) shall be assessed by, and col-
15 lected in a civil action brought by, the Secretary
16 or such other officer of the United States as is
17 designated by the President.

18 (2) INJUNCTIVE AUTHORITY.—

19 (A) IN GENERAL.—The district courts of
20 the United States shall have jurisdiction to—

21 (i) restrain a violation of a regulation
22 promulgated under subsection (a);

23 (ii) award other appropriate relief;
24 and

1 (iii) compel the furnishing of informa-
2 tion required under the regulation.

3 (B) ACTIONS.—An action to restrain such
4 violations and compel such actions shall be
5 brought by and in the name of the United
6 States.

7 (C) SUBPOENAS.—In the action, a sub-
8 poena for a witness who is required to attend
9 a district court in any district may apply in any
10 other district.

11 (h) EFFECTIVE DATE.—Except as otherwise specifi-
12 cally provided in this section, this section takes effect on
13 January 1, 2016.

14 **Subtitle C—Oil Shale**
15 **SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULA-**
16 **TIONS FOR COMMERCIAL LEASING PROGRAM**
17 **FOR OIL SHALE RESOURCES ON PUBLIC**
18 **LAND.**

19 Section 433 of the Department of the Interior, Envi-
20 ronment, and Related Agencies Appropriations Act, 2008
21 (Public Law 110–161; 121 Stat. 2152) is repealed.

1 **Subtitle D—Department of Defense**
2 **Facilitation of Secure Domestic**
3 **Fuel Development**

4 **SEC. 231. PROCUREMENT AND ACQUISITION OF ALTER-**
5 **NATIVE FUELS.**

6 Section 526 of the Energy Independence and Security
7 Act of 2007 (42 U.S.C. 17142) is repealed.

8 **SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DE-**
9 **PARTMENT OF DEFENSE FOR THE PROCURE-**
10 **MENT OF SYNTHETIC FUELS.**

11 (a) MULTIYEAR CONTRACTS FOR THE PROCURE-
12 MENT OF SYNTHETIC FUELS AUTHORIZED.—

13 (1) IN GENERAL.—Chapter 141 of title 10,
14 United States Code, is amended by adding at the
15 end the following new section:

16 **“§ 2410r. Multiyear contract authority: purchase of**
17 **synthetic fuels**

18 “(a) MULTIYEAR CONTRACTS AUTHORIZED.—The
19 head of an agency may enter into contracts for a period
20 not to exceed 25 years for the purchase of synthetic fuels.

21 “(b) DEFINITIONS.—In this section:

22 “(1) The term ‘head of an agency’ has the
23 meaning given that term in section 2302(1) of this
24 title.

1 “(2) The term ‘synthetic fuel’ means any liquid,
2 gas, or combination thereof that—

3 “(A) can be used as a substitute for petro-
4 leum or natural gas (or any derivative thereof,
5 including chemical feedstocks); and

6 “(B) is produced by chemical or physical
7 transformation of domestic sources of energy.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions at the beginning of chapter 141 of such title
10 is amended by adding at the end the following new
11 item:

“2410r. Multiyear contract authority: purchase of synthetic fuels.”.

12 (b) REGULATIONS.—Not later than 120 days after
13 the date of the enactment of this Act, the Secretary of
14 Defense shall prescribe regulations providing that the
15 head of an agency may initiate a multiyear contract as
16 authorized by section 2410r of title 10, United States
17 Code (as added by subsection (a)), only if the head of the
18 agency has determined in writing that—

19 (1) there is a reasonable expectation that
20 throughout the contemplated contract period the
21 head of the agency will request funding for the con-
22 tract at the level required to avoid contract cancella-
23 tion;

1 (2) the technical risks associated with the tech-
2 nologies for the production of synthetic fuel under
3 the contract are not excessive; and

4 (3) the contract will contain appropriate pricing
5 mechanisms to minimize risk to the Government
6 from significant changes in market prices for energy.

7 (c) LIMITATION ON USE OF AUTHORITY.—No con-
8 tract may be entered into under the authority in section
9 2410r of title 10, United States Code (as so added), until
10 the regulations required by subsection (b) are prescribed.

Calendar No. 727

110TH CONGRESS
2^D SESSION

S. 2973

A BILL

To promote the energy security of the United States, and for other purposes.

MAY 6, 2008

Read the second time and placed on the calendar