

111TH CONGRESS
1ST SESSION

H. R. 2539

To secure unrestricted reliable energy for American consumption and transmission.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. THORNBERRY introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To secure unrestricted reliable energy for American consumption and transmission.

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 “No More Excuses Energy Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—REFINERIES

- Sec. 102. Tax-exempt financing of domestic use oil refinery facilities.
 Sec. 103. Designation and availability of Federal lands for oil and natural gas refineries.

TITLE II—ALTERNATIVE ENERGY

- Sec. 201. Extension of credit for electricity produced from certain renewable resources.
 Sec. 202. Extension of energy credit for solar.
 Sec. 203. Equalization of excise tax on liquefied natural gas and per energy equivalent of diesel.
 Sec. 204. Extension of alternative fuel credit.

TITLE III—NUCLEAR ENERGY

- Sec. 301. Waste Confidence.
 Sec. 302. ASME Nuclear Certification credit.

TITLE IV—DRILLING

Subtitle A—Tax Provisions

- Sec. 401. Credit for producing fuel from nonconventional sources to apply to gas produced onshore from formations more than 15,000 feet deep.
 Sec. 402. Repeal of minimum capture requirement for carbon dioxide sequestration credit.

Subtitle B—Oil and Gas Development on the Coastal Plain of Alaska

- Sec. 421. Short title.
 Sec. 422. Definitions.
 Sec. 423. Leasing program for lands within the Coastal Plain.
 Sec. 424. Lease sales.
 Sec. 425. Grant of leases by the Secretary.
 Sec. 426. Lease terms and conditions.
 Sec. 427. Coastal plain environmental protection.
 Sec. 428. Expedited judicial review.
 Sec. 429. Federal and State distribution of revenues.
 Sec. 430. Rights-of-way across the Coastal Plain.
 Sec. 431. Conveyance.
 Sec. 432. Local government impact aid and community service assistance.

- 1 **TITLE I—REFINERIES**
 2 **SEC. 102. TAX-EXEMPT FINANCING OF DOMESTIC USE OIL**
 3 **REFINERY FACILITIES.**
 4 (a) IN GENERAL.—
 5 (1) TREATMENT AS EXEMPT FACILITY BOND.—
 6 Subsection (a) of section 142 of the Internal Rev-
 7 enue Code of 1986 (relating to exempt facility bond)

1 is amended by striking “or” at the end of paragraph
2 (14), by striking the period at the end of paragraph
3 (15) and inserting “, and”, and by inserting at the
4 end the following new paragraph:

5 “(16) domestic use oil refinery facilities.”.

6 (2) DOMESTIC USE OIL REFINERY FACILI-
7 TIES.—Section 142 is amended by adding at the end
8 the following new subsection:

9 “(n) DOMESTIC USE OIL REFINERY FACILITIES.—

10 “(1) IN GENERAL.—For purposes of subsection
11 (a)(16), the term ‘domestic use oil refinery facility’
12 means any facility in the United States—

13 “(A) which processes liquid fuel from
14 crude oil, and

15 “(B) all of the output of which it is rea-
16 sonably certain ultimate consumption will occur
17 in the United States.

18 “(2) ELECTION TO TERMINATE TAX-EXEMPT
19 BOND FINANCING BY CERTAIN REFINERIES.—In the
20 case of a facility financed with bonds which would
21 cease to be tax-exempt by reason of the failure to
22 meet the domestic use requirement of this sub-
23 section, rules similar to the rules of subsection (f)(4)
24 shall apply for purposes of this section.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after the date of
3 the enactment of this Act.

4 **SEC. 103. DESIGNATION AND AVAILABILITY OF FEDERAL**
5 **LANDS FOR OIL AND NATURAL GAS REFIN-**
6 **ERIES.**

7 (a) DESIGNATION.—Within 18 months after the date
8 of enactment of this Act, the President shall designate at
9 least 10 sites on Federal lands that are suitable for the
10 siting of an oil refinery or natural gas refinery (or both).

11 (b) AVAILABILITY OF LANDS.—Within 24 months
12 after the date of enactment of this Act, the President shall
13 make each site designated under subsection (a) available
14 to the private sector for construction of an oil refinery or
15 natural gas refinery (or both), as appropriate.

16 **TITLE II—ALTERNATIVE**
17 **ENERGY**

18 **SEC. 201. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**
19 **DUCTION FROM CERTAIN RENEWABLE RE-**
20 **SOURCES.**

21 (a) IN GENERAL.—Subsection (d) of section 45 of the
22 Internal Revenue Code of 1986 is amended—

23 (1) by striking “January 1, 2013” in paragraph
24 (1) and inserting “January 1, 2023”,

1 (2) by striking “January 1, 2014” each place
2 it appears in paragraphs (2), (3), (4), (6), (7), (9),
3 and (11) and inserting “January 1, 2019”, and
4 (3) by striking “January 1, 2010” in paragraph
5 (8) and inserting “January 1, 2015”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property originally placed in
8 service on or after January 1, 2010.

9 **SEC. 202. EXTENSION OF ENERGY CREDIT FOR SOLAR.**

10 (a) IN GENERAL.—Paragraphs (2)(A)(i)(II) and
11 (3)(A)(ii) of section 48 of the Internal Revenue Code of
12 1986 are each amended by striking “January 1, 2017”
13 and inserting “January 1, 2019”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **SEC. 203. EQUALIZATION OF EXCISE TAX ON LIQUEFIED**
18 **NATURAL GAS AND PER ENERGY EQUIVA-**
19 **LENT OF DIESEL.**

20 (a) IN GENERAL.—Subparagraph (B) of section
21 4041(a)(2) of the Internal Revenue Code of 1986 is
22 amended by striking the period at the end of clause (ii)
23 and inserting “, and”, and by inserting after clause (ii)
24 the following new clause:

1 “(iii) in the case of liquefied natural
2 gas, 24.3 cents per energy equivalent of a
3 gallon of diesel.”.

4 (b) ENERGY EQUIVALENT OF A GALLON OF DIESEL
5 AND ADMINISTRATIVE PROVISION.—Paragraph (2) of sec-
6 tion 4041(a) of such Code is amended by adding at the
7 end the following:

8 “(C) ENERGY EQUIVALENT OF A GALLON
9 OF DIESEL.—For purposes of this paragraph,
10 the term ‘energy equivalent of a gallon of diesel’
11 means, with respect to a liquefied natural gas
12 fuel, the amount of such fuel having a Btu con-
13 tent of 137,380 (higher heating value).

14 “(D) ADMINISTRATIVE PROVISIONS.—For
15 purposes of applying this title with respect to
16 the taxes imposed by this subsection, references
17 to any liquid subject to tax under this sub-
18 section shall be treated as including references
19 to liquefied natural gas subject to tax under
20 this paragraph.”.

21 (c) CONFORMING AMENDMENTS.—Section
22 4041(a)(2)(B)(ii) of such Code is amended—

23 (1) by striking “liquefied natural gas,” and

24 (2) by striking “peat), and” and inserting
25 “peat) and”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any sale or use of liquefied nat-
3 ural gas after 14 days after the date of the enactment
4 of this Act.

5 **SEC. 204. EXTENSION OF ALTERNATIVE FUEL CREDIT.**

6 (a) IN GENERAL.—Paragraph (5) of section 6426(d)
7 of the Internal Revenue Code of 1986 (relating to alter-
8 native fuel credit) is amended by striking “December 31,
9 2009” and inserting “December 31, 2010”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to fuel sold or used after December
12 31, 2009.

13 **TITLE III—NUCLEAR ENERGY**

14 **SEC. 301. WASTE CONFIDENCE.**

15 The Nuclear Regulatory Commission may not deny
16 an application for a license, permit, or other authorization
17 under the Atomic Energy Act of 1954 on the grounds that
18 sufficient capacity does not exist, or will not become avail-
19 able on a timely basis, for disposal of spent nuclear fuel
20 or high-level radioactive waste from the facility for which
21 the license, permit, or other authorization is sought.

22 **SEC. 302. ASME NUCLEAR CERTIFICATION CREDIT.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1 (relating to business related cred-

1 its) is amended by adding at the end the following new
2 section:

3 **“SEC. 45R. ASME NUCLEAR CERTIFICATION CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 38, the
5 ASME Nuclear Certification credit determined under this
6 section for any taxable year is an amount equal to 15 per-
7 cent of the qualified nuclear expenditures paid or incurred
8 by the taxpayer.

9 “(b) QUALIFIED NUCLEAR EXPENDITURES.—For
10 purposes of this section, the term ‘qualified nuclear ex-
11 penditures’ means any expenditure related to—

12 “(1) obtaining a certification under the Amer-
13 ican Society of Mechanical Engineers Nuclear Com-
14 ponent Certification program, or

15 “(2) increasing the taxpayer’s capacity to con-
16 struct, fabricate, assemble, or install components—

17 “(A) for any facility which uses nuclear en-
18 ergy to produce electricity, and

19 “(B) with respect to the construction, fab-
20 rication, assembly, or installation of which the
21 taxpayer is certified under such program.

22 “(c) TIMING OF CREDIT.—The credit allowed under
23 subsection (a) for any expenditures shall be allowed—

1 “(1) in the case of a qualified nuclear expendi-
2 ture described in subsection (b)(1), for the taxable
3 year of such certification, and

4 “(2) in the case of any other qualified nuclear
5 expenditure, for the taxable year in which such ex-
6 penditure is paid or incurred.

7 “(d) SPECIAL RULES.—

8 “(1) BASIS ADJUSTMENT.—For purposes of
9 this subtitle, if a credit is allowed under this section
10 for an expenditure, the increase in basis which would
11 result (but for this subsection) for such expenditure
12 shall be reduced by the amount of the credit allowed
13 under this section.

14 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
15 tion shall be allowed under this chapter for any
16 amount taken into account in determining the credit
17 under this section.

18 “(e) TERMINATION.—This section shall not apply to
19 any expenditures paid or incurred in taxable years begin-
20 ning after December 31, 2019.”.

21 (b) CONFORMING AMENDMENTS.—(1) Subsection (b)
22 of section 38 is amended by striking “plus” at the end
23 of paragraph (34), by striking the period at the end of
24 paragraph (335) and inserting “, plus”, and by adding
25 at the end the following new paragraph:

1 “(36) the ASME Nuclear Certification credit
2 determined under section 45R(a).”.

3 (2) Subsection (a) of section 1016 (relating to adjust-
4 ments to basis) is amended by striking “and” at the end
5 of paragraph (36), by striking the period at the end of
6 paragraph (37) and inserting “, and”, and by adding at
7 the end the following new paragraph:

8 “(38) to the extent provided in section
9 45R(e)(1).”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to expenditures paid or incurred
12 in taxable years beginning after December 31, 2008.

13 **TITLE IV—DRILLING**

14 **Subtitle A—Tax Provisions**

15 **SEC. 401. CREDIT FOR PRODUCING FUEL FROM NON-**
16 **CONVENTIONAL SOURCES TO APPLY TO GAS**
17 **PRODUCED ONSHORE FROM FORMATIONS**
18 **MORE THAN 15,000 FEET DEEP.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 45K(c)(1) is amended by striking “or” at the end of clause
21 (i), by striking “and” at the end of clause (ii) and insert-
22 ing “or”, and by inserting after clause (ii) the following
23 new clause:

24 “(iii) an onshore well from a forma-
25 tion more than 15,000 feet deep, and”.

1 (b) ELIGIBLE DEEP GAS WELLS.—Section 45K is
2 amended by adding at the end the following new sub-
3 section:

4 “(h) ELIGIBLE DEEP GAS WELLS.—In the case of
5 a well producing qualified fuel described in subsection
6 (c)(1)(B)(iii)—

7 “(1) for purposes of subsection (e)(1)(A), such
8 well shall be treated as drilled before January 1,
9 1993, if such well is drilled after the date of the en-
10 actment of this subsection, and

11 “(2) subsection (e)(2) shall not apply.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years ending after the
14 date of the enactment of this Act.

15 **SEC. 402. REPEAL OF MINIMUM CAPTURE REQUIREMENT**
16 **FOR CARBON DIOXIDE SEQUESTRATION**
17 **CREDIT.**

18 (a) IN GENERAL.—Subsection (c) of section 45Q of
19 the Internal Revenue Code of 1986 is amended by insert-
20 ing “and” at the end of paragraph (1), by striking “, and”
21 at the end of paragraph (2) and inserting a period, and
22 by striking paragraph (3).

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to carbon dioxide captured after
25 the date of the enactment of this Act.

1 **Subtitle B—Oil and Gas Develop-**
2 **ment on the Coastal Plain of**
3 **Alaska**

4 **SEC. 421. SHORT TITLE.**

5 This subtitle may be cited as the “American-Made
6 Energy and Good Jobs Act”.

7 **SEC. 422. DEFINITIONS.**

8 In this subtitle:

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

12 (2) **SECRETARY.**—The term “Secretary”, except
13 as otherwise provided, means the Secretary of the
14 Interior or the Secretary’s designee.

15 **SEC. 423. LEASING PROGRAM FOR LANDS WITHIN THE**
16 **COASTAL PLAIN.**

17 (a) **IN GENERAL.**—The Secretary shall take such ac-
18 tions as are necessary—

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

1 duction of the oil and gas resources of the Coastal
2 Plain; and

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

18 (b) REPEAL.—

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

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

1 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
2 TAIN OTHER LAWS.—

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

12 (2) ADEQUACY OF THE DEPARTMENT OF THE
13 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
14 STATEMENT.—The “Final Legislative Environ-
15 mental Impact Statement” (April 1987) on the
16 Coastal Plain prepared pursuant to section 1002 of
17 the Alaska National Interest Lands Conservation
18 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
19 of the National Environmental Policy Act of 1969
20 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
21 quirements under the National Environmental Policy
22 Act of 1969 that apply with respect to prelease ac-
23 tivities, including actions authorized to be taken by
24 the Secretary to develop and promulgate the regula-
25 tions for the establishment of a leasing program au-

1 thorized by this subtitle before the conduct of the
2 first lease sale.

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

1 the analysis and consideration of the environmental
2 effects of proposed leasing under this subtitle.

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

6 (e) SPECIAL AREAS.—

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

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

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

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

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

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

13 (g) REGULATIONS.—

14 (1) IN GENERAL.—The Secretary shall pre-
15 scribe such regulations as may be necessary to carry
16 out this subtitle, including rules and regulations re-
17 lating to protection of the fish and wildlife, their
18 habitat, subsistence resources, and environment of
19 the Coastal Plain, by no later than 15 months after
20 the date of enactment of this Act.

21 (2) REVISION OF REGULATIONS.—The Sec-
22 retary shall periodically review and, if appropriate,
23 revise the rules and regulations issued under sub-
24 section (a) to reflect any significant biological, envi-

1 ronmental, or engineering data that come to the Sec-
2 retary's attention.

3 **SEC. 424. LEASE SALES.**

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

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

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

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

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

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

21 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
22 lease sale under this subtitle, the Secretary shall offer for
23 lease those tracts the Secretary considers to have the
24 greatest potential for the discovery of hydrocarbons, tak-

1 ing into consideration nominations received pursuant to
2 subsection (b)(1), but in no case less than 200,000 acres.

3 (e) **TIMING OF LEASE SALES.**—The Secretary
4 shall—

5 (1) conduct the first lease sale under this sub-
6 title within 22 months after the date of the enact-
7 ment of this Act; and

8 (2) conduct additional sales so long as sufficient
9 interest in development exists to warrant, in the Sec-
10 retary's judgment, the conduct of such sales.

11 **SEC. 425. GRANT OF LEASES BY THE SECRETARY.**

12 (a) **IN GENERAL.**—The Secretary may grant to the
13 highest responsible qualified bidder in a lease sale con-
14 ducted pursuant to section 424 any lands to be leased on
15 the Coastal Plain upon payment by the lessee of such
16 bonus as may be accepted by the Secretary.

17 (b) **SUBSEQUENT TRANSFERS.**—No lease issued
18 under this subtitle may be sold, exchanged, assigned, sub-
19 let, or otherwise transferred except with the approval of
20 the Secretary. Prior to any such approval the Secretary
21 shall consult with, and give due consideration to the views
22 of, the Attorney General.

23 **SEC. 426. LEASE TERMS AND CONDITIONS.**

24 An oil or gas lease issued pursuant to this subtitle
25 shall—

1 (1) provide for the payment of a royalty of not
2 less than 12½ percent in amount or value of the
3 production removed or sold from the lease, as deter-
4 mined by the Secretary under the regulations appli-
5 cable to other Federal oil and gas leases;

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

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

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

1 lessee, to a higher or better use as approved by the
2 Secretary;

3 (5) include requirements and restrictions to
4 provide for reasonable protection of fish and wildlife,
5 their habitat, subsistence resources, and the environ-
6 ment as determined by the Secretary;

7 (6) prohibit the export of oil produced under
8 the lease; and

9 (7) contain such other provisions as the Sec-
10 retary determines necessary to ensure compliance
11 with the provisions of this subtitle and the regula-
12 tions issued under this subtitle.

13 **SEC. 427. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

14 (a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD**
15 **TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—**

16 The Secretary shall, consistent with the requirements of
17 section 423, administer the provisions of this subtitle
18 through regulations, lease terms, conditions, restrictions,
19 prohibitions, stipulations, and other provisions that—

20 (1) ensure the oil and gas exploration, develop-
21 ment, and production activities on the Coastal Plain
22 will result in no significant adverse effect on fish
23 and wildlife, their habitat, and the environment;

24 (2) require the application of the best commer-
25 cially available technology for oil and gas explo-

1 ration, development, and production on all new ex-
2 ploration, development, and production operations;
3 and

4 (3) ensure that the maximum amount of sur-
5 face acreage covered by production and support fa-
6 cilities, including airstrips and any areas covered by
7 gravel berms or piers for support of pipelines, does
8 not exceed 2,000 acres on the Coastal Plain.

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

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

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

16 (2) a plan be implemented to avoid, minimize,
17 and mitigate (in that order and to the extent prac-
18 ticable) any significant adverse effect identified
19 under paragraph (1); and

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

23 (c) REGULATIONS TO PROTECT COASTAL PLAIN
24 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
25 AND THE ENVIRONMENT.—Before implementing the leas-

1 ing program authorized by this subtitle, the Secretary
2 shall prepare and promulgate regulations, lease terms,
3 conditions, restrictions, prohibitions, stipulations, and
4 other measures designed to ensure that the activities un-
5 dertaken on the Coastal Plain under this subtitle are con-
6 ducted in a manner consistent with the purposes and envi-
7 ronmental requirements of this subtitle.

8 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
9 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
10 proposed regulations, lease terms, conditions, restrictions,
11 prohibitions, and stipulations for the leasing program
12 under this subtitle shall require compliance with all appli-
13 cable provisions of Federal and State environmental law,
14 and shall also require the following:

15 (1) Standards at least as effective as the safety
16 and environmental mitigation measures set forth in
17 items 1 through 29 at pages 167 through 169 of the
18 “Final Legislative Environmental Impact State-
19 ment” (April 1987) on the Coastal Plain.

20 (2) Seasonal limitations on exploration, develop-
21 ment, and related activities, where necessary, to
22 avoid significant adverse effects during periods of
23 concentrated fish and wildlife breeding, denning,
24 nesting, spawning, and migration.

1 (3) Design safety and construction standards
2 for all pipelines and any access and service roads,
3 that—

4 (A) minimize, to the maximum extent pos-
5 sible, adverse effects upon the passage of mi-
6 gratory species such as caribou; and

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

10 (4) Prohibitions on general public access and
11 use on all pipeline access and service roads.

12 (5) Stringent reclamation and rehabilitation re-
13 quirements, consistent with the standards set forth
14 in this subtitle, requiring the removal from the
15 Coastal Plain of all oil and gas development and
16 production facilities, structures, and equipment upon
17 completion of oil and gas production operations, ex-
18 cept that the Secretary may exempt from the re-
19 quirements of this paragraph those facilities, struc-
20 tures, or equipment that the Secretary determines
21 would assist in the management of the Arctic Na-
22 tional Wildlife Refuge and that are donated to the
23 United States for that purpose.

24 (6) Appropriate prohibitions or restrictions on
25 access by all modes of transportation.

1 (7) Appropriate prohibitions or restrictions on
2 sand and gravel extraction.

3 (8) Consolidation of facility siting.

4 (9) Appropriate prohibitions or restrictions on
5 use of explosives.

6 (10) Avoidance, to the extent practicable, of
7 springs, streams, and river system; the protection of
8 natural surface drainage patterns, wetlands, and ri-
9 parian habitats; and the regulation of methods or
10 techniques for developing or transporting adequate
11 supplies of water for exploratory drilling.

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

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

21 (13) Fuel storage and oil spill contingency plan-
22 ning.

23 (14) Research, monitoring, and reporting re-
24 quirements.

25 (15) Field crew environmental briefings.

1 (16) Avoidance of significant adverse effects
2 upon subsistence hunting, fishing, and trapping by
3 subsistence users.

4 (17) Compliance with applicable air and water
5 quality standards.

6 (18) Appropriate seasonal and safety zone des-
7 ignations around well sites, within which subsistence
8 hunting and trapping shall be limited.

9 (19) Reasonable stipulations for protection of
10 cultural and archeological resources.

11 (20) All other protective environmental stipula-
12 tions, restrictions, terms, and conditions deemed
13 necessary by the Secretary.

14 (e) CONSIDERATIONS.—In preparing and promul-
15 gating regulations, lease terms, conditions, restrictions,
16 prohibitions, and stipulations under this section, the Sec-
17 retary shall consider the following:

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

23 (2) The environmental protection standards
24 that governed the initial Coastal Plain seismic explo-

1 ration program under parts 37.31 to 37.33 of title
2 50, Code of Federal Regulations.

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

8 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

17 (A) Avoiding unnecessary duplication of fa-
18 cilities and activities.

19 (B) Encouraging consolidation of common
20 facilities and activities.

21 (C) Locating or confining facilities and ac-
22 tivities to areas that will minimize impact on
23 fish and wildlife, their habitat, and the environ-
24 ment.

1 (D) Utilizing existing facilities wherever
2 practicable.

3 (E) Enhancing compatibility between wild-
4 life values and development activities.

5 (g) ACCESS TO PUBLIC LANDS.—The Secretary
6 shall—

7 (1) manage public lands in the Coastal Plain
8 subject to subsections (a) and (b) of section 811 of
9 the Alaska National Interest Lands Conservation
10 Act (16 U.S.C. 3121); and

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

14 **SEC. 428. EXPEDITED JUDICIAL REVIEW.**

15 (a) FILING OF COMPLAINT.—

16 (1) DEADLINE.—Subject to paragraph (2), any
17 complaint seeking judicial review of any provision of
18 this Act or any action of the Secretary under this
19 subtitle shall be filed—

20 (A) except as provided in subparagraph
21 (B), within the 90-day period beginning on the
22 date of the action being challenged; or

23 (B) in the case of a complaint based solely
24 on grounds arising after such period, within 90
25 days after the complainant knew or reasonably

1 should have known of the grounds for the com-
2 plaint.

3 (2) VENUE.—Any complaint seeking judicial re-
4 view of any provision of this subtitle or any action
5 of the Secretary under this subtitle may be filed only
6 in the United States Court of Appeals for the Dis-
7 trict of Columbia.

8 (3) LIMITATION ON SCOPE OF CERTAIN RE-
9 VIEW.—Judicial review of a Secretarial decision to
10 conduct a lease sale under this subtitle, including
11 the environmental analysis thereof, shall be limited
12 to whether the Secretary has complied with the
13 terms of this subtitle and shall be based upon the
14 administrative record of that decision. The Sec-
15 retary's identification of a preferred course of action
16 to enable leasing to proceed and the Secretary's
17 analysis of environmental effects under this subtitle
18 shall be presumed to be correct unless shown other-
19 wise by clear and convincing evidence to the con-
20 trary.

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

1 **SEC. 429. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**
2

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, of the amount of adjusted bonus, rental, and
5 royalty revenues from Federal oil and gas leasing and op-
6 erations authorized under this subtitle—

7 (1) 25 percent shall be paid to the State of
8 Alaska; and

9 (2) except as provided in section 432(d), the
10 balance shall be deposited into the Treasury as mis-
11 cellaneous receipts.

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

14 **SEC. 430. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

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

23 (2) under title XI of the Alaska National Inter-
24 est Lands Conservation Act (30 U.S.C. 3161 et
25 seq.), for access authorized by sections 1110 and
26 1111 of that Act (16 U.S.C. 3170 and 3171).

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

10 (c) REGULATIONS.—The Secretary shall include in
11 regulations under section 423(g) provisions granting
12 rights-of-way and easements described in subsection (a)
13 of this section.

14 **SEC. 431. CONVEYANCE.**

15 In order to maximize Federal revenues by removing
16 clouds on title to lands and clarifying land ownership pat-
17 terns within the Coastal Plain, the Secretary, notwith-
18 standing the provisions of section 1302(h)(2) of the Alas-
19 ka National Interest Lands Conservation Act (16 U.S.C.
20 3192(h)(2)), shall convey—

21 (1) to the Kaktovik Inupiat Corporation the
22 surface estate of the lands described in paragraph 1
23 of Public Land Order 6959, to the extent necessary
24 to fulfill the Corporation's entitlement under sec-
25 tions 12 and 14 of the Alaska Native Claims Settle-

1 ment Act (43 U.S.C. 1611 and 1613) in accordance
2 with the terms and conditions of the Agreement be-
3 tween the Department of the Interior, the United
4 States Fish and Wildlife Service, the Bureau of
5 Land Management, and the Kaktovik Inupiat Cor-
6 poration effective January 22, 1993; and

7 (2) to the Arctic Slope Regional Corporation
8 the remaining subsurface estate to which it is enti-
9 tled pursuant to the August 9, 1983, agreement be-
10 tween the Arctic Slope Regional Corporation and the
11 United States of America.

12 **SEC. 432. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
13 **NITY SERVICE ASSISTANCE.**

14 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

15 (1) IN GENERAL.—The Secretary may use
16 amounts available from the Coastal Plain Local Gov-
17 ernment Impact Aid Assistance Fund established by
18 subsection (d) to provide timely financial assistance
19 to entities that are eligible under paragraph (2) and
20 that are directly impacted by the exploration for or
21 production of oil and gas on the Coastal Plain under
22 this subtitle.

23 (2) ELIGIBLE ENTITIES.—The North Slope
24 Borough, the City of Kaktovik, and any other bor-
25 ough, municipal subdivision, village, or other com-

1 munity in the State of Alaska that is directly im-
2 pacted by exploration for, or the production of, oil
3 or gas on the Coastal Plain under this Act, as deter-
4 mined by the Secretary, shall be eligible for financial
5 assistance under this section.

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

8 (1) planning for mitigation of the potential ef-
9 fects of oil and gas exploration and development on
10 environmental, social, cultural, recreational, and sub-
11 sistence values;

12 (2) implementing mitigation plans and main-
13 taining mitigation projects;

14 (3) developing, carrying out, and maintaining
15 projects and programs that provide new or expanded
16 public facilities and services to address needs and
17 problems associated with such effects, including fire-
18 fighting, police, water, waste treatment, medivac,
19 and medical services; and

20 (4) establishment of a coordination office, by
21 the north slope borough, in the City of Kaktovik,
22 which shall—

23 (A) coordinate with and advise developers
24 on local conditions, impact, and history of the
25 areas utilized for development; and

1 (B) provide to the Committee on Resources
2 of the House of Representatives and the Com-
3 mittee on Energy and Natural Resources of the
4 Senate an annual report on the status of co-
5 ordination between developers and the commu-
6 nities affected by development.

7 (c) APPLICATION.—

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

13 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
14 community located in the North Slope Borough may
15 apply for assistance under this section either directly
16 to the Secretary or through the North Slope Bor-
17 ough.

18 (3) APPLICATION ASSISTANCE.—The Secretary
19 shall work closely with and assist the North Slope
20 Borough and other communities eligible for assist-
21 ance under this section in developing and submitting
22 applications for assistance under this section.

23 (d) ESTABLISHMENT OF FUND.—

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

4 (2) USE.—Amounts in the fund may be used
5 only for providing financial assistance under this
6 section.

7 (3) DEPOSITS.—Subject to paragraph (4), there
8 shall be deposited into the fund amounts received by
9 the United States as revenues derived from rents,
10 bonuses, and royalties from Federal leases and lease
11 sales authorized under this subtitle.

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

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

17 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
18 vide financial assistance under this section there is author-
19 ized to be appropriated to the Secretary from the Coastal
20 Plain Local Government Impact Aid Assistance Fund
21 \$5,000,000 for each fiscal year.

○