

111TH CONGRESS
2D SESSION

H. R. 5899

To expand domestic fossil fuel production, develop more nuclear power, and expand renewable electricity.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2010

Mr. NUNES (for himself, Mr. RYAN of Wisconsin, Mr. SHIMKUS, Mr. BISHOP of Utah, and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Ways and Means, Oversight and Government Reform, Armed Services, and Transportation and Infrastructure, 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 expand domestic fossil fuel production, develop more nuclear power, and expand renewable electricity.

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 “A
5 Roadmap for America’s Energy Future”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 100. Findings.

Subtitle A—OCS

- Sec. 101. Leasing program considered approved.
- Sec. 102. Outer Continental Shelf Lease sales.
- Sec. 103. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 104. Determination of Adjacent Zones and OCS Planning Areas.
- Sec. 105. Outer Continental Shelf leasing program.
- Sec. 106. Coordination with Adjacent States.
- Sec. 107. Environmental studies.
- Sec. 108. Outer Continental Shelf incompatible use.
- Sec. 109. Repurchase of certain leases.
- Sec. 110. Offsite environmental mitigation.

Subtitle B—ANWR

- Sec. 121. Definitions.
- Sec. 122. Leasing program for lands within the Coastal Plain.
- Sec. 123. Lease sales.
- Sec. 124. Grant of leases by the Secretary.
- Sec. 125. Lease terms and conditions.
- Sec. 126. Coastal Plain environmental protection.
- Sec. 127. Expedited judicial review.
- Sec. 128. Federal and State distribution of revenues.
- Sec. 129. Rights-of-way across the Coastal Plain.
- Sec. 130. Conveyance.
- Sec. 131. Local government impact aid and community service assistance.

Subtitle C—Oil Shale

Sec. 141. Oil shale.

Subtitle D—Coal to Liquid

- Sec. 151. Development and operation of facilities.
- Sec. 152. Definitions relating to coal-to-liquid fuel and facilities.
- Sec. 153. Repeal.

TITLE II—AMERICAN-MADE ENERGY TRUST FUND

Sec. 201. Establishment of American-Made Energy Trust Fund.

TITLE III—NUCLEAR

- Sec. 301. Findings.
- Sec. 302. 200 operating permits by 2040.
- Sec. 303. Recycle and safely store spent nuclear fuel.
- Sec. 304. Confidence in availability of waste disposal.

TITLE IV—REVERSE AUCTION MECHANISMS FOR RENEWABLE ENERGY GENERATION AND FOR RENEWABLE FUEL PRODUCTION

Sec. 401. Reverse auction mechanism for renewable energy generation.

TITLE V—NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION

Sec. 501. National Commission on Outer Continental Shelf Oil Spill Prevention.

1 **TITLE I—AMERICAN ENERGY**

2 **SEC. 100. FINDINGS.**

3 The Congress finds the following:

4 (1) The United States contains abundant oil
5 and gas resources located within its lands.

6 (2) Development of domestic oil and gas re-
7 sources can be accomplished in a safe and environ-
8 mentally responsible manner.

9 (3) Increased development of domestic oil and
10 gas resources could significantly boost economic
11 growth, provide permanent well-paying jobs, and
12 serve as a significant revenue source to the Federal
13 government.

14 (4) The United States Geological Survey esti-
15 mates that the Arctic National Wildlife Refuge con-
16 tains a mean expected value of 10.4 billion barrels
17 of technically recoverable oil.

18 (5) The Minerals Management Service has esti-
19 mated there are 85 billion undiscovered, technically
20 recoverable barrels of oil and 420 trillion cubic feet
21 of natural gas in the outer Continental Shelf of the
22 United States.

23 (6) The Minerals Management Service has esti-
24 mated that less than 0.001 percent of oil produced

1 on the Outer Continental Shelf of the United States
2 since 1980 has been spilled.

3 (7) The National Academy of Sciences has esti-
4 mated that less than 1 percent of petroleum in
5 American waters is from drilling and extraction, and
6 that 63 percent is from natural seepage.

7 **Subtitle A—OCS**

8 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

9 (a) IN GENERAL.—The Draft Proposed Outer Conti-
10 nental Shelf Oil and Gas Leasing Program 2010–2015 re-
11 leased by the Secretary of the Interior (referred to in this
12 section as the “Secretary”) under section 18 of the Outer
13 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
14 ered to have been approved by the Secretary as a final
15 oil and gas leasing program under that section, and is con-
16 sidered to be in full compliance with and in accordance
17 with all requirements of the Outer Continental Shelf
18 Lands Act, National Environmental Policy Act of 1969,
19 Endangered Species Act of 1973, Clean Air Act, Marine
20 Mammal Protection Act of 1972, the Oil Pollution Control
21 Act of 1990, and all other applicable laws.

22 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
23 The Secretary is considered to have issued a legally suffi-
24 cient final environmental impact statement for the pro-
25 gram described in subsection (a) in accordance with all

1 requirements under section 102(2)(C) of the National En-
2 vironmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)),
3 and all other applicable laws.

4 **SEC. 102. OUTER CONTINENTAL SHELF LEASE SALES.**

5 (a) IN GENERAL.—Except as provided in (b), not
6 later than 30 days after the date of enactment of this Act
7 and every 270 days thereafter, the Secretary of the Inte-
8 rior (referred to in this section as the “Secretary”) shall
9 conduct a lease sale in each outer Continental Shelf plan-
10 ning region for which the Secretary determines that there
11 is a commercial interest in purchasing Federal oil and gas
12 leases for production on the outer Continental Shelf.

13 (b) SUBSEQUENT DETERMINATIONS AND SALES.—If
14 the Secretary determines that there is not a commercial
15 interest in purchasing Federal oil and gas leases for pro-
16 duction on the outer Continental Shelf in a planning area
17 under this subsection, not later than 2 years after the date
18 of enactment of the determination and every 2 years there-
19 after, the Secretary shall—

20 (1) solicit if there is commercial interest in pur-
21 chasing Federal oil and gas leases for production on
22 the outer Continental Shelf in the planning area;
23 and

1 (2) if the Secretary determines that there is a
2 commercial interest described in paragraph (1), con-
3 duct a lease sale in the planning area.

4 **SEC. 103. DEFINITIONS UNDER THE OUTER CONTINENTAL**
5 **SHELF LANDS ACT.**

6 Section 2 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1331) is amended—

8 (1) by amending paragraph (f) to read as fol-
9 lows:

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

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

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

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

18 “(r) The term ‘Adjacent State’ means, with respect
19 to any program, plan, lease sale, leased tract or other ac-
20 tivity, proposed, conducted, or approved pursuant to the
21 provisions of this Act, any State the laws of which are
22 declared, pursuant to section 4(a)(2), to be the law of the
23 United States for the portion of the outer Continental
24 Shelf to which such program, plan, lease sale, or leased
25 tract appertains or on which such activity is, or is pro-

1 posed to be, conducted. For purposes of this paragraph,
2 the term ‘State’ includes the Commonwealth of Puerto
3 Rico, the Commonwealth of the Northern Mariana Is-
4 lands, the Virgin Islands, American Samoa, Guam, and
5 the other Territories of the United States.

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

13 “(t) The term ‘miles’ means statute miles.

14 “(u) The term ‘coastline’ has the same meaning as
15 the term ‘coast line’ as defined in section 2(c) of the Sub-
16 merged Lands Act (43 U.S.C. 1301(c)).”; and

17 (5) in paragraph (a), by inserting after “con-
18 trol” the following: “or lying within the United
19 States exclusive economic zone adjacent to the Terri-
20 tories of the United States”.

21 **SEC. 104. DETERMINATION OF ADJACENT ZONES AND OCS**
22 **PLANNING AREAS.**

23 Section 4(a)(2)(A) of the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
25 first sentence by striking “, and the President” and all

1 that follows through the end of the sentence and inserting
2 the following: “. The lines extending seaward and defining
3 each State’s Adjacent Zone, and each OCS Planning Area,
4 are as indicated on the maps for each outer Continental
5 Shelf region entitled ‘Alaska OCS Region State Adjacent
6 Zone and OCS Planning Areas’, ‘Pacific OCS Region
7 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of
8 Mexico OCS Region State Adjacent Zones and OCS Plan-
9 ning Areas’, and ‘Atlantic OCS Region State Adjacent
10 Zones and OCS Planning Areas’, all of which are dated
11 September 2005 and on file in the Office of the Director,
12 Minerals Management Service.”.

13 **SEC. 105. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

14 Section 18 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1344) is amended—

16 (1) in subsection (a), by adding at the end of
17 paragraph (3) the following: “The Secretary shall, in
18 each 5-Year Program, include lease sales that when
19 viewed as a whole propose to offer for oil and gas
20 leasing at least 75 percent of the available unleased
21 acreage within each OCS Planning Area. Available
22 unleased acreage is that portion of the outer Conti-
23 nental Shelf that is not under lease at the time of
24 the proposed lease sale, and has not otherwise been
25 made unavailable for leasing by law.”;

1 (2) in subsection (c), by striking so much as
2 precedes paragraph (3) and inserting the following:

3 “(c)(1) During the preparation of any proposed leas-
4 ing program under this section, the Secretary shall con-
5 sider and analyze leasing throughout the entire outer Con-
6 tinental Shelf without regard to any other law affecting
7 such leasing. During this preparation the Secretary shall
8 invite and consider suggestions from any interested Fed-
9 eral agency, including the Attorney General, in consulta-
10 tion with the Federal Trade Commission, and from the
11 Governor of any coastal State. The Secretary may also in-
12 vite or consider any suggestions from the executive of any
13 local government in a coastal State that have been pre-
14 viously submitted to the Governor of such State, and from
15 any other person. Further, the Secretary shall consult
16 with the Secretary of Defense regarding military oper-
17 ational needs in the outer Continental Shelf. The Sec-
18 retary shall work with the Secretary of Defense to resolve
19 any conflicts that might arise regarding offering any area
20 of the outer Continental Shelf for oil and gas leasing. If
21 the Secretaries are not able to resolve all such conflicts,
22 any unresolved issues shall be elevated to the President
23 for resolution.

24 “(2) After the consideration and analysis required by
25 paragraph (1), including the consideration of the sugges-

1 tions received from any interested Federal agency, the
2 Federal Trade Commission, the Governor of any coastal
3 State, any local government of a coastal State, and any
4 other person, the Secretary shall publish in the Federal
5 Register a proposed leasing program accompanied by a
6 draft environmental impact statement prepared pursuant
7 to the National Environmental Policy Act of 1969. After
8 the publishing of the proposed leasing program and during
9 the comment period provided for on the draft environ-
10 mental impact statement, the Secretary shall submit a
11 copy of the proposed program to the Governor of each af-
12 fected State for review and comment. The Governor may
13 solicit comments from those executives of local govern-
14 ments in the Governor's State that the Governor, in the
15 discretion of the Governor, determines will be affected by
16 the proposed program. If any comment by such Governor
17 is received by the Secretary at least 15 days prior to sub-
18 mission to the Congress pursuant to paragraph (3) and
19 includes a request for any modification of such proposed
20 program, the Secretary shall reply in writing, granting or
21 denying such request in whole or in part, or granting such
22 request in such modified form as the Secretary considers
23 appropriate, and stating the Secretary's reasons therefor.
24 All such correspondence between the Secretary and the
25 Governor of any affected State, together with any addi-

1 tional information and data relating thereto, shall accom-
2 pany such proposed program when it is submitted to the
3 Congress.”; and

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

5 “(i) PROJECTION OF STATE ADJACENT ZONE RE-
6 SOURCES AND STATE AND LOCAL GOVERNMENT SHARES
7 OF OCS RECEIPTS.—Concurrent with the publication of
8 the scoping notice at the beginning of the development of
9 each 5-Year Outer Continental Shelf Oil and Gas Leasing
10 Program, or as soon thereafter as possible, the Secretary
11 shall—

12 “(1) provide to each Adjacent State a current
13 estimate of proven and potential oil and gas re-
14 sources located within the State’s Adjacent Zone;
15 and

16 “(2) provide to each Adjacent State, and coast-
17 al political subdivisions thereof, a best-efforts projec-
18 tion of the OCS Receipts that the Secretary expects
19 will be shared with each Adjacent State, and its
20 coastal political subdivisions, using the assumption
21 that the unleased tracts within the State’s Adjacent
22 Zone are fully made available for leasing, including
23 long-term projected OCS Receipts. In addition, the
24 Secretary shall include a macroeconomic estimate of
25 the impact of such leasing on the national economy

1 and each State’s economy, including investment,
2 jobs, revenues, personal income, and other cat-
3 egories.”.

4 **SEC. 106. COORDINATION WITH ADJACENT STATES.**

5 Section 19 of the Outer Continental Shelf Lands Act
6 (43 U.S.C. 1345) is amended—

7 (1) in subsection (a) in the first sentence by in-
8 serting “, for any tract located within the Adjacent
9 State’s Adjacent Zone,” after “government”; and

10 (2) by adding the following:

11 “(f)(1) No Federal agency may permit or otherwise
12 approve, without the concurrence of the Adjacent State,
13 the construction of a crude oil or petroleum products (or
14 both) pipeline within the part of the Adjacent State’s Ad-
15 jacent Zone that is withdrawn from oil and gas leasing,
16 except that such a pipeline may be approved, without such
17 Adjacent State’s concurrence, to pass through such Adja-
18 cent Zone if at least 50 percent of the production pro-
19 jected to be carried by the pipeline within its first 10 years
20 of operation is from areas of the Adjacent State’s Adja-
21 cent Zone.

22 “(2) No State may prohibit the construction within
23 its Adjacent Zone or its State waters of a natural gas pipe-
24 line that will transport natural gas produced from the
25 outer Continental Shelf. However, an Adjacent State may

1 prevent a proposed natural gas pipeline landing location
2 if it proposes two alternate landing locations in the Adja-
3 cent State, acceptable to the Adjacent State, located with-
4 in 50 miles on either side of the proposed landing loca-
5 tion.”.

6 **SEC. 107. ENVIRONMENTAL STUDIES.**

7 Section 20(d) of the Outer Continental Shelf Lands
8 Act (43 U.S.C. 1346) is amended—

9 (1) by inserting “(1)” after “(d)”; and

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

11 “(2) For all programs, lease sales, leases, and
12 actions under this Act, the following shall apply re-
13 garding the application of the National Environ-
14 mental Policy Act of 1969:

15 “(A) Granting or directing lease suspen-
16 sions and the conduct of all preliminary activi-
17 ties on outer Continental Shelf tracts, including
18 seismic activities, are categorically excluded
19 from the need to prepare either an environ-
20 mental assessment or an environmental impact
21 statement, and the Secretary shall not be re-
22 quired to analyze whether any exceptions to a
23 categorical exclusion apply for activities con-
24 ducted under the authority of this Act.

1 “(B) The environmental impact statement
2 developed in support of each 5-Year Oil and
3 Gas Leasing Program provides the environ-
4 mental analysis for all lease sales to be con-
5 ducted under the program and such sales shall
6 not be subject to further environmental anal-
7 ysis.

8 “(C) Exploration plans shall not be subject
9 to any requirement to prepare an environmental
10 impact statement, and the Secretary may find
11 that exploration plans are eligible for categor-
12 ical exclusion due to the impacts already being
13 considered within an environmental impact
14 statement or due to mitigation measures in-
15 cluded within the plan.

16 “(D) Within each OCS Planning Area,
17 after the preparation of the first development
18 and production plan environmental impact
19 statement for a leased tract within the Area, fu-
20 ture development and production plans for
21 leased tracts within the Area shall only require
22 the preparation of an environmental assessment
23 unless the most recent development and produc-
24 tion plan environmental impact statement with-
25 in the Area was finalized more than 10 years

1 prior to the date of the approval of the plan, in
2 which case an environmental impact statement
3 shall be required.”.

4 **SEC. 108. OUTER CONTINENTAL SHELF INCOMPATIBLE**
5 **USE.**

6 (a) **IN GENERAL.**—No Federal agency may permit
7 construction or operation (or both) of any facility, or des-
8 ignate or maintain a restricted transportation corridor or
9 operating area on the Federal outer Continental Shelf or
10 in State waters, that will be incompatible with, as deter-
11 mined by the Secretary of the Interior, oil and gas leasing
12 and substantially full exploration and production of tracts
13 that are geologically prospective for oil or natural gas (or
14 both).

15 (b) **EXCEPTIONS.**—Subsection (a) shall not apply to
16 any facility, transportation corridor, or operating area the
17 construction, operation, designation, or maintenance of
18 which is or will be—

19 (1) located in an area of the outer Continental
20 Shelf that is unavailable for oil and gas leasing by
21 operation of law;

22 (2) used for a military readiness activity (as de-
23 fined in section 315(f) of Public Law 107–314; 16
24 U.S.C. 703 note); or

1 (3) required in the national interest, as deter-
2 mined by the President.

3 **SEC. 109. REPURCHASE OF CERTAIN LEASES.**

4 (a) **AUTHORITY TO REPURCHASE AND CANCEL CER-**
5 **TAIN LEASES.**—The Secretary of the Interior may repur-
6 chase and cancel any Federal oil and gas, geothermal,
7 coal, oil shale, tar sands, or other mineral lease, whether
8 onshore or offshore, but not including any outer Conti-
9 nental Shelf oil and gas leases that were subject to litiga-
10 tion in the Court of Federal Claims on January 1, 2006,
11 if the Secretary finds that such lease qualifies for repur-
12 chase and cancellation under the regulations authorized
13 by this section.

14 (b) **REGULATIONS.**—Not later than 365 days after
15 the date of the enactment of this Act, the Secretary shall
16 publish a final regulation stating the conditions under
17 which a lease referred to in subsection (a) would qualify
18 for repurchase and cancellation, and the process to be fol-
19 lowed regarding repurchase and cancellation.

20 (c) **NO PREJUDICE.**—This section shall not be inter-
21 preted to prejudice any other rights that the lessee would
22 have in the absence of this section.

23 **SEC. 110. OFFSITE ENVIRONMENTAL MITIGATION.**

24 Notwithstanding any other provision of law, any per-
25 son conducting activities under the Mineral Leasing Act

1 (30 U.S.C. 181 et seq.), the Geothermal Steam Act of
2 1970 (30 U.S.C. 1001 et seq.), the Mineral Leasing Act
3 for Acquired Lands (30 U.S.C. 351 et seq.), the Weeks
4 Act (16 U.S.C. 552 et seq.), the General Mining Act of
5 1872 (30 U.S.C. 22 et seq.), the Materials Act of 1947
6 (30 U.S.C. 601 et seq.), or the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1331 et seq.), may in satisfying
8 any mitigation requirements associated with such activi-
9 ties propose mitigation measures on a site away from the
10 area impacted and the Secretary of the Interior shall ac-
11 cept these proposed measures if the Secretary finds that
12 they generally achieve the purposes for which mitigation
13 measures appertained.

14 **Subtitle B—ANWR**

15 **SEC. 121. DEFINITIONS.**

16 In this subtitle:

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

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

1 **SEC. 122. LEASING PROGRAM FOR LANDS WITHIN THE**
2 **COASTAL PLAIN.**

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

5 (1) to establish and implement, in accordance
6 with this subtitle and acting through the Director of
7 the Bureau of Land Management in consultation
8 with the Director of the United States Fish and
9 Wildlife Service, a competitive oil and gas leasing
10 program that will result in an environmentally sound
11 program for the exploration, development, and pro-
12 duction of the oil and gas resources of the Coastal
13 Plain; and

14 (2) to administer the provisions of this subtitle
15 through regulations, lease terms, conditions, restric-
16 tions, prohibitions, stipulations, and other provisions
17 that ensure the oil and gas exploration, development,
18 and production activities on the Coastal Plain will
19 result in no significant adverse effect on fish and
20 wildlife, their habitat, subsistence resources, and the
21 environment, including, in furtherance of this goal,
22 by requiring the application of the best commercially
23 available technology for oil and gas exploration, de-
24 velopment, and production to all exploration, devel-
25 opment, and production operations under this sub-
26 title in a manner that ensures the receipt of fair

1 market value by the public for the mineral resources
2 to be leased.

3 (b) REPEAL.—

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

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

10 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
11 TAIN OTHER LAWS.—

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

21 (2) ADEQUACY OF THE DEPARTMENT OF THE
22 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
23 STATEMENT.—The “Final Legislative Environ-
24 mental Impact Statement” (April 1987) on the
25 Coastal Plain prepared pursuant to section 1002 of

1 the Alaska National Interest Lands Conservation
2 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
3 of the National Environmental Policy Act of 1969
4 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
5 quirements under the National Environmental Policy
6 Act of 1969 that apply with respect to prelease ac-
7 tivities, including actions authorized to be taken by
8 the Secretary to develop and promulgate the regula-
9 tions for the establishment of a leasing program au-
10 thorized by this subtitle before the conduct of the
11 first lease sale.

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

1 identification of the preferred action and related
2 analysis for the first lease sale under this subtitle
3 shall be completed within 18 months after the date
4 of enactment of this Act. The Secretary shall only
5 consider public comments that specifically address
6 the Secretary's preferred action and that are filed
7 within 20 days after publication of an environmental
8 analysis. Notwithstanding any other law, compliance
9 with this paragraph is deemed to satisfy all require-
10 ments for the analysis and consideration of the envi-
11 ronmental effects of proposed leasing under this sub-
12 title.

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

16 (e) SPECIAL AREAS.—

17 (1) IN GENERAL.—The Secretary, after con-
18 sultation with the State of Alaska, the city of
19 Kaktovik, and the North Slope Borough, may des-
20 ignate up to a total of 45,000 acres of the Coastal
21 Plain as a Special Area if the Secretary determines
22 that the Special Area is of such unique character
23 and interest so as to require special management
24 and regulatory protection. The Secretary shall des-

1 designate as such a Special Area the Sadlerochit Spring
2 area, comprising approximately 4,000 acres.

3 (2) MANAGEMENT.—Each such Special Area
4 shall be managed so as to protect and preserve the
5 area’s unique and diverse character including its
6 fish, wildlife, and subsistence resource values.

7 (3) EXCLUSION FROM LEASING OR SURFACE
8 OCCUPANCY.—The Secretary may exclude any Spe-
9 cial Area from leasing. If the Secretary leases a Spe-
10 cial Area, or any part thereof, for purposes of oil
11 and gas exploration, development, production, and
12 related activities, there shall be no surface occu-
13 pancy of the lands comprising the Special Area.

14 (4) DIRECTIONAL DRILLING.—Notwithstanding
15 the other provisions of this subsection, the Secretary
16 may lease all or a portion of a Special Area under
17 terms that permit the use of horizontal drilling tech-
18 nology from sites on leases located outside the Spe-
19 cial Area.

20 (f) LIMITATION ON CLOSED AREAS.—The Sec-
21 retary’s sole authority to close lands within the Coastal
22 Plain to oil and gas leasing and to exploration, develop-
23 ment, and production is that set forth in this subtitle.

24 (g) REGULATIONS.—

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

8 (2) REVISION OF REGULATIONS.—The Sec-
9 retary shall periodically review and, if appropriate,
10 revise the rules and regulations issued under sub-
11 section (a) to reflect any significant biological, envi-
12 ronmental, or engineering data that come to the Sec-
13 retary’s attention.

14 **SEC. 123. LEASE SALES.**

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

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

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

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

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

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

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

14 (e) TIMING OF LEASE SALES.—The Secretary
15 shall—

16 (1) conduct the first lease sale under this sub-
17 title within 22 months after the date of the enact-
18 ment of this Act;

19 (2) evaluate the bids in such sale and issue
20 leases resulting from such sale, within 90 days after
21 the date of the completion of such sale; and

22 (3) conduct additional sales so long as sufficient
23 interest in development exists to warrant, in the Sec-
24 retary's judgment, the conduct of such sales.

1 **SEC. 124. GRANT OF LEASES BY THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary may grant to the
3 highest responsible qualified bidder in a lease sale con-
4 ducted pursuant to section 123 any lands to be leased on
5 the Coastal Plain upon payment by the lessee of such
6 bonus as may be accepted by the Secretary.

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

13 **SEC. 125. 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 12½ percent in amount or value of the
18 production removed or sold from the lease, as deter-
19 mined by the Secretary under the regulations appli-
20 cable to other Federal oil and gas leases;

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

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

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

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

22 (6) contain terms and conditions relating to
23 protection of fish and wildlife, their habitat, subsist-
24 ence resources, and the environment as required
25 pursuant to section 122(a)(2);

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

10 (8) prohibit the export of oil produced under
11 the lease; and

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

16 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
17 as a term and condition of each lease under this subtitle
18 and in recognizing the Government's proprietary interest
19 in labor stability and in the ability of construction labor
20 and management to meet the particular needs and condi-
21 tions of projects to be developed under the leases issued
22 pursuant to this subtitle and the special concerns of the
23 parties to such leases, shall require that the lessee and
24 its agents and contractors negotiate to obtain a project
25 labor agreement for the employment of laborers and me-

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

3 **SEC. 126. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

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

6 The Secretary shall, consistent with the requirements of
7 section 122, administer the provisions of this subtitle
8 through regulations, lease terms, conditions, restrictions,
9 prohibitions, stipulations, and other provisions that—

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

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

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

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

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

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

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

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

15 (c) REGULATIONS TO PROTECT COASTAL PLAIN
16 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
17 AND THE ENVIRONMENT.—Before implementing the leas-
18 ing program authorized by this subtitle, the Secretary
19 shall prepare and promulgate regulations, lease terms,
20 conditions, restrictions, prohibitions, stipulations, and
21 other measures designed to ensure that the activities un-
22 dertaken on the Coastal Plain under this subtitle are con-
23 ducted in a manner consistent with the purposes and envi-
24 ronmental requirements of this subtitle.

1 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
2 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
3 proposed regulations, lease terms, conditions, restrictions,
4 prohibitions, and stipulations for the leasing program
5 under this subtitle shall require compliance with all appli-
6 cable provisions of Federal and State environmental law,
7 and shall also require the following:

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

13 (2) Seasonal limitations on exploration, develop-
14 ment, and related activities, where necessary, to
15 avoid significant adverse effects during periods of
16 concentrated fish and wildlife breeding, denning,
17 nesting, spawning, and migration.

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

1 finds that such exploration will have no significant
2 adverse effect on the fish and wildlife, their habitat,
3 and the environment of the Coastal Plain.

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

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

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

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

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

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

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

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

7 (9) Consolidation of facility siting.

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

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

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

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

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

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

5 (16) Field crew environmental briefings.

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

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

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

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

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

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

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

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

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

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

12 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

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

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

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

5 (D) Utilizing existing facilities wherever
6 practicable.

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

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

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

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

18 **SEC. 127. EXPEDITED JUDICIAL REVIEW.**

19 (a) FILING OF COMPLAINT.—

20 (1) DEADLINE.—Subject to paragraph (2), any
21 complaint seeking judicial review of any provision of
22 this subtitle or any action of the Secretary under
23 this subtitle shall be filed—

1 (A) except as provided in subparagraph
2 (B), within the 60-day period beginning on the
3 date of the action being challenged; or

4 (B) in the case of a complaint based solely
5 on grounds arising after such period, within 60
6 days after the complainant knew or reasonably
7 should have known of the grounds for the com-
8 plaint.

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

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

1 wise by clear and convincing evidence to the con-
2 trary.

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

7 **SEC. 128. FEDERAL AND STATE DISTRIBUTION OF REVE-**
8 **NUES.**

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

13 (1) 50 percent shall be paid to the State of
14 Alaska; and

15 (2) except as provided in section 131(d), the
16 balance shall be transferred to the American-Made
17 Energy Trust Fund (established by section 9511 of
18 the Internal Revenue Code of 1986).

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

21 **SEC. 129. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

1 (1) except as provided in paragraph (2), under
2 section 28 of the Mineral Leasing Act (30 U.S.C.
3 185), without regard to title XI of the Alaska Na-
4 tional Interest Lands Conservation Act (30 U.S.C.
5 3161 et seq.); and

6 (2) under title XI of the Alaska National Inter-
7 est Lands Conservation Act (30 U.S.C. 3161 et
8 seq.), for access authorized by sections 1110 and
9 1111 of that Act (16 U.S.C. 3170 and 3171).

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

19 (c) **REGULATIONS.**—The Secretary shall include in
20 regulations under section 122(g) provisions granting
21 rights-of-way and easements described in subsection (a)
22 of this section.

23 **SEC. 130. CONVEYANCE.**

24 In order to maximize Federal revenues by removing
25 clouds on title to lands and clarifying land ownership pat-

1 terns within the Coastal Plain, the Secretary, notwith-
2 standing the provisions of section 1302(h)(2) of the Alas-
3 ka National Interest Lands Conservation Act (16 U.S.C.
4 3192(h)(2)), shall convey—

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

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

21 **SEC. 131. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
22 **NITY SERVICE ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

24 (1) IN GENERAL.—The Secretary may use
25 amounts available from the Coastal Plain Local Gov-

1 ernment Impact Aid Assistance Fund established by
2 subsection (d) to provide timely financial assistance
3 to entities that are eligible under paragraph (2) and
4 that are directly impacted by the exploration for or
5 production of oil and gas on the Coastal Plain under
6 this subtitle.

7 (2) ELIGIBLE ENTITIES.—The North Slope
8 Borough, the City of Kaktovik, and any other bor-
9 rough, municipal subdivision, village, or other com-
10 munity in the State of Alaska that is directly im-
11 pacted by exploration for, or the production of, oil
12 or gas on the Coastal Plain under this subtitle, as
13 determined by the Secretary, shall be eligible for fi-
14 nancial assistance under this section.

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

17 (1) planning for mitigation of the potential ef-
18 fects of oil and gas exploration and development on
19 environmental, social, cultural, recreational, and sub-
20 sistence values;

21 (2) implementing mitigation plans and main-
22 taining mitigation projects;

23 (3) developing, carrying out, and maintaining
24 projects and programs that provide new or expanded
25 public facilities and services to address needs and

1 problems associated with such effects, including fire-
2 fighting, police, water, waste treatment, medivac,
3 and medical services; and

4 (4) establishment of a coordination office, by
5 the North Slope Borough, in the City of Kaktovik,
6 which shall—

7 (A) coordinate with and advise developers
8 on local conditions, impact, and history of the
9 areas utilized for development; and

10 (B) provide to the Committee on Natural
11 Resources of the House of Representatives and
12 the Committee on Energy and Natural Re-
13 sources of the Senate an annual report on the
14 status of coordination between developers and
15 the communities affected by development.

16 (c) APPLICATION.—

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

22 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
23 community located in the North Slope Borough may
24 apply for assistance under this section either directly

1 to the Secretary or through the North Slope Bor-
2 ough.

3 (3) APPLICATION ASSISTANCE.—The Secretary
4 shall work closely with and assist the North Slope
5 Borough and other communities eligible for assist-
6 ance under this section in developing and submitting
7 applications for assistance under this section.

8 (d) ESTABLISHMENT OF FUND.—

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

12 (2) USE.—Amounts in the fund may be used
13 only for providing financial assistance under this
14 section.

15 (3) DEPOSITS.—Subject to paragraph (4), there
16 shall be deposited into the fund amounts received by
17 the United States as revenues derived from rents,
18 bonuses, and royalties from Federal leases and lease
19 sales authorized under this subtitle.

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

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

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

6 **Subtitle C—Oil Shale**

7 **SEC. 141. OIL SHALE.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) The Office of Naval Petroleum and Oil
10 Shale Reserves at the Department of Energy has es-
11 timated that oil shale resources located on Federal
12 lands hold 2 trillion undiscovered technically recover-
13 able barrels of oil.

14 (2) Oil shale is a strategically important domes-
15 tic resource that should be developed to reduce the
16 growing dependence of the United States on politi-
17 cally and economically unstable sources of foreign oil
18 imports.

19 (3) The development of oil shale for research
20 and commercial development should be conducted in
21 an environmentally sound manner, using practices
22 that minimize impacts.

23 (4) Development of such strategic unconven-
24 tional fuel should occur, with an emphasis on sus-

1 tainability, to benefit the United States while taking
2 into account affected States and communities.

3 (5) Oil shale is one of the best resources avail-
4 able for advancing American technology and creating
5 American jobs.

6 (6) Oil shale will be a critically important com-
7 ponent of the Nation's transportation fuel sector in
8 particular, by providing a secure domestic source of
9 aviation fuel for both commercial and military uses.

10 (b) **ADDITIONAL RESEARCH AND DEVELOPMENT**
11 **LEASE SALES.**—The Secretary of the Interior shall hold
12 a lease sale within 180 days after the date of enactment
13 of this Act offering an additional 10 parcels for lease for
14 research, development, and demonstration of oil shale re-
15 sources, under the terms offered in the solicitation of bids
16 for such leases published on January 15, 2009 (74 Fed.
17 Reg. 10).

18 (c) **APPLICATION OF REGULATIONS.**—The oil shale
19 management final rules published by the Department of
20 the Interior on November 18, 2008 (73 Fed. Reg. 223),
21 shall apply to all commercial leasing for the management
22 of federally owned oil shale, and any associated minerals,
23 located on Federal lands.

24 (d) **REDUCED PAYMENTS TO ENSURE PRODUC-**
25 **TION.**—The Secretary of the Interior may temporarily re-

1 duce royalties, fees, rentals, bonus, or other payments for
2 leases of Federal lands for the development and produc-
3 tion of oil shale resources as necessary to incentivize and
4 encourage development of such resources, if the Secretary
5 determines that the royalties, fees, rentals, bonus bids,
6 and other payments otherwise authorized by law are hin-
7 dering production of such resources.

8 **Subtitle D—Coal to Liquid**

9 **SEC. 151. DEVELOPMENT AND OPERATION OF FACILITIES.**

10 (a) **AUTHORITY.**—The Secretary of Defense shall de-
11 velop, construct, and operate a qualified coal-to-liquids fa-
12 cility, subject to the availability of appropriations provided
13 in advance specifically for that purpose.

14 (b) **CONSIDERATIONS.**—In carrying out subsection
15 (a), the Secretary shall consider land availability, testing
16 opportunities, and proximity to raw materials.

17 **SEC. 152. DEFINITIONS RELATING TO COAL-TO-LIQUID** 18 **FUEL AND FACILITIES.**

19 For purposes of this title (except as otherwise pro-
20 vided)—

21 (1) **COAL-TO-LIQUID FUEL.**—The term “coal-to-
22 liquid fuel” means any transportation-grade liquid
23 fuel derived primarily from coal (including peat) and
24 produced at a qualified coal-to-liquid facility.

1 (2) **QUALIFIED COAL-TO-LIQUID FACILITY.**—
 2 The term “qualified coal-to-liquid facility” means a
 3 manufacturing facility that has the capacity to
 4 produce at least 10,000 barrels per day of transpor-
 5 tation grade liquid fuels from a feedstock that is pri-
 6 marily domestic coal (including peat and any prop-
 7 erty which allows for the capture, transportation, or
 8 sequestration of by-products resulting from such
 9 process, including carbon emissions).

10 **SEC. 153. REPEAL.**

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

13 **TITLE II—AMERICAN-MADE**
 14 **ENERGY TRUST FUND**

15 **SEC. 201. ESTABLISHMENT OF AMERICAN-MADE ENERGY**
 16 **TRUST FUND.**

17 (a) **CREATION OF TRUST FUND.**—Subchapter A of
 18 chapter 98 of the Internal Revenue Code of 1986 is
 19 amended by inserting at the end the following new section:

20 **“SEC. 9511. AMERICAN-MADE ENERGY TRUST FUND.**

21 “(a) **ESTABLISHMENT OF TRUST FUND.**—There is
 22 established in the Treasury of the United States a trust
 23 fund to be known as the ‘American-Made Energy Trust
 24 Fund’, consisting of such amounts as may be appropriated

1 or credited to the American-Made Energy Trust Fund as
2 provided in this section.

3 “(b) TRANSFERS TO TRUST FUND.—To the extent
4 provided in appropriations Acts, there shall be appro-
5 priated to the American-Made Energy Trust Fund—

6 “(1) the amounts required to be transferred
7 under section 128 of A Roadmap for America’s En-
8 ergy Future;

9 “(2) all amounts received by the United States
10 as bonus bids, rents, and royalties for oil and gas
11 leases of the outer Continental Shelf awarded after
12 the date of the enactment of A Roadmap for Amer-
13 ica’s Energy Future that are not otherwise required
14 by law to be paid by the United States; and

15 “(3) all amounts received by the United States
16 as bonus bids, rents, and royalties for oil shale
17 leases of Federal lands awarded after the date of the
18 enactment of A Roadmap for America’s Energy Fu-
19 ture.

20 “(c) EXPENDITURES FROM AMERICAN-MADE EN-
21 ERGY TRUST FUND.—As provided by appropriation Acts,
22 amounts in the American-Made Energy Trust Fund shall
23 be available in any year to carry out sections 401 and 402
24 of A Roadmap for America’s Energy Future.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subchapter A of chapter 98 of such Code is amended
3 by inserting at the end the following new item:

“Sec. 9511. American-Made Energy Trust Fund.”.

4 **TITLE III—NUCLEAR**

5 **SEC. 301. FINDINGS.**

6 The Congress finds that—

7 (1) there are 104 nuclear reactors currently op-
8 erating in the United States, providing 20 percent of
9 the electricity of the United States;

10 (2) between 1960 and 1980, the Nuclear Regu-
11 latory Commission issued 169 permits to construct
12 nuclear power facilities;

13 (3) nuclear power is a safe, reliable, efficient,
14 and affordable source of energy;

15 (4) there are 17 combined operating and license
16 applications currently pending before the Nuclear
17 Regulatory Commission;

18 (5) nuclear power is responsible for 72 percent
19 of emission-free electricity production in the United
20 States and is an essential tool for greenhouse gas re-
21 duction;

22 (6) increasing nuclear power threefold will cre-
23 ate 480,000 construction jobs, 140,000 permanent
24 jobs, and \$20,000,000,000 in local, State, and Fed-
25 eral tax revenue each year;

1 (7) increasing nuclear power threefold will re-
2 duce electricity-based carbon dioxide emissions by
3 1,400,000,000 metric tons annually and will reduce
4 carbon emissions by 65 percent by 2050; and

5 (8) increasing nuclear power threefold will
6 produce 320 gigawatts of electricity to power
7 237,000,000 households and constitute 52 percent of
8 United States electricity portfolio by 2030.

9 **SEC. 302. 200 OPERATING PERMITS BY 2040.**

10 The Nuclear Regulatory Commission shall issue oper-
11 ating permits for 200 new commercial nuclear reactors,
12 or the megawatt equivalent, by 2040, if there are a suffi-
13 cient number of applicants.

14 **SEC. 303. RECYCLE AND SAFELY STORE SPENT NUCLEAR**
15 **FUEL.**

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

17 (1) the Nuclear Waste Policy Act of 1982 re-
18 quires the Federal Government to take ownership of
19 high-level nuclear waste and spent nuclear fuel and
20 build a permanent geologic repository in which to
21 store this waste;

22 (2) the Nuclear Waste Policy Act of 1982, as
23 amended in 1987, selected the Yucca Mountain site
24 to be the sole geologic repository in which to store
25 high-level nuclear waste and spent nuclear fuel;

1 (3) the Congress reaffirmed Yucca Mountain as
2 the sole geologic repository in 2001;

3 (4) despite the foregoing laws, the Government
4 has failed to accept high-level nuclear waste and
5 spent nuclear fuel from utilities and has delayed
6 construction of the Yucca Mountain repository;

7 (5) failure to accept high-level nuclear waste
8 and spent nuclear fuel has led to more than 71 law-
9 suits filed by utilities against the Government,
10 \$600,000,000 in settlements being paid, and an esti-
11 mated \$12,300,000,000 in potential liabilities to set-
12 tle remaining lawsuits;

13 (6) each year the Government refuses to accept
14 high-level nuclear waste and spent nuclear fuel adds
15 an estimated \$500,000,000 in additional liabilities
16 associated with future lawsuits; and

17 (7) the failure of the Federal Government to ac-
18 cept high-level nuclear waste and spent nuclear fuel
19 from utilities is a significant barrier to the future
20 development of additional nuclear power.

21 (b) HIGH-LEVEL NUCLEAR WASTE REPOSITORY.—

22 (1) The Federal Government remains obliged to
23 construct and operate at least one high-level nuclear
24 materials geologic repository for the disposal of
25 spent nuclear fuel and high-level radioactive waste.

1 (2) The high-level nuclear waste repository site
2 at Yucca Mountain shall remain the site for the Na-
3 tion's nuclear waste repository unless it is deemed
4 technologically or scientifically unsuitable by the Nu-
5 clear Regulatory Commission following full statutory
6 review of the Department of Energy's license appli-
7 cation to construct the Yucca Mountain repository.

8 (3) The Nuclear Regulatory Commission shall
9 continue to review the Department of Energy's
10 pending license application to construct the nuclear
11 waste repository at Yucca Mountain until a deter-
12 mination is made on the merits of the application.

13 (4) In addition to pursuing approval of the li-
14 cense application referenced in paragraph (3), the
15 Secretary shall undertake the following activities:

16 (A) Seeking all other necessary regulatory
17 approvals and permits to construct and operate
18 the Yucca Mountain repository.

19 (B) Conducting all necessary design and
20 engineering work to support construction of the
21 repository.

22 (C) Undertaking all infrastructure activi-
23 ties necessary to support the construction or
24 operation of the repository or transportation to
25 the site of spent nuclear fuel and high-level ra-

1 radioactive waste. Infrastructure activities in-
2 clude, but are not limited to, safety upgrades;
3 site preparation; the construction of a rail line
4 to connect the Yucca Mountain site with the
5 national rail network, including any facilities to
6 facilitate rail operations; and construction, up-
7 grade, acquisition, or operation of electrical
8 grids or facilities, other utilities, communication
9 facilities, access roads, rail lines, and non-
10 nuclear support facilities.

11 (5) All statutory limitations on the amount of
12 spent fuel that can be placed in Yucca Mountain
13 shall be removed and replaced with new limits based
14 on scientific and technical analysis of the full capac-
15 ity of Yucca Mountain for the storage of spent nu-
16 clear fuel and high-level radioactive waste.

17 (c) TEMPORARY NUCLEAR FUEL STORAGE FACILI-
18 TIES.—The Secretary of the Interior shall grant all nec-
19 essary rights of way and land use authorizations needed
20 for a nuclear fuel storage facility if the State and locality
21 in which such facility is located reach an agreement with
22 a private entity. The Federal Government shall take title
23 of the contents of any such facility upon closure or decom-
24 missioning.

25 (d) RECYCLING.—

1 (1) AMENDMENT.—Section 302 of the Nuclear
2 Waste Policy Act of 1982 (42 U.S.C. 10222) is
3 amended—

4 (A) in subsection (d), by striking “The
5 Secretary may” and inserting “Except as pro-
6 vided in subsection (f), the Secretary may”; and

7 (B) by adding at the end the following new
8 subsection:

9 “(f) RECYCLING.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (3), amounts in the Waste Fund shall be used
12 by the Secretary of Energy, subject to the avail-
13 ability of appropriations provided in advance specifi-
14 cally for that purpose, to develop, construct, and op-
15 erate a facility for the recycling of spent nuclear
16 fuel.

17 “(2) CERTIFICATION.—The Secretary shall not
18 develop, construct, and operate a facility under this
19 subsection unless the President certifies to the Con-
20 gress that recycling of the waste would reduce the
21 overall projected cost to the Federal Government for
22 safely accepting and disposing of high-level nuclear
23 waste.”.

1 (2) PROHIBITION.—The Administration is pro-
2 hibited from blocking or hindering spent nuclear fuel
3 recycling activities.

4 (3) RULEMAKING FOR LICENSING OF SPENT
5 NUCLEAR FUEL RECYCLING FACILITIES.—

6 (A) REQUIREMENT.—The Nuclear Regu-
7 latory Commission shall, as expeditiously as
8 possible, but in no event later than 2 years
9 after the date of enactment of this Act, com-
10 plete a rulemaking establishing a process for
11 the licensing by the Nuclear Regulatory Com-
12 mission, under the Atomic Energy Act of 1954,
13 of facilities for the recycling of spent nuclear
14 fuel.

15 (B) FUNDING.—Amounts in the Nuclear
16 Waste Fund established under section 302 of
17 the Nuclear Waste Policy Act of 1982 (42
18 U.S.C. 10222) shall be made available to the
19 Nuclear Regulatory Commission to cover the
20 costs of carrying out subparagraph (A) of this
21 paragraph.

22 (e) NUCLEAR WASTE FUND MANAGEMENT.—

23 (1) OFFSETTING COLLECTIONS.—Fees collected
24 by the Secretary of Energy and deposited into the
25 Nuclear Waste Fund under the Nuclear Waste Pol-

1 icy Act of 1982 (42 U.S.C. 10101 et seq.) shall be
2 credited to the Nuclear Waste Fund as offsetting
3 collections in amounts not to exceed the amounts an-
4 nually appropriated from the Nuclear Waste Fund.

5 (2) ADDITIONAL NECESSARY SUMS.—To the ex-
6 tent that the level of budgetary resources from off-
7 setting collections is insufficient to implement activi-
8 ties under the Nuclear Waste Policy Act of 1982 for
9 a fiscal year, there are authorized to be appropriated
10 for implementing those activities such additional
11 sums as may be necessary from the balances in the
12 Nuclear Waste Fund.

13 **SEC. 304. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**
14 **POSAL.**

15 Notwithstanding any other provision of law, in decid-
16 ing whether to permit the construction or operation of a
17 nuclear reactor or any related facilities, the Nuclear Regu-
18 latory Commission shall deem, without further consider-
19 ation, that sufficient capacity will be available in a timely
20 manner to dispose of spent nuclear fuel and high level ra-
21 dioactive waste resulting from the operation of the reactor
22 and any related facilities.

1 **TITLE IV—REVERSE AUCTION**
2 **MECHANISMS FOR RENEW-**
3 **ABLE ENERGY GENERATION**
4 **AND FOR RENEWABLE FUEL**
5 **PRODUCTION**

6 **SEC. 401. REVERSE AUCTION MECHANISM FOR RENEW-**
7 **ABLE ENERGY GENERATION.**

8 (a) REVERSE AUCTION.—Not later than 180 days
9 after the date of enactment of this Act, the Secretary shall
10 promulgate regulations to conduct reverse auctions, as de-
11 scribed in subsection (b), to award funds from the Amer-
12 ican-Made Energy Trust Fund to owners or operators of
13 qualified renewable energy facilities to generate an amount
14 of electric energy.

15 (b) REVERSE AUCTION REQUIREMENTS.—The regu-
16 lations under subsection (a) shall include the following:

17 (1) FREQUENCY.—Subject to amounts available
18 in the American-Made Energy Trust Fund (includ-
19 ing any amounts not obligated in the previous cal-
20 endar year), the Secretary shall conduct a minimum
21 of 2 reverse auctions per calendar year.

22 (2) BIDS.—In any reverse auction under this
23 section, bids shall describe the amount of electric en-
24 ergy to be generated by the qualified renewable en-
25 ergy facility and the price per megawatt hour of

1 electric energy that will be generated by such facil-
2 ity.

3 (3) SELECTION OF RENEWABLE ENERGY FA-
4 CILITIES.—In determining bidders to award funds to
5 in any reverse auction under this section, the Sec-
6 retary shall consider—

7 (A) bids that incorporate the lowest bid
8 price per megawatt hour of electric energy; and

9 (B) existing subsidies and other support
10 received by a bidder.

11 (4) CATEGORIES OF GENERATING CAPACITY.—

12 (A) ALLOCATION.—Subject to subpara-
13 graph (B), in each reverse auction under this
14 section funds shall be allocated as follows:

15 (i) 25 percent of the funds shall be
16 awarded for the generation of electric en-
17 ergy by qualified renewable energy facili-
18 ties that have a small generating capacity.

19 (ii) 25 percent of the funds shall be
20 awarded for the generation of electric en-
21 ergy by qualified renewable energy facili-
22 ties that have a mid-sized generating ca-
23 pacity.

24 (iii) 50 percent of the funds shall be
25 awarded for the generation of electric en-

1 ergy by qualified renewable energy facili-
2 ties that have a large generating capacity.

3 (B) INSUFFICIENT FUNDS.—If the Sec-
4 retary determines that the amount of funds
5 available in any calendar year in the American-
6 Made Energy Trust Fund (including any
7 amounts not obligated in the previous calendar
8 year) are insufficient to provide adequate fund-
9 ing for each allocation described in clauses (i),
10 (ii), and (iii) of subparagraph (A), the Sec-
11 retary may reduce or eliminate any allocation
12 requirement under such subparagraph.

13 (C) DETERMINATION BY SECRETARY.—
14 With respect to the generating capacity of a
15 qualified renewable energy facility, the Sec-
16 retary shall determine what qualifies as a small,
17 mid-sized, and large generating capacity for
18 purposes of this paragraph.

19 (5) STANDARD AMOUNTS OF ELECTRIC EN-
20 ERGY.—In each reverse auction under this section,
21 the Secretary shall determine standard amounts of
22 electric energy that owners or operators of qualified
23 renewable energy facilities may bid on as well as the
24 time allotted to generate such an amount of electric
25 energy.

1 (6) CONFIDENTIALITY.—Information regarding
2 the bid price of an owner or operator selected for an
3 award of funds pursuant to a reverse auction under
4 this section shall remain confidential until the initial
5 award of funds to such owner or operator is made.

6 (7) INFORMATION REGARDING AUCTIONS.—
7 Prior to each reverse auction under this section, the
8 Secretary shall make publicly available information
9 regarding such reverse auction, including standard
10 amounts of electric energy described in paragraph
11 (5) to be auctioned and allocations described in
12 paragraph (4) for such auction.

13 (c) AWARD OF FUNDS.—

14 (1) TIMING.—The Secretary may award funds
15 to an owner or operator selected—

16 (A) when generation of the amount of elec-
17 tric energy referenced in such owner or opera-
18 tor's bid begins;

19 (B) on an incremental basis of generation
20 until the amount of electric energy referenced
21 in such owner or operator's bid has been gen-
22 erated; or

23 (C) after the amount of electric energy ref-
24 erenced in such owner or operator's bid has
25 been generated.

1 (2) CONTRACTS FOR GENERATION.—In order to
2 receive an award of funds pursuant to a reverse auc-
3 tion under this section, an owner or operator se-
4 lected for such award of funds shall enter into a con-
5 tract with the Secretary delineating the terms of the
6 award of funds, including when such owner or oper-
7 ator shall be required to pay the Secretary an
8 amount equal to funds awarded to such owner or op-
9 erator for electric energy referenced in such owner
10 or operator’s bid that such owner or operator fails
11 to generate.

12 (d) CRITERIA FOR RENEWABLE ENERGY FACILI-
13 TIES.—A qualified renewable energy facility is a renewable
14 energy facility that satisfies the following criteria:

15 (1) OPERATION.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B), the renewable energy facility
18 shall be in operation not later than 18 months
19 after the owner or operator of such renewable
20 energy facility is selected for an award of funds
21 pursuant to a reverse auction under this sec-
22 tion.

23 (B) EXTENSION.—The Secretary may
24 grant an owner or operator of a renewable en-
25 ergy facility a one-time 6 month extension of

1 the deadline for operation under subparagraph
2 (A) if such owner or operator demonstrates, to
3 the satisfaction of the Secretary, that operation
4 is delayed due to regulatory constraints beyond
5 the control of such owner or operator. Exten-
6 sions under this subparagraph may not be
7 granted for delays due to lack of financing or
8 delayed equipment delivery.

9 (2) DEPOSIT.—An owner or operator of a re-
10 newable energy facility shall provide a deposit of, as
11 determined by the Secretary, an appropriate amount
12 per kilowatt hour of electricity to be generated by
13 such facility for which the owner or operator is re-
14 ceiving an award of funds pursuant to a reverse auc-
15 tion under this section. Such deposit shall be due at
16 the time of the initial award of funds to such owner
17 or operator and shall be refunded when the facility
18 begins operation. If the renewable energy facility is
19 not in operation by the deadline for operation under
20 subparagraph (A) or subparagraph (B) of paragraph
21 (1), the owner or operator shall forfeit such deposit.

22 (3) EXPERTISE.—The owner or operator of the
23 renewable energy facility shall demonstrate, to the
24 satisfaction of the Secretary, competence with re-

1 spect to the generation of electric energy from the
2 renewable energy source used by such facility.

3 (4) DEMONSTRATED TECHNOLOGY.—The owner
4 or operator of the renewable energy facility shall
5 demonstrate, to the satisfaction of the Secretary,
6 that the renewable energy generating technology
7 used by such facility can be used on a commercial
8 scale.

9 (5) ADDITIONAL CRITERIA.—Any additional cri-
10 teria the Secretary determines appropriate.

11 (e) DEFINITIONS.—In this section:

12 (1) The term “American-Made Energy Trust
13 Fund” means the trust fund established by section
14 9511 of the Internal Revenue Code of 1986.

15 (2) The term “operation”, with respect to a re-
16 newable energy facility, means that—

17 (A) such facility is generating electric en-
18 ergy;

19 (B) such facility is transmitting electric
20 energy onto the electric power grid; and

21 (C) electric energy generated by such facil-
22 ity is being sold to one or more electric utilities.

23 (3) The term “Secretary” means the Secretary
24 of Energy.

1 (4) The term “renewable energy” has the
2 meaning given such term in section 203(b) of the
3 Energy Policy Act of 2005 (42 U.S.C. 15852(b)).

4 (5) The term “renewable energy facility” means
5 a facility—

6 (A) for the generation of electric energy
7 and the transmission of such electric energy
8 onto the electric power grid; and

9 (B) that generates such electric energy
10 from a renewable energy source.

11 (6) The term “qualified renewable energy facil-
12 ity” means a renewable energy facility that satisfies
13 the criteria under subsection (d).

14 (f) DENIAL OF DOUBLE BENEFIT.—

15 (1) TREATMENT AS QUALIFIED FACILITY.—A
16 renewable energy facility for which funds are award-
17 ed under this section shall not be treated as a quali-
18 fied facility for purposes of section 45 of the Inter-
19 nal Revenue Code of 1986 (relating to electricity
20 produced from certain renewable resources, etc.).

21 (2) COORDINATION WITH TAX DEDUCTIONS
22 AND CREDITS.—The amount taken into account in
23 determining a deduction or credit under the Internal
24 Revenue Code of 1986 with respect to a renewable

1 energy facility shall be reduced by the amount of
2 any award under this section.

3 (3) BASIS.—For purposes of the Internal Rev-
4 enue Code of 1986, the basis of a renewable energy
5 facility for which funds are awarded under this sec-
6 tion shall be reduced by the amount of such award.

7 **TITLE V—NATIONAL COMMIS-**
8 **SION ON OUTER CONTI-**
9 **NENTAL SHELF OIL SPILL**
10 **PREVENTION**

11 **SEC. 501. NATIONAL COMMISSION ON OUTER CONTI-**
12 **NENTAL SHELF OIL SPILL PREVENTION.**

13 (a) ESTABLISHMENT.—There is established in the
14 Legislative branch the National Commission on Outer
15 Continental Shelf Oil Spill Prevention (referred to in this
16 section as the “Commission”).

17 (b) PURPOSES.—The purposes of the Commission
18 are—

19 (1) to examine and report on the facts and
20 causes relating to the Deepwater Horizon explosion
21 and oil spill of 2010;

22 (2) to ascertain, evaluate, and report on the evi-
23 dence developed by all relevant governmental agen-
24 cies regarding the facts and circumstances sur-
25 rounding the incident;

1 (3) to build upon the investigations of other en-
2 tities, and avoid unnecessary duplication, by review-
3 ing the findings, conclusions, and recommendations
4 of—

5 (A) the Committees on Energy and Nat-
6 ural Resources and Commerce, Science, and
7 Transportation of the Senate;

8 (B) the Committee on Natural Resources
9 and the Subcommittee on Oversight and Inves-
10 tigations of the House of Representatives; and

11 (C) other Executive branch, congressional,
12 or independent commission investigations into
13 the Deepwater Horizon incident of 2010, other
14 fatal oil platform accidents and major spills,
15 and major oil spills generally;

16 (4) to make a full and complete accounting of
17 the circumstances surrounding the incident, and the
18 extent of the preparedness of the United States for,
19 and immediate response of the United States to, the
20 incident; and

21 (5) to investigate and report to the President
22 and Congress findings, conclusions, and rec-
23 ommendations for corrective measures that may be
24 taken to prevent similar incidents.

25 (c) COMPOSITION OF COMMISSION.—

1 (1) MEMBERS.—The Commission shall be com-
2 posed of 10 members, of whom—

3 (A) 1 member shall be appointed by the
4 President, who shall serve as Chairperson of the
5 Commission;

6 (B) 1 member shall be appointed by the
7 majority or minority (as the case may be) lead-
8 er of the Senate from the Republican Party and
9 the majority or minority (as the case may be)
10 leader of the House of Representatives from the
11 Republican Party, who shall serve as Vice
12 Chairperson of the Commission;

13 (C) 2 members shall be appointed by the
14 senior member of the leadership of the Senate
15 from the Democratic Party;

16 (D) 2 members shall be appointed by the
17 senior member of the leadership of the House
18 of Representatives from the Republican Party;

19 (E) 2 members shall be appointed by the
20 senior member of the leadership of the Senate
21 from the Republican Party; and

22 (F) 2 members shall be appointed by the
23 senior member of the leadership of the House
24 of Representatives from the Democratic Party.

25 (2) QUALIFICATIONS; INITIAL MEETING.—

1 (A) POLITICAL PARTY AFFILIATION.—Not
2 more than 5 members of the Commission shall
3 be from the same political party.

4 (B) NONGOVERNMENTAL APPOINTEES.—
5 An individual appointed to the Commission may
6 not be a current officer or employee of the Fed-
7 eral Government or any State or local govern-
8 ment.

9 (C) OTHER QUALIFICATIONS.—It is the
10 sense of Congress that individuals appointed to
11 the Commission should be prominent United
12 States citizens, with national recognition and
13 significant depth of experience and expertise in
14 such areas as—

- 15 (i) engineering;
16 (ii) environmental compliance;
17 (iii) health and safety law (particu-
18 larly oil spill legislation);
19 (iv) oil spill insurance policies;
20 (v) public administration;
21 (vi) oil and gas exploration and pro-
22 duction;
23 (vii) environmental cleanup; and
24 (viii) fisheries and wildlife manage-
25 ment.

1 (D) DEADLINE FOR APPOINTMENT.—All
2 members of the Commission shall be appointed
3 on or before September 15, 2010.

4 (E) INITIAL MEETING.—The Commission
5 shall meet and begin the operations of the Com-
6 mission as soon as practicable after the date of
7 enactment of this Act.

8 (3) QUORUM; VACANCIES.—

9 (A) IN GENERAL.—After the initial meet-
10 ing of the Commission, the Commission shall
11 meet upon the call of the Chairperson or a ma-
12 jority of the members of the Commission.

13 (B) QUORUM.—6 members of the Commis-
14 sion shall constitute a quorum.

15 (C) VACANCIES.—Any vacancy in the Com-
16 mission shall not affect the powers of the Com-
17 mission, but shall be filled in the same manner
18 in which the original appointment was made.

19 (d) FUNCTIONS OF COMMISSION.—

20 (1) IN GENERAL.—The functions of the Com-
21 mission are—

22 (A) to conduct an investigation that—

23 (i) investigates relevant facts and cir-
24 cumstances relating to the Deepwater Ho-
25 rizon incident of April 20, 2010, and the

1 associated oil spill thereafter, including any
2 relevant legislation, Executive order, regu-
3 lation, plan, policy, practice, or procedure;
4 and

5 (ii) may include relevant facts and cir-
6 cumstances relating to—

7 (I) permitting agencies;

8 (II) environmental and worker
9 safety law enforcement agencies;

10 (III) national energy require-
11 ments;

12 (IV) deepwater and
13 ultradeepwater oil and gas exploration
14 and development;

15 (V) regulatory specifications,
16 testing, and requirements for offshore
17 oil and gas well explosion prevention;

18 (VI) regulatory specifications,
19 testing, and requirements offshore oil
20 and gas well casing and cementing
21 regulation;

22 (VII) the role of congressional
23 oversight and resource allocation; and

24 (VIII) other areas of the public
25 and private sectors determined to be

1 relevant to the Deepwater Horizon in-
2 cident by the Commission;

3 (B) to identify, review, and evaluate the
4 lessons learned from the Deepwater Horizon in-
5 cident of April 20, 2010, regarding the struc-
6 ture, coordination, management policies, and
7 procedures of the Federal Government, and, if
8 appropriate, State and local governments and
9 nongovernmental entities, and the private sec-
10 tor, relative to detecting, preventing, and re-
11 sponding to those incidents; and

12 (C) to submit to the President and Con-
13 gress such reports as are required under this
14 section containing such findings, conclusions,
15 and recommendations as the Commission deter-
16 mines to be appropriate, including proposals for
17 organization, coordination, planning, manage-
18 ment arrangements, procedures, rules, and reg-
19 ulations.

20 (2) RELATIONSHIP TO INQUIRY BY CONGRES-
21 SIONAL COMMITTEES.—In investigating facts and
22 circumstances relating to energy policy, the Commis-
23 sion shall—

24 (A) first review the information compiled
25 by, and any findings, conclusions, and rec-

1 ommendations of, the committees identified in
2 subparagraphs (A) and (B) of subsection
3 (b)(3); and

4 (B) after completion of that review, pursue
5 any appropriate area of inquiry, if the Commis-
6 sion determines that—

7 (i) those committees have not inves-
8 tigated that area;

9 (ii) the investigation of that area by
10 those committees has not been completed;

11 or

12 (iii) new information not reviewed by
13 the committees has become available with
14 respect to that area.

15 (e) POWERS OF COMMISSION.—

16 (1) HEARINGS AND EVIDENCE.—The Commis-
17 sion or, on the authority of the Commission, any
18 subcommittee or member of the Commission, may,
19 for the purpose of carrying out this section—

20 (A) hold such hearings, meet and act at
21 such times and places, take such testimony, re-
22 ceive such evidence, and administer such oaths;
23 and

24 (B) require, by subpoena or otherwise, the
25 attendance and testimony of such witnesses and

1 the production of such books, records, cor-
2 respondence, memoranda, papers, documents,
3 tapes, and materials;
4 as the Commission or such subcommittee or member con-
5 siders to be advisable.

6 (2) SUBPOENAS.—

7 (A) ISSUANCE.—

8 (i) IN GENERAL.—A subpoena may be
9 issued under this paragraph only—

10 (I) by the agreement of the
11 Chairperson and the Vice Chair-
12 person; or

13 (II) by the affirmative vote of 6
14 members of the Commission.

15 (ii) SIGNATURE.—Subject to clause
16 (i), a subpoena issued under this para-
17 graph—

18 (I) shall bear the signature of the
19 Chairperson or any member des-
20 ignated by a majority of the Commis-
21 sion;

22 (II) and may be served by any
23 person or class of persons designated
24 by the Chairperson or by a member

1 designated by a majority of the Com-
2 mission for that purpose.

3 (B) ENFORCEMENT.—

4 (i) IN GENERAL.—In the case of con-
5 tumacy or failure to obey a subpoena
6 issued under subparagraph (A), the United
7 States district court for the district in
8 which the subpoenaed person resides, is
9 served, or may be found, or where the sub-
10 poena is returnable, may issue an order re-
11 quiring the person to appear at any des-
12 ignated place to testify or to produce docu-
13 mentary or other evidence.

14 (ii) JUDICIAL ACTION FOR NON-
15 COMPLIANCE.—Any failure to obey the
16 order of the court may be punished by the
17 court as a contempt of that court.

18 (iii) ADDITIONAL ENFORCEMENT.—In
19 the case of any failure of any witness to
20 comply with any subpoena or to testify
21 when summoned under authority of this
22 subsection, the Commission may, by major-
23 ity vote, certify a statement of fact consti-
24 tuting such failure to the appropriate
25 United States attorney, who may bring the

1 matter before the grand jury for action,
2 under the same statutory authority and
3 procedures as if the United States attorney
4 had received a certification under sections
5 102 through 104 of the Revised Statutes
6 (2 U.S.C. 192 through 194).

7 (3) CONTRACTING.—The Commission may, to
8 such extent and in such amounts as are provided in
9 appropriation Acts, enter into contracts to enable
10 the Commission to discharge the duties of the Com-
11 mission under this section.

12 (4) INFORMATION FROM FEDERAL AGENCIES.—

13 (A) IN GENERAL.—The Commission may
14 secure directly from any Executive department,
15 bureau, agency, board, commission, office, inde-
16 pendent establishment, or instrumentality of the
17 Federal Government, information, suggestions,
18 estimates, and statistics for the purposes of this
19 section.

20 (B) COOPERATION.—Each Federal depart-
21 ment, bureau, agency, board, commission, of-
22 fice, independent establishment, or instrumen-
23 tality shall, to the extent authorized by law, fur-
24 nish information, suggestions, estimates, and
25 statistics directly to the Commission, upon re-

1 quest made by the Chairperson, the Chair-
2 person of any subcommittee created by a major-
3 ity of the Commission, or any member des-
4 ignated by a majority of the Commission.

5 (C) RECEIPT, HANDLING, STORAGE, AND
6 DISSEMINATION.—Information shall be received,
7 handled, stored, and disseminated only by mem-
8 bers of the Commission and the staff of the
9 Commission in accordance with all applicable
10 laws (including regulations and Executive or-
11 ders).

12 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

13 (A) GENERAL SERVICES ADMINISTRA-
14 TION.—The Administrator of General Services
15 shall provide to the Commission on a reimburs-
16 able basis administrative support and other
17 services for the performance of the functions of
18 the Commission.

19 (B) OTHER DEPARTMENTS AND AGEN-
20 CIES.—In addition to the assistance prescribed
21 in subparagraph (A), departments and agencies
22 of the United States may provide to the Com-
23 mission such services, funds, facilities, staff,
24 and other support services as are determined to
25 be advisable and authorized by law.

1 (6) GIFTS.—The Commission may accept, use,
2 and dispose of gifts or donations of services or prop-
3 erty, including travel, for the direct advancement of
4 the functions of the Commission.

5 (7) POSTAL SERVICES.—The Commission may
6 use the United States mails in the same manner and
7 under the same conditions as departments and agen-
8 cies of the United States.

9 (f) PUBLIC MEETINGS AND HEARINGS.—

10 (1) PUBLIC MEETINGS AND RELEASE OF PUB-
11 LIC VERSIONS OF REPORTS.—The Commission
12 shall—

13 (A) hold public hearings and meetings, to
14 the extent appropriate; and

15 (B) release public versions of the reports
16 required under paragraphs (1) and (2) of sub-
17 section (j).

18 (2) PUBLIC HEARINGS.—Any public hearings of
19 the Commission shall be conducted in a manner con-
20 sistent with the protection of proprietary or sensitive
21 information provided to or developed for or by the
22 Commission as required by any applicable law (in-
23 cluding a regulation or Executive order).

24 (g) STAFF OF COMMISSION.—

25 (1) IN GENERAL.—

1 (A) APPOINTMENT AND COMPENSATION.—

2 (i) IN GENERAL.—The Chairperson,
3 in consultation with the Vice Chairperson
4 and in accordance with rules agreed upon
5 by the Commission, may, without regard to
6 the civil service laws (including regula-
7 tions), appoint and fix the compensation of
8 a staff director and such other personnel
9 as are necessary to enable the Commission
10 to carry out the functions of the Commis-
11 sion.

12 (ii) MAXIMUM RATE OF PAY.—No rate
13 of pay fixed under this subparagraph may
14 exceed the equivalent of that payable for a
15 position at level V of the Executive Sched-
16 ule under section 5316 of title 5, United
17 States Code.

18 (B) PERSONNEL AS FEDERAL EMPLOY-
19 EES.—

20 (i) IN GENERAL.—The staff director
21 and any personnel of the Commission who
22 are employees shall be considered to be
23 employees under section 2105 of title 5,
24 United States Code, for purposes of chap-

1 ters 63, 81, 83, 84, 85, 87, 89, and 90 of
2 that title.

3 (ii) MEMBERS OF COMMISSION.—

4 Clause (i) shall not apply to members of
5 the Commission.

6 (2) DETAILEES.—

7 (A) IN GENERAL.—An employee of the
8 Federal Government may be detailed to the
9 Commission without reimbursement.

10 (B) CIVIL SERVICE STATUS.—The detail of
11 the employee shall be without interruption or
12 loss of civil service status or privilege.

13 (3) PROCUREMENT OF TEMPORARY AND INTER-
14 MITTENT SERVICES.—The Chairperson of the Com-
15 mission may procure temporary and intermittent
16 services in accordance with section 3109(b) of title
17 5, United States Code, at rates for individuals that
18 do not exceed the daily equivalent of the annual rate
19 of basic pay prescribed for level V of the Executive
20 Schedule under section 5316 of that title.

21 (h) COMPENSATION AND TRAVEL EXPENSES.—

22 (1) COMPENSATION OF MEMBERS.—

23 (A) NON-FEDERAL EMPLOYEES.—A mem-
24 ber of the Commission who is not an officer or
25 employee of the Federal Government shall be

1 compensated at a rate equal to the daily equiva-
2 lent of the annual rate of basic pay prescribed
3 for level IV of the Executive Schedule under
4 section 5315 of title 5, United States Code, for
5 each day (including travel time) during which
6 the member is engaged in the performance of
7 the duties of the Commission.

8 (B) FEDERAL EMPLOYEES.—A member of
9 the Commission who is an officer or employee
10 of the Federal Government shall serve without
11 compensation in addition to the compensation
12 received for the services of the member as an
13 officer or employee of the Federal Government.

14 (2) TRAVEL EXPENSES.—A member of the
15 Commission shall be allowed travel expenses, includ-
16 ing per diem in lieu of subsistence, at rates author-
17 ized for an employee of an agency under subchapter
18 I of chapter 57 of title 5, United States Code, while
19 away from the home or regular place of business of
20 the member in the performance of the duties of the
21 Commission.

22 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
23 BERS AND STAFF.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 the appropriate Federal agencies or departments

1 shall cooperate with the Commission in expeditiously
2 providing to the members and staff of the Commis-
3 sion appropriate security clearances, to the max-
4 imum extent practicable, pursuant to existing proce-
5 dures and requirements.

6 (2) PROPRIETARY INFORMATION.—No person
7 shall be provided with access to proprietary informa-
8 tion under this section without the appropriate secu-
9 rity clearances.

10 (j) REPORTS OF COMMISSION; ADJOURNMENT.—

11 (1) INTERIM REPORTS.—The Commission may
12 submit to the President and Congress interim re-
13 ports containing such findings, conclusions, and rec-
14 ommendations for corrective measures as have been
15 agreed to by a majority of members of the Commis-
16 sion.

17 (2) FINAL REPORT.—Not later than 180 days
18 after the date of the enactment of this Act, the
19 Commission shall submit to the President and Con-
20 gress a final report containing such findings, conclu-
21 sions, and recommendations for corrective measures
22 as have been agreed to by a majority of members of
23 the Commission.

24 (3) TEMPORARY ADJOURNMENT.—

1 (A) IN GENERAL.—The Commission, and
2 all the authority provided under this section,
3 shall adjourn and be suspended, respectively, on
4 the date that is 60 days after the date on which
5 the final report is submitted under paragraph
6 (2).

7 (B) ADMINISTRATIVE ACTIVITIES BEFORE
8 TERMINATION.—The Commission may use the
9 60-day period referred to in subparagraph (A)
10 for the purpose of concluding activities of the
11 Commission, including—

12 (i) providing testimony to committees
13 of Congress concerning reports of the
14 Commission; and

15 (ii) disseminating the final report sub-
16 mitted under paragraph (2).

17 (C) RECONVENING OF COMMISSION.—The
18 Commission shall stand adjourned until such
19 time as the President or the Secretary of
20 Homeland Security declares an oil spill of na-
21 tional significance to have occurred, at which
22 time—

23 (i) the Commission shall reconvene in
24 accordance with subsection (c)(3); and

1 (ii) the authority of the Commission
2 under this section shall be of full force and
3 effect.

4 (k) FUNDING.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated to carry out
7 this section—

8 (A) \$10,000,000 for the first fiscal year in
9 which the Commission convenes; and

10 (B) \$3,000,000 for each fiscal year there-
11 after in which the Commission convenes.

12 (2) AVAILABILITY.—Amounts made available to
13 carry out this section shall be available—

14 (A) for transfer to the Commission for use
15 in carrying out the functions and activities of
16 the Commission under this section; and

17 (B) until the date on which the Commis-
18 sion adjourns for the fiscal year under sub-
19 section (j)(3).

20 (l) NONAPPLICABILITY OF FEDERAL ADVISORY COM-

21 MITTEE ACT.—The Federal Advisory Committee Act (5

22 U.S.C. App.) shall not apply to the Commission.

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