

112TH CONGRESS
2D SESSION

S. 3404

To establish within the Department of Energy an Office of Federal Energy
Production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2012

Mr. COATS (for himself and Mr. VITTER) introduced the following bill; which
was read twice and referred to the Committee on Energy and Natural
Resources

A BILL

To establish within the Department of Energy an Office
of Federal Energy Production, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy
5 Reorganization Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Americans are paying an ever-increasing
9 amount to meet basic energy needs;

1 (2) a consolidation of energy-production func-
2 tions within a single agency would contribute to
3 greater strategic energy policy coherence;

4 (3) the mission of the Department of Energy is
5 an obligation to ensure the energy security and pros-
6 perity of the United States;

7 (4) the Department of Energy is the primary
8 Federal source for energy data and forecasting at
9 the Energy Information Administration;

10 (5) the Energy Information Administration can
11 best account for national energy needs both now and
12 in the future;

13 (6) fossil-fuel production on Federal land de-
14 creased by 14 percent in 2011 and is anticipated to
15 continue declining into the foreseeable future under
16 the stewardship of the Secretary of the Interior;

17 (7) the Secretary of the Interior continues to
18 restrict access to domestic energy;

19 (8) the Department of the Interior is oriented
20 more toward conservation and managing Federal
21 land than providing for the future energy needs of
22 the United States; and

23 (9) the Secretary of the Interior continues to
24 pursue land management and resource development

1 decisions that hamper economic growth and fail to
2 meet the energy needs of the United States.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (a) DEPARTMENT.—The term “Department” means
6 the Department of Energy.

7 (b) SECRETARY.—The term “Secretary” means the
8 Secretary of Energy.

9 **SEC. 4. OFFICE OF FEDERAL ENERGY PRODUCTION.**

10 (a) ESTABLISHMENT.—There shall be within the De-
11 partment an Office of Federal Energy Production.

12 (b) DIRECTOR.—The Office of Federal Energy Pro-
13 duction shall be headed by a Director, who shall be ap-
14 pointed by the Secretary.

15 (c) TRANSFER OF FUNCTIONS.—There are trans-
16 ferred to, and vested in, the Director of the Office of Fed-
17 eral Energy Production all of the functions provided by
18 law (as of the date of enactment of this Act) to—

19 (1) the Director of the Bureau of Ocean Energy
20 Management;

21 (2) the Director of the Bureau of Safety and
22 Environmental Enforcement; and

23 (3) the Director of the Bureau of Land Man-
24 agement of the Department of the Interior with re-

1 spect to oil and gas development and renewable en-
2 ergy production.

3 **SEC. 5. BUREAU OF SAFETY AND ENVIRONMENTAL EN-**
4 **FORCEMENT.**

5 (a) ESTABLISHMENT.—There shall be within the De-
6 partment a Bureau of Safety and Environmental Enforce-
7 ment.

8 (b) DIRECTOR.—The Bureau of Safety and Environ-
9 mental Enforcement shall be headed by a Director, who
10 shall be appointed by the Secretary.

11 (c) TRANSFER OF FUNCTIONS.—There are trans-
12 ferred to, and vested in, the Director of the Bureau of
13 Safety and Environmental Enforcement all of the func-
14 tions provided by law (including regulations), as of the
15 date of enactment of this Act, to the Director of the Bu-
16 reau of Safety and Environmental Enforcement of the De-
17 partment of the Interior.

18 **SEC. 6. BUREAU OF OCEAN ENERGY MANAGEMENT.**

19 (a) ESTABLISHMENT.—There shall be within the De-
20 partment a Bureau of Ocean Energy Management.

21 (b) DIRECTOR.—The Bureau of Ocean Energy Man-
22 agement shall be headed by a Director, who shall be ap-
23 pointed by the Secretary.

24 (c) TRANSFER OF FUNCTIONS.—Except as otherwise
25 provided in this title, there are transferred to, and vested

1 in, the Director of the Bureau of Ocean Energy Manage-
2 ment all of the functions provided by law (as of the date
3 of enactment of this Act) to the Director of the Bureau
4 of Ocean Energy Management of the Department of the
5 Interior.

6 **SEC. 7. CERTIFICATION OF 5-YEAR LEASING PLAN.**

7 Section 18 of the Outer Continental Shelf Lands Act
8 (43 U.S.C. 1344) is amended by adding at the end the
9 following:

10 “(i) CERTIFICATION BY SECRETARY OF ENERGY.—

11 “(1) IN GENERAL.—The Secretary of Energy
12 shall certify that the program prepared under sub-
13 section (a) will best meet national energy needs for
14 the 5-year period following the approval or re-
15 approval of the program.

16 “(2) MODIFICATION OR REJECTION.—

17 “(A) IN GENERAL.—The Secretary of En-
18 ergy may modify or reject any program pre-
19 pared under subsection (a).

20 “(B) OIL FROM FOREIGN SOURCES OTHER
21 THAN CANADA OR MEXICO.—If the Secretary of
22 Energy, in consultation with the Energy Infor-
23 mation Administration, determines that the
24 United States will require more than 1,000,000
25 barrels of oil per day for the next fiscal year

1 from foreign sources other than Canada and
 2 Mexico, the Secretary shall amend the program
 3 prepared under subsection (a) to include addi-
 4 tional lease sales in additional areas.

5 “(j) PUBLIC COMMENT BY PRIVATE ENTITIES.—

6 “(1) IN GENERAL.—The procedures described
 7 in subsection (f)(2) shall include a 30-day period for
 8 public notice and participation, once annually, for
 9 private entities to provide the Secretary with a no-
 10 tice of interest to lease and produce oil in any area
 11 not prohibited by a moratorium.

12 “(2) MODIFICATION.—If the Secretary receives
 13 a notice of interest under paragraph (1), the Sec-
 14 retary shall modify the plan prepared under sub-
 15 section (a) for the next year to include a lease sale
 16 in each area specified in the notice of interest.”.

17 **SEC. 8. SHALE LEASES AND PERMITS; PUBLICLY AVAIL-**
 18 **ABLE DATA.**

19 Section 21 of the Mineral Leasing Act (30 U.S.C.
 20 241) is amended by adding at the end the following:

21 “(e) FINANCING FOR RESEARCH.—In addition to any
 22 funds made available to the Secretary of the Interior to
 23 carry out this subsection for each fiscal year, of the funds
 24 made available to the Secretary of Energy for each fiscal
 25 year, there is authorized to be appropriated such sums as

1 are necessary to carry out this subsection for each fiscal
2 year.

3 “(f) PUBLICLY AVAILABLE DATA.—The Secretary of
4 Energy shall post on the main page of the public Internet
5 website of the Department of Energy the revenue and pro-
6 duction data resulting from the leases under subsection
7 (a).”.

8 **SEC. 9. EXEMPTION OF THE DEPARTMENT OF ENERGY**
9 **FROM THE EQUAL ACCESS TO JUSTICE ACT.**

10 Sections 504 of title 5 and 2412 of title 28, United
11 States Code, shall not apply to the Department of Energy.

12 **SEC. 10. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
13 **TIONS AND PERSONNEL.**

14 (a) IN GENERAL.—Except as otherwise provided in
15 this Act, the personnel employed in connection with, and
16 the assets, liabilities, contracts, property, records, and un-
17 expended balance of appropriations, authorizations, alloca-
18 tions, and other funds employed, held, used, arising from,
19 available to, or to be made available in connection with
20 the functions transferred by this Act, subject to section
21 1531 of title 31, United States Code, are transferred to
22 the Secretary for appropriate allocation.

23 (b) USE OF UNEXPENDED FUNDS.—Unexpended
24 funds transferred under subsection (a) shall only be used

1 for the purposes for which the funds were originally au-
2 thorized and appropriated.

3 (c) SPECIFIC POSITIONS.—Positions expressly speci-
4 fied by statute or reorganization plan to carry out func-
5 tions transferred by this Act, personnel occupying those
6 positions and personnel authorized to receive compensa-
7 tion in those positions at the rate prescribed for offices
8 and positions at level I, II, III, IV, or V of the Executive
9 Schedule under subchapter II of chapter 53 of title 5,
10 United States Code, on the effective date of this Act, shall
11 be subject to section 3103 of that title.

12 **SEC. 11. EFFECT ON PERSONNEL.**

13 (a) IN GENERAL.—Except as otherwise provided in
14 this Act or by the Secretary, the transfer under this Act
15 of full-time personnel (except special Government employ-
16 ees) and part-time personnel holding permanent positions
17 under this Act shall not cause any such employee to be
18 separated or reduced in grade or compensation for 1 year
19 after the date of enactment of this Act.

20 (b) COMPENSATION.—Any person who, on the effec-
21 tive date of this Act, holds a position compensated in ac-
22 cordance with the Executive Schedule prescribed in chap-
23 ter 53 of title 5, United States Code, and who, without
24 a break in service, is appointed in the Department to a
25 position having duties comparable to the duties performed

1 immediately preceding the appointment shall continue to
2 be compensated in the new position at not less than the
3 rate provided for the previous position, for the duration
4 of service in the new position.

5 (c) REEMPLOYMENT RIGHTS.—

6 (1) IN GENERAL.—An employee transferred to
7 the Department who holds reemployment rights ac-
8 quired under any provision of law (including regula-
9 tions) may exercise those rights only during the lat-
10 ter of—

11 (A) the 120-day period beginning on the
12 effective date of this Act; or

13 (B) the 2-year period beginning on the
14 date on which the employee acquired the reem-
15 ployment rights.

16 (2) REQUIREMENT.—Reemployment rights may
17 only be exercised at the request of the employee.

18 **SEC. 12. AGENCY TERMINATIONS.**

19 (a) IN GENERAL.—Except as otherwise provided in
20 this Act, whenever all of the functions vested by law in
21 any agency, commission, or other body, or any component
22 of an agency, commission, or other body, have been termi-
23 nated or transferred from that agency, commission, or
24 other body, or component by this Act, the agency, commis-
25 sion, or other body, or component, shall terminate.

1 (b) TERMINATION OF POSITIONS AND OFFICES.—If
2 an agency, commission, or other body, or any component
3 of an agency, commission, or other body, terminates under
4 subsection (a), each position and office within the agency,
5 commission, or other body, or component, that was ex-
6 pressly authorized by law, or the incumbent of which was
7 authorized to receive compensation at the rates prescribed
8 for an office or position at level II, III, IV, or V of the
9 Executive Schedule under subchapter II of chapter 53 of
10 title 5, United States Code, shall terminate.

11 **SEC. 13. INCIDENTAL TRANSFERS.**

12 The Director of the Office of Management and Budg-
13 et, in consultation with the Secretary, shall make such de-
14 terminations as may be necessary with regard to the
15 transfer of functions that relate to or are used by an agen-
16 cy, commission or other body, or component of an agency,
17 commission, or other body, affected by this Act, to make
18 such additional incidental dispositions of personnel, assets,
19 liabilities, contracts, property, records, and unexpended
20 balances of appropriations, authorizations, allocations,
21 and other funds held, used, arising from, available to, or
22 to be made available in connection with the functions
23 transferred by this Act, as the Director considers nec-
24 essary to accomplish the purposes of this Act.

1 **SEC. 14. SAVINGS PROVISIONS.**

2 (a) **ORDERS TO REMAIN IN EFFECT.**—

3 (1) **IN GENERAL.**—All orders, determinations,
4 rules, regulations, permits, contracts, certificates, li-
5 censes, and privileges described in paragraph (2)
6 shall continue in effect according to their respective
7 terms until modified, terminated, superseded, set
8 aside, or revoked in accordance with law by the
9 President, the Secretary, or other authorized offi-
10 cials, a court of competent jurisdiction, or by oper-
11 ation of law.

12 (2) **SPECIFICATION.**—Paragraph (1) applies to
13 all orders, determinations, rules, regulations, per-
14 mits, contracts, certificates, licenses, and privileges
15 that—

16 (A) have been issued, made, granted, or al-
17 lowed to become effective by the President, any
18 Federal department or agency, official of a Fed-
19 eral department or agency, or by a court of
20 competent jurisdiction, in the performance of
21 functions that are transferred under this Act to
22 the Department after the date of enactment of
23 this Act; and

24 (B) are in effect on the date on which this
25 Act takes effect.

26 (b) **PENDING PROCEEDINGS.**—

1 (1) IN GENERAL.—This Act shall not affect any
 2 proceeding or any application for any license, per-
 3 mit, certificate, or financial assistance pending be-
 4 fore any department, agency, commission, or compo-
 5 nent of a department, agency, or commission, func-
 6 tions of which are transferred by this Act on the ef-
 7 fective date of this Act.

8 (2) CONTINUATION.—

9 (A) IN GENERAL.—To the extent that the
 10 proceedings and applications described in para-
 11 graph (1) relate to functions transferred by this
 12 Act—

13 (i) the proceedings and applications
 14 shall be continued; and

15 (ii) orders shall be issued, appeals
 16 shall be taken, and payments shall be
 17 made under the orders, as if this Act had
 18 not been enacted.

19 (B) EFFECT.—Orders issued in any pro-
 20 ceeding continued under this paragraph shall
 21 continue in effect until modified, terminated,
 22 superseded, or revoked by—

23 (i) a duly authorized official;

24 (ii) a court of competent jurisdiction;

25 or

1 (iii) operation of law.

2 (C) DISCONTINUANCE OR MODIFICA-
3 TION.—Nothing in this subsection prohibits the
4 discontinuance or modification of any pro-
5 ceeding described in paragraph (1) under the
6 same terms and conditions and to the same ex-
7 tent that the proceeding could have been dis-
8 continued or modified if this Act had not been
9 enacted.

10 (3) REGULATIONS.—The Secretary may pro-
11 mulgate regulations providing for the orderly trans-
12 fer of proceedings described in paragraph (1) to the
13 Department.

14 (c) PENDING SUITS.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (3)—

17 (A) this Act shall not affect suits com-
18 menced prior to the effective date of this Act;
19 and

20 (B) in all suits described in subparagraph
21 (A), proceedings shall be had, appeals taken,
22 and judgments rendered in the same manner
23 and effect as if this Act had not been enacted.

1 (2) SUITS BY AND AGAINST OFFICERS IN OFFI-
2 CIAL CAPACITY AND DEPARTMENTS AND AGEN-
3 CIES.—

4 (A) OFFICES.—No suit, action, or other
5 proceeding commenced by or against any officer
6 in the official capacity of the officer as an offi-
7 cer of any department or agency, functions of
8 which are transferred by this Act, shall abate
9 by reason of the enactment of this Act.

10 (B) DEPARTMENTS AND AGENCIES.—No
11 cause of action by or against any department or
12 agency, functions of which are transferred by
13 this Act, or by or against any officer of a de-
14 partment or agency in the official capacity of
15 the officer, shall abate by reason of the enact-
16 ment of this Act.

17 (3) TRANSFER.—If, before the effective date of
18 this Act, any department or agency, or officer of a
19 department or agency in the official capacity of the
20 officer, is a party to a suit, and under this Act any
21 function of the department, agency, or officer is
22 transferred to the Secretary or any other official,
23 then the suit shall be continued with the Secretary
24 or other official, as applicable, substituted.

1 **SEC. 15. REFERENCE.**

2 With respect to any functions transferred by this Act
3 and exercised after the effective date of this Act, reference
4 in any other Federal law to any department, commission,
5 or agency or any officer or office the functions of which
6 are so transferred shall be deemed to refer to the Sec-
7 retary or other official or component of the Department
8 in which this Act vests those functions.

9 **SEC. 16. PRESIDENTIAL AUTHORITY.**

10 Nothing in this Act limits, curtails, abolishes, or ter-
11 minates—

12 (1) any function of, or authority available to,
13 the President that the President had immediately
14 before the effective date of this Act; or

15 (2) the authority of the President to delegate,
16 redelegate, or terminate any delegation of functions.

17 **SEC. 17. TRANSITION.**

18 With the consent of the appropriate department or
19 agency head, the Secretary may use the services of the
20 officers, employees, and other personnel of the depart-
21 ments and agencies from which functions have been trans-
22 ferred to the Secretary for such period of time as may
23 reasonably be needed to facilitate the orderly transfer of
24 functions under this Act.

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