

113TH CONGRESS
2D SESSION

H. R. 3895

To renew America's founding principles by freeing Americans to produce more energy in the United States from all sources and contribute to the strength of American national security through North American energy independence.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2014

Mr. DUNCAN of South Carolina (for himself, Mr. ROE of Tennessee, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. RADEL, Mr. MULVANEY, Mr. WILLIAMS, Mr. GINGREY of Georgia, Mrs. BLACK, Mr. McCLINTOCK, Mr. GOWDY, Mr. WEBER of Texas, Mr. POE of Texas, Mr. KINGSTON, Mr. BROUN of Georgia, Mr. GRAVES of Georgia, Mr. GOHMERT, Mr. ROKITA, and Mr. STUTZMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, Ways and Means, Agriculture, Armed Services, and Oversight and Government Reform, 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 renew America's founding principles by freeing Americans to produce more energy in the United States from all sources and contribute to the strength of American national security through North American energy independence.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Energy Exploration
3 and Production to Achieve National Demand Act” or the
4 “EXPAND Act”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.
- Sec. 4. Statement of policy.
- Sec. 5. Definitions.

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Subtitle A—Oil and Gas Leasing in the Gulf of Mexico

- Sec. 101. Leasing in the Eastern Gulf of Mexico.
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- Sec. 121. Expanded outer Continental Shelf lease sales.
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- Sec. 131. Establishment of leasing program for Coastal Plain.
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- Sec. 201. Keystone XL permit approval.
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Sec. 1207. Next Generation Nuclear Power Plant.

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1 **SEC. 3. FINDINGS AND PURPOSES.**

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

3 (1) the Constitution of the United States in-
4 vests in Congress the authority to manage Federal
5 lands and the natural resources contained within
6 them;

7 (2) the natural resources contained within lands
8 owned by the Federal Government are ultimately
9 owned by the people, and can be explored and devel-
10 oped by them in their pursuit of happiness to fuel
11 the American way of life;

12 (3) the United States spends over
13 \$1,000,000,000 per day to import crude oil from
14 foreign countries, representing the largest wealth
15 transfer in history;

16 (4) the domestic oil and natural gas industry is
17 responsible for approximately 9.2 million jobs;

18 (5) the United States has substantial undevel-
19 oped oil and natural gas resources underlying Fed-
20 eral lands;

1 (6) multiple legal challenges relating to the
2 leasing, exploration, and development of Federal
3 lands can significantly delay and even prevent these
4 desperately needed oil and natural gas resources
5 from reaching the American public;

6 (7) expedited and focused judicial review of
7 legal challenges to proposed oil and natural gas de-
8 velopment activities is necessary to ensure that addi-
9 tional American oil and natural gas resources are
10 made available without undue delay to American
11 consumers;

12 (8) the approximately 43 million leased outer
13 Continental Shelf acres currently account for about
14 15 percent of the United States domestic natural
15 gas production and about 27 percent of the United
16 States domestic oil production;

17 (9) the leasing of these domestic offshore areas
18 for oil and natural gas development provides signifi-
19 cant economic benefits to the Federal Government,
20 as well as to States and localities, through the cre-
21 ation and sustenance of jobs and domestic product;

22 (10) the Federal Government distributed over
23 \$10,000,000,000 to Federal, State and Indian ac-
24 counts from energy production during fiscal year
25 2009, primarily from oil and natural gas production;

1 (11) the outer Continental Shelf is a vital na-
2 tional resource reserve held by the Federal Govern-
3 ment for the public, which should be made available
4 for expeditious and orderly development, subject to
5 environmental safeguards, in a manner that is con-
6 sistent with the maintenance of competition and
7 other national needs;

8 (12) Executive Order 13563 on Improving Reg-
9 ulation and Regulatory Review, issued on January
10 18, 2011, requires that to the extent permitted by
11 law, each agency must, among other things—

12 (A) propose or adopt a regulation only
13 upon a reasoned determination that its benefits
14 justify its costs (recognizing that some benefits
15 and costs are difficult to quantify);

16 (B) tailor its regulations to impose the
17 least burden on society, consistent with obtain-
18 ing regulatory objectives, taking into account,
19 among other things, and to the extent prac-
20 ticable, the costs of cumulative regulations;

21 (C) select, in choosing among alternative
22 regulatory approaches, those approaches that
23 maximize net benefits (including potential eco-
24 nomic, environmental, public health and safety,

1 and other advantages; distributive impacts; and
2 equity);

3 (D) to the extent feasible, specify perform-
4 ance objectives, rather than specifying the be-
5 havior or manner of compliance that regulated
6 entities must adopt; and

7 (E) identify and assess available alter-
8 natives to direct regulation, including providing
9 economic incentives to encourage the desired
10 behavior, such as user fees or marketable per-
11 mits, or providing information upon which
12 choices can be made by the public;

13 (13) Executive Order 13547 on Stewardship of
14 the Ocean, Our Coasts, and the Great Lakes, issued
15 on July 19, 2010, provides for the development of
16 coastal and marine spatial plans (CMSP) that build
17 upon and improve existing Federal, State, tribal,
18 local, and regional decisionmaking and planning
19 processes;

20 (14) the Outer Continental Shelf Lands Act (43
21 U.S.C. 1331 et seq.) already provides a comprehen-
22 sive and complete framework for undertaking oil and
23 gas activities within the framework of a CMSP-
24 based program;

1 (15) through the Outer Continental Shelf
2 Lands Act, Congress has already established the
3 process for development of coastal and marine spa-
4 tial plans for oil and gas leasing and other author-
5 izations, and it is not necessary to create a new reg-
6 ulatory regime as this would go against the Execu-
7 tive order;

8 (16) the Coastal Plain of Alaska is an impor-
9 tant potential new source of domestic oil and gas
10 production;

11 (17) the delivery of oil from Alberta, Canada, to
12 domestic markets in the United States is in the na-
13 tional interest of the United States, and the earliest
14 possible completion of the Keystone XL pipeline will
15 best serve the national interest;

16 (18) there are 103 nuclear reactors currently
17 operating in the United States, providing 20 percent
18 of the electricity of the United States, slightly less
19 than the electricity generated by natural gas;

20 (19) nuclear energy is the largest provider of
21 clean, low-carbon electricity, almost 8 times larger
22 than all renewable power production combined, ex-
23 cluding hydroelectric power;

1 (20) nuclear power is responsible for 72 percent
2 of emission-free electricity production in the United
3 States;

4 (21) nuclear power plants virtually eliminate
5 emissions of greenhouse gases and criteria pollutants
6 associated with acid rain, smog, or ozone;

7 (22) nuclear energy supplies consistent, base-
8 load electricity, independent of environmental condi-
9 tions;

10 (23) between 1960 and 1980, the Nuclear Reg-
11 ulatory Commission issued 169 permits to construct
12 nuclear power facilities;

13 (24) even if every nuclear power plant is grant-
14 ed a 20-year extension, all currently operating nu-
15 clear power plants will be retired by 2055;

16 (25) long lead times for nuclear power plant li-
17 censing, permitting, and construction indicate that
18 action to stimulate the nuclear power industry
19 should not be delayed;

20 (26) there are 17 combined operating license
21 applications currently pending before the Nuclear
22 Regulatory Commission for 26 new reactors in the
23 United States, with 4 applications inactive due to
24 regulatory uncertainty;

1 (27) those proposed reactors will use the latest
2 in nuclear technology for efficiency and safety, more
3 advanced than the technology of the 1960s and
4 1970s found in the reactors currently operating in
5 the United States;

6 (28) the Nuclear Waste Policy Act of 1982 (42
7 U.S.C. 10101 et seq.) requires the Federal Govern-
8 ment to take ownership of high-level radioactive
9 waste and spent nuclear fuel and build a permanent
10 geologic repository in which to store such waste;

11 (29) the Nuclear Waste Policy Act of 1982, as
12 amended in 1987, selected the Yucca Mountain site
13 to be the sole geologic repository in which to store
14 high-level radioactive waste and spent nuclear fuel;

15 (30) the Congress reaffirmed Yucca Mountain
16 as the sole candidate site for a geologic repository in
17 2001;

18 (31) despite such laws, the Government has
19 failed to accept high-level radioactive waste and
20 spent nuclear fuel from utilities and has delayed
21 construction of the Yucca Mountain repository;

22 (32) failure to accept high-level radioactive
23 waste and spent nuclear fuel has led to more than
24 74 lawsuits filed by utilities against the Government,
25 \$1,000,000,000 in settlements being paid, and an

1 estimated \$16,200,000,000 in potential liabilities to
2 settle remaining lawsuits;

3 (33) each year the Government refuses to ac-
4 cept high-level radioactive waste and spent nuclear
5 fuel adds an estimated \$500,000,000 in additional
6 liabilities associated with future lawsuits;

7 (34) the failure of the Federal Government to
8 accept high-level radioactive waste and spent nuclear
9 fuel from utilities is a significant barrier to the fu-
10 ture development of additional nuclear power;

11 (35) the United States has 58,000 tons of radi-
12 ological material stored at more than 100 sites in 39
13 States;

14 (36) the 103 commercial nuclear reactors oper-
15 ating in the United States produce approximately
16 2,000 tons of spent nuclear fuel every year;

17 (37) the Yucca Mountain repository's capacity
18 is statutorily limited to 70,000 tons of waste but can
19 safely hold 120,000 tons;

20 (38) operators who have paid into the Nuclear
21 Waste Fund have been denied access to permanent
22 storage of radiological material as promised by the
23 Federal Government;

24 (39) permanent geologic storage capacity is a
25 finite resource on which the industry depends; and

1 (40) operators have the technical expertise to
2 develop new and more efficient processes of dis-
3 posing of new radiological material, including finding
4 repositories in addition to Yucca Mountain.

5 (b) PURPOSES.—The purposes of this Act are to—

6 (1) apply our founding principles as outlined in
7 the Declaration of Independence and Constitution to
8 restore the individual’s right to life, liberty, and the
9 pursuit of happiness by restoring a true all-of-the-
10 above, free market, all-American energy market in
11 the United States;

12 (2) promote expansion of domestic employment
13 opportunities through energy development on Fed-
14 eral lands and through less intrusive government on
15 private lands;

16 (3) respond to the Nation’s increased demand
17 for domestic energy resources, including oil and nat-
18 ural gas resources;

19 (4) support the utilization of the outer Conti-
20 nental Shelf for oil and gas production and trans-
21 mission;

22 (5) confirm and ensure the validity of oil and
23 gas leases issued under the Final Outer Continental
24 Shelf Oil and Gas Leasing Program, 2012–2017;

1 (6) ensure the continued leasing of outer Conti-
2 nental Shelf areas pursuant to the Final Outer Con-
3 tinental Shelf Oil and Gas Leasing Program, 2012–
4 2017;

5 (7) facilitate interagency coordination and co-
6 operation in the processing of permits required to
7 support oil and gas use authorization on Federal
8 lands, both onshore and on the outer Continental
9 Shelf, in order to achieve greater consistency, cer-
10 tainty, and timeliness in permit processing require-
11 ments;

12 (8) promote process streamlining and increased
13 interagency efficiency, including elimination of inter-
14 agency duplication of effort;

15 (9) improve information sharing among agen-
16 cies and understanding of respective agency roles
17 and responsibilities;

18 (10) promote coordination with State agencies
19 with expertise and responsibilities related to Federal
20 oil and gas permitting decisions, and balance Fed-
21 eral interests with the interests and well-being of
22 State and local communities;

23 (11) promote responsible stewardship of Fed-
24 eral oil and gas resources;

1 (12) maintain high standards of safety and en-
2 vironmental protection; and

3 (13) enhance the benefits to Federal permitting
4 already occurring as a result of a coordinated and
5 timely interagency process for oil and gas permit re-
6 view for certain Federal oil and gas leases.

7 **SEC. 4. STATEMENT OF POLICY.**

8 It is the policy of the United States to apply the prin-
9 ciples of individual liberty contained within the Declara-
10 tion of Independence and Constitution for the restoration
11 of a true all-of-the-above, free market, all-American en-
12 ergy strategy by reducing or eliminating financial, regu-
13 latory, and technical barriers to energy exploration and
14 production.

15 **SEC. 5. DEFINITIONS.**

16 For purposes of this Act—

17 (1) **ACT.**—The term “Act” means the Outer
18 Continental Shelf Lands Act (43 U.S.C. 1331 et
19 seq.).

20 (2) **AUTHORIZING LEASING STATUTE.**—The
21 term “authorizing leasing statute” means the Outer
22 Continental Shelf Lands Act (43 U.S.C. 1331 et
23 seq.), the Mineral Leasing Act (30 U.S.C. 181 et
24 seq.), the Mineral Leasing Act for Acquired Lands
25 (30 U.S.C. 351 et seq.), and any other law author-

1 izing the use or disposition of Federal lands for oil
2 and gas production or transmission.

3 (3) COASTAL PLAIN.—The term “Coastal
4 Plain” means that area described in appendix I to
5 part 37 of title 50, Code of Federal Regulations.

6 (4) COVERED OIL AND NATURAL GAS ACTIV-
7 ITY.—The term “covered oil and natural gas activ-
8 ity” means—

9 (A) the leasing or other disposition of any
10 lands pursuant to an authorizing leasing statute
11 for the exploration, development, production,
12 processing, or transmission of oil, natural gas,
13 or associated hydrocarbons, and oil shale, in-
14 cluding actions or decisions relating to the se-
15 lection of which lands may or shall be made
16 available for such leasing; and

17 (B) any activity taken or proposed to be
18 taken pursuant or in relation to such leases, in-
19 cluding their suspension, and any environ-
20 mental analyses relating to such activity.

21 (5) OTHER TERMS.—Any terms used in this
22 Act shall have the meaning such term has in the
23 Act.

24 (6) PRIORITY ENERGY PROJECT.—The term
25 “Priority Energy Project” means a project or facil-

1 ity in the United States whose operation results in
2 the production of a domestic supply of energy or the
3 generation of electricity.

4 (7) PRIORITY ENERGY PROJECT DEVELOPER.—
5 The term “Priority Energy Project Developer”
6 means a person, organization, or other entity that
7 owns or operates a Priority Energy Project.

8 (8) PROGRAM.—The term “program” means a
9 Final Outer Continental Shelf Oil and Gas Leasing
10 Program issued pursuant to section 18 of the Act
11 (43 U.S.C. 1344).

12 (9) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior, unless otherwise indi-
14 cated.

15 **TITLE I—DEVELOPMENT OF**
16 **FEDERAL ENERGY RESOURCES**
17 **Subtitle A—Oil and Gas Leasing in**
18 **the Gulf of Mexico**

19 **SEC. 101. LEASING IN THE EASTERN GULF OF MEXICO.**

20 (a) TERMINATION OF MORATORIUM.—Section 104 of
21 the Gulf of Mexico Energy Security Act of 2006 (43
22 U.S.C. 1331 note; Public Law 109–432) is amended by
23 striking subsection (a) and redesignating subsections (b)
24 and (c) as subsections (a) and (b), respectively.

1 (b) NATIONAL DEFENSE AREA.—Section 12(d) of
2 the Outer Continental Shelf Lands Act (43 U.S.C.
3 1341(d)) is amended—

4 (1) by striking “The United States” and insert-
5 ing the following:

6 “(1) IN GENERAL.—The United States”; and

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

8 “(2) REVIEW.—Annually, the Secretary of De-
9 fense shall review the areas of the outer Continental
10 Shelf that have been designated as restricted from
11 exploration and operation to determine whether the
12 areas should remain under restriction.”.

13 (c) LEASING OF MORATORIUM AREAS.—

14 (1) DESTIN DOME AND PENSACOLA AREAS.—

15 Within 1 year after the date of the enactment of this
16 Act, the Secretary shall offer for leasing under the
17 Outer Continental Shelf Lands Act (43 U.S.C. 1331
18 et seq.), the Destin Dome (OPD NH 16–08) and
19 Pensacola (OPD NH 16–05) areas.

20 (2) OTHER AREAS.—As soon as practicable
21 after the date of enactment of this Act, the Sec-
22 retary shall offer for leasing under the Outer Conti-
23 nental Shelf Lands Act (43 U.S.C. 1331 et seq.),
24 any other areas in the Eastern Gulf of Mexico Plan-

1 (b) EXTENSION OF COVERED LEASES.—The Sec-
2 retary of the Interior shall extend the term of a covered
3 lease by 24 months.

4 (c) MINIMUM DEEPWATER WELL REQUIREMENT.—
5 If fewer than 20 exploration or development wells have
6 been spudded on deepwater leases in the Gulf of Mexico
7 within 18 months after the date of enactment of this Act,
8 the 24-month period under subsection (b) for deepwater
9 leases (water depths of 500 feet or greater) shall be ex-
10 tended by an additional 18 months.

11 (d) EFFECT OF EXTENSION ON SUSPENSIONS.—The
12 lease term extension under this Act shall be in addition
13 to any lease term suspension either granted or directed
14 under section 5(a)(1) of the Act (43 U.S.C. 1334(a)(1))
15 prior to or following the date of enactment of this Act.

16 (e) LEASE REINSTATEMENT.—The Secretary shall
17 reinstate any lease subject to subsection (a) that expired
18 between April 30, 2010 and the date of enactment of this
19 Act, with a new expiration date as provided in subsection
20 (b).

1 **Subtitle B—Scheduled Leasing, Ex-**
2 **ploration, and Development of**
3 **Oil and Natural Gas in the Fed-**
4 **eral Outer Continental Shelf**

5 **SEC. 121. EXPANDED OUTER CONTINENTAL SHELF LEASE**
6 **SALES.**

7 (a) IN GENERAL.—Beginning in fiscal year 2015, the
8 Secretary shall conduct all lease sales included in Table
9 A of the Draft Proposed Outer Continental Shelf Oil and
10 Gas Leasing Program 2010–2015, issued January 2009.
11 All such lease sales shall be conducted in accordance with
12 this section.

13 (b) EIS.—The Secretary is deemed to have issued a
14 final environmental impact statement for the program de-
15 scribed in subsection (a) in accordance with all require-
16 ments under section 102(2)(C) of the National Environ-
17 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

18 (c) EXEMPTION FROM CONSISTENCY REVIEW.—The
19 Secretary’s decision to hold a lease sale required under
20 this section shall not be subject to consistency review
21 under the Coastal Zone Management Act of 1972 (16
22 U.S.C. 1451 et seq.).

23 (d) LEASING PROGRAM.—The Secretary shall pre-
24 pare and make available a 2015–2020 Draft Proposed

1 Outer Continental Shelf Oil and Gas Leasing Program no
2 later than 1 year after the date of enactment of this Act.

3 (e) REQUIREMENT TO MAINTAIN PROGRAM.—The
4 Secretary’s implementation of the requirements of this
5 section shall fulfill the requirement under section 19 of
6 the Act (43 U.S.C. 1345) to maintain an oil and gas leas-
7 ing program through June 30, 2015.

8 **SEC. 122. GEOLOGICAL AND GEOPHYSICAL ACTIVITIES IN**
9 **EXPANDED LEASING AREAS.**

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

11 (1) the long-delayed Environmental Impact
12 Statement (EIS) for the conduct of a safe, environ-
13 mentally protective seismic assessment of the oil and
14 natural gas resources offshore the Atlantic Outer
15 Continental Shelf (OCS) should be completed;

16 (2) it has been nearly 2 generations since seis-
17 mic testing was last conducted along our Eastern
18 Seaboard;

19 (3) updated 3–D and 4–D technology revealed
20 about 500 percent more resource potential than ear-
21 lier estimates when used to gather seismic data in
22 the Gulf of Mexico;

23 (4) in the many decades seismic surveys have
24 been conducted around the world, there has never
25 been a documented case where use of an air gun to

1 perform a seismic survey has caused the death of an
2 animal; and

3 (5) April 2014 will mark 2 years since the De-
4 partment of the Interior's original projected target
5 completion of such EIS.

6 (b) EIS FOR ATLANTIC OCS PLANNING AREA.—The
7 Secretary shall issue a Final Programmatic Environ-
8 mental Impact Statement and Record of Decision pursu-
9 ant to the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.), assessing the environmental effects
11 of geological and geophysical activities in the Atlantic
12 Outer Continental Shelf Planning Area.

13 (c) PERMITS FOR ATLANTIC OCS PLANNING
14 AREA.—Pursuant to all of the laws that apply to geologic
15 and geophysical activities in the Atlantic Outer Conti-
16 nental Shelf Planning Area, the Secretary, acting through
17 the Bureau of Ocean Energy Management, shall establish
18 a process to ensure the timely completion of all permit
19 processing activities that meets the requirements of the
20 Act for geologic and geophysical activities in the Atlantic
21 Outer Continental Shelf Planning Area, including areas
22 of the Southern Atlantic Outer Continental Shelf.

23 (d) PRELIMINARY EIS FOR SOUTHERN CALIFORNIA
24 OCS PLANNING AREA.—Not later than 18 months after
25 the date of enactment of this Act, the Secretary shall issue

1 a Preliminary Environmental Impact Statement pursuant
2 to the National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.) to assess the environmental impacts
4 of geophysical activities in the Southern California Outer
5 Continental Shelf Planning Area.

6 **SEC. 123. PAYMENTS FROM AREAS NEWLY AVAILABLE TO**
7 **LEASING.**

8 (a) IN GENERAL.—Notwithstanding section 9 of the
9 Act (43 U.S.C. 1338), upon enactment of this Act and
10 each fiscal year thereafter, 37.5 percent of all bonuses,
11 rents, royalties, and other sums due and payable to the
12 United States received on or after enactment of this Act
13 from outer Continental Shelf leases entered into on or
14 after the date of enactment of this Act shall be paid to
15 the coastal States that are Adjacent States with respect
16 to such leases. Such payment shall be allocated to each
17 such Adjacent State in amounts (based on a formula es-
18 tablished by the Secretary by regulation) that are inversely
19 proportional to the respective distances between the point
20 on the coastline of the Adjacent State that is closest to
21 the geographic center of the applicable leased tract and
22 the geographic center of the leased tract.

23 (b) EXCLUSIONS.—Subsection (a) shall not apply
24 to—

1 (1) revenues from the forfeiture of a bond or
2 other surety securing obligations other than royalti-
3 ties, civil penalties, or royalties taken by the Sec-
4 retary in-kind and not sold; and

5 (2) revenues generated from leases subject to
6 section 8(g) of the Act (43 U.S.C. 1137(g)).

7 (c) USE OF PAYMENTS TO STATES.—Amounts paid
8 to a State under subsection (a) shall be used by the State
9 for such purposes as that State considers necessary.

10 (d) GULF OF MEXICO OUTER CONTINENTAL SHELF
11 REVENUES.—

12 (1) LIMITATION ON APPLICATION.—Subsection
13 (a) shall not affect the application of section 105 of
14 the Gulf of Mexico Energy Security Act of 2006
15 (title I of division C of Public Law 109–432; (43
16 U.S.C. 1331 note)), as in effect before the enact-
17 ment of this Act, with respect to revenues received
18 by the United States under oil and gas leases issued
19 for tracts located in the Western and Central Gulf
20 of Mexico Outer Continental Shelf Planning Areas,
21 including such leases issued on or after the date of
22 the enactment of this Act.

23 (2) AMOUNT OF DISTRIBUTED QUALIFIED
24 OUTER CONTINENTAL SHELF REVENUES.—Section
25 105(f)(1) of the Gulf of Mexico Energy Security Act

1 of 2006 (title I of division C of Public Law 109–
2 432; (43 U.S.C. 1331 note)) is amended by striking
3 “2055” and inserting “2022, and shall not exceed
4 \$750,000,000 for each of fiscal years 2023 through
5 2055”.

6 **SEC. 124. DEFINITIONS UNDER THE OUTER CONTINENTAL**
7 **SHELF LANDS ACT.**

8 Section 2 of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1331) is amended—

10 (1) by amending paragraph (f) to read as fol-
11 lows:

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

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

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

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

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

1 program, plan, lease sale, leased tract, or activity apper-
2 tains or is, or is proposed to be, conducted.

3 “(s) The term ‘State’ includes all States having a
4 coastline contiguous to the Arctic, Atlantic, or Pacific
5 Ocean, or the Gulf of Mexico, the Commonwealth of Puer-
6 to Rico, the Commonwealth of the Northern Mariana Is-
7 lands, the United States Virgin Islands, American Samoa,
8 Guam, the other territories of the United States, and the
9 District of Columbia.

10 “(t) The term ‘Adjacent Zone’ means, with respect
11 to any program, plan, lease sale, leased tract, or other ac-
12 tivity, proposed, conducted, or approved pursuant to this
13 Act, the portion of the outer Continental Shelf for which
14 the laws of a particular Adjacent State are declared, pur-
15 suant to section 4(a)(2), to be the law of the United
16 States.

17 “(u) The term ‘miles’ means statute miles.

18 “(v) The term ‘coastline’ has the same meaning as
19 the term ‘coast line’ as defined in section 2(c) of the Sub-
20 merged Lands Act (43 U.S.C. 1301(c)).

21 “(w) The term ‘Neighboring State’ means a coastal
22 State having a common boundary at the coastline with the
23 Adjacent State.”; and

24 (5) in paragraph (a), by inserting after “con-
25 trol” the following: “or lying within the United

1 States Exclusive Economic Zone and outer Conti-
2 nental Shelf adjacent to the Commonwealth of Puer-
3 to Rico, the Commonwealth of the Northern Mar-
4 iana Islands, the United States Virgin Islands,
5 American Samoa, Guam, or any other territory of
6 the United States”.

7 **SEC. 125. DETERMINATION OF ADJACENT ZONES AND**
8 **PLANNING AREAS.**

9 Section 4(a)(2)(A) of the Outer Continental Shelf
10 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
11 first sentence by striking “, and the President” and all
12 that follows through the end of the sentence and inserting
13 the following: “. The lines extending seaward and defining
14 each State’s Adjacent Zone, and the Atlantic OCS Plan-
15 ning Area, are as indicated on the maps for the Atlantic
16 Outer Continental Shelf region entitled ‘Atlantic OCS Re-
17 gion State Adjacent Zones and OCS Planning Areas’,
18 which is dated September 2005 and is on file in the Office
19 of the Director, Minerals Management Service. The Sec-
20 retary shall designate the Adjacent Zones of States, and
21 additional OCS Planning Areas, for parts of the United
22 States Exclusive Economic Zone and outer Continental
23 Shelf not covered by those maps.”.

1 **Subtitle C—Leasing, Exploration,**
2 **and Development of Oil and**
3 **Natural Gas Resources in Por-**
4 **tions of the Coastal Plain of**
5 **Alaska**

6 **SEC. 131. ESTABLISHMENT OF LEASING PROGRAM FOR**
7 **COASTAL PLAIN.**

8 The Secretary shall take such actions as are nec-
9 essary—

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

19 (2) to administer the provisions of this title
20 through regulations, lease terms, conditions, restric-
21 tions, prohibitions, stipulations, and other provisions
22 that ensure the oil and gas exploration, development,
23 and production activities on the Coastal Plain will
24 minimize any significant adverse effects on fish and
25 wildlife, their habitat, subsistence resources, and the

1 environment, including, in furtherance of this goal,
2 by requiring the application of the best commercially
3 available technology for oil and gas exploration, de-
4 velopment, and production to all exploration, devel-
5 opment, and production operations under this title
6 in a manner that ensures the receipt of fair market
7 value by the public for the mineral resources to be
8 leased.

9 **SEC. 132. CONDUCT OF LEASING PROGRAM.**

10 (a) REPEAL.—

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

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

17 (b) COMPLIANCE WITH REQUIREMENTS UNDER
18 CERTAIN OTHER LAWS.—

19 (1) COMPATIBILITY.—For purposes of the Na-
20 tional Wildlife Refuge System Administration Act of
21 1966 (16 U.S.C. 668dd et seq.), the oil and gas
22 leasing program and activities authorized by this
23 subtitle in the Coastal Plain are deemed to be com-
24 patible with the purposes for which the Arctic Na-
25 tional Wildlife Refuge was established, and no fur-

1 ther findings or decisions are required to implement
2 this determination.

3 (2) ADEQUACY OF THE DEPARTMENT OF THE
4 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
5 STATEMENT.—The “Final Legislative Environ-
6 mental Impact Statement” (April 1987) on the
7 Coastal Plain prepared pursuant to section 1002 of
8 the Alaska National Interest Lands Conservation
9 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
10 of the National Environmental Policy Act of 1969
11 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
12 quirements under the National Environmental Policy
13 Act of 1969 that apply with respect to prelease ac-
14 tivities, including actions authorized to be taken by
15 the Secretary to develop and promulgate the regula-
16 tions for the establishment of a leasing program au-
17 thorized by this subtitle before the conduct of the
18 first lease sale.

19 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
20 TIONS.—Before conducting the first lease sale under
21 this subtitle, the Secretary shall prepare an environ-
22 mental impact statement under the National Envi-
23 ronmental Policy Act of 1969 with respect to the ac-
24 tions authorized by this subtitle that are not re-
25 ferred to in paragraph (2). Notwithstanding any

1 other law, the Secretary is not required to identify
2 nonleasing alternative courses of action or to analyze
3 the environmental effects of such courses of action.
4 The Secretary shall only identify a preferred action
5 for such leasing and a single leasing alternative, and
6 analyze the environmental effects and potential miti-
7 gation measures for those two alternatives. The
8 identification of the preferred action and related
9 analysis for the first lease sale under this subtitle
10 shall be completed within 18 months after the date
11 of enactment of this Act. The Secretary shall only
12 consider public comments that specifically address
13 the Secretary's preferred action and that are filed
14 within 20 days after publication of an environmental
15 analysis. Notwithstanding any other law, compliance
16 with this paragraph is deemed to satisfy all require-
17 ments for the analysis and consideration of the envi-
18 ronmental effects of proposed leasing under this sub-
19 title. In preparing or reviewing an environmental as-
20 sessment pursuant to the National Environmental
21 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any
22 regulations promulgated thereto, an agency shall
23 consider, in addition to any mitigation required by
24 the agency, all applicable Federal, State, local, and
25 other laws and regulations, guidelines, permit condi-

1 tions, and any other requirements and best practices
2 regarding a Priority Energy Project and any other
3 actions considered in a cumulative effects analysis.
4 Pursuant to that, the agency shall make a finding
5 of no significant impact or a mitigated finding of no
6 significant impact, as applicable, unless, presuming
7 administrative regularity, the agency can conclu-
8 sively demonstrate that the mitigation required by
9 the agency and the applicable Federal, State, local,
10 and other laws and regulations, guidelines, permit
11 conditions, and any other requirements and best
12 practices regarding a Priority Energy Project and
13 any other actions considered in a cumulative effects
14 analysis will not prevent or otherwise mitigate a sig-
15 nificant impact on the human environment.

16 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
17 ITY.—Nothing in this subtitle shall be considered to limit
18 State and local regulatory authority.

19 (d) SPECIAL AREAS.—

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

1 and interest so as to require special management
2 and regulatory protection. The Secretary shall des-
3 ignate as such a Special Area the Sadlerochit Spring
4 area, comprising approximately 4,000 acres.

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

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

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

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

1 (f) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out this
3 subtitle, including rules and regulations relating to protec-
4 tion of the fish and wildlife, their habitat, subsistence re-
5 sources, and environment of the Coastal Plain, by no later
6 than 12 months after the date of enactment of this Act.

7 (g) LEASE SALES.—

8 (1) IN GENERAL.—Lands may be leased pursu-
9 ant to this subtitle to any person qualified to obtain
10 a lease for deposits of oil and gas under the Mineral
11 Leasing Act (30 U.S.C. 181 et seq.).

12 (2) PROCEDURES.—The Secretary shall, by reg-
13 ulation, establish procedures for—

14 (A) receipt and consideration of sealed
15 nominations for any area in the Coastal Plain
16 for inclusion in, or exclusion (as provided in
17 subparagraph (C)) from, a lease sale;

18 (B) the holding of lease sales after such
19 nomination process; and

20 (C) public notice of and comment on des-
21 ignation of areas to be included in, or excluded
22 from, a lease sale.

23 (3) LEASE SALE BIDS.—Bidding for leases
24 under this subtitle shall be by sealed competitive
25 cash bonus bids.

1 (4) ACREAGE MINIMUM IN FIRST SALE.—In the
2 first lease sale under this subtitle, the Secretary
3 shall offer for lease those tracts the Secretary con-
4 siders to have the greatest potential for the dis-
5 covery of hydrocarbons, taking into consideration
6 nominations received pursuant to paragraph (2)(A),
7 but in no case less than 200,000 acres.

8 (5) TIMING OF LEASE SALES.—The Secretary
9 shall—

10 (A) conduct the first lease sale under this
11 subtitle within 18 months after the date of the
12 enactment of this Act;

13 (B) evaluate the bids in such sale and
14 issue leases resulting from such sale, within 90
15 days after the date of the completion of such
16 sale; and

17 (C) conduct additional sales so long as suf-
18 ficient interest in development exists to war-
19 rant, in the Secretary's judgment, the conduct
20 of such sales.

21 (h) GRANT OF LEASES BY THE SECRETARY.—

22 (1) IN GENERAL.—The Secretary may grant to
23 the highest responsible qualified bidder in a lease
24 sale conducted pursuant to subsection (g) any lands
25 to be leased on the Coastal Plain upon payment by

1 the lessee of such bonus as may be accepted by the
2 Secretary.

3 (2) SUBSEQUENT TRANSFERS.—No lease issued
4 under this subtitle may be sold, exchanged, assigned,
5 sublet, or otherwise transferred except with the ap-
6 proval of the Secretary. Prior to any such approval
7 the Secretary shall consult with, and give due con-
8 sideration to the views of, the Attorney General.

9 (i) LEASE TERMS AND CONDITIONS.—An oil or gas
10 lease issued pursuant to this subtitle shall—

11 (1) provide for the payment of a royalty of
12 37½ percent in amount or value of the production
13 removed or sold from the lease, as determined by the
14 Secretary under the regulations applicable to other
15 Federal oil and gas leases;

16 (2) require that the lessee of lands within the
17 Coastal Plain shall be fully responsible and liable for
18 the reclamation of lands within the Coastal Plain
19 and any other Federal lands that are adversely af-
20 fected in connection with exploration, development,
21 production, or transportation activities conducted
22 under the lease and within the Coastal Plain by the
23 lessee or by any of the subcontractors or agents of
24 the lessee;

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

5 (4) provide that the standard of reclamation for
6 lands required to be reclaimed under this subtitle
7 shall be, as nearly as practicable, a condition capable
8 of supporting the uses which the lands were capable
9 of supporting prior to any exploration, development,
10 or production activities, or upon application by the
11 lessee, to a higher or better use as approved by the
12 Secretary;

13 (5) contain terms and conditions relating to
14 protection of fish and wildlife, their habitat, subsist-
15 ence resources, and the environment as required
16 pursuant to section 131(2);

17 (6) provide that the lessee, its agents, and its
18 contractors use best efforts to provide a fair share,
19 as determined by the level of obligation previously
20 agreed to in the 1974 agreement implementing sec-
21 tion 29 of the Federal Agreement and Grant of
22 Right of Way for the Operation of the Trans Alaska
23 Pipeline, of employment and contracting for Alaska
24 Natives and Alaska Native Corporations from
25 throughout the State; and

1 (7) contain such other provisions as the Sec-
2 retary determines necessary to ensure compliance
3 with the provisions of this subtitle and the regula-
4 tions issued under this subtitle.

5 (j) LEASE APPROVAL DEADLINES.—

6 (1) IN GENERAL.—Not later than 10 business
7 days after the date on which an agency receives an
8 application for any permit, authorization, or other
9 agency action with respect to a lease under this sub-
10 title, the agency shall—

11 (A) notify the applicant that the applica-
12 tion is complete; or

13 (B) notify the applicant that information is
14 missing and specify any information that is re-
15 quired to be submitted for the application to be
16 complete.

17 (2) ISSUANCE OR DEFERRAL.—Not later than
18 30 days after the applicant for such a permit, au-
19 thorization, or other agency action has submitted a
20 complete application, the agency shall—

21 (A) issue the permit; or

22 (B)(i) defer the decision on the permit;

23 and

1 (ii) provide to the applicant a notice that
2 specifies any steps that the applicant could take
3 for the permit to be issued.

4 (3) REQUIREMENTS FOR DEFERRED APPLICA-
5 TIONS.—

6 (A) IN GENERAL.—If the agency provides
7 notice under paragraph (2)(B), the applicant
8 shall have a period of 2 years from the date of
9 receipt of the notice in which to complete all re-
10 quirements specified by the agency, including
11 providing information needed for compliance
12 with the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.).

14 (B) ISSUANCE OF DECISION ON PERMIT.—
15 If the applicant completes the requirements
16 within the period specified in subparagraph (A),
17 the agency shall issue a decision on the permit
18 not later than 10 days after the date of comple-
19 tion of the requirements described in subpara-
20 graph (A).

21 (C) DENIAL OF PERMIT.—If the applicant
22 does not complete the requirements within the
23 period specified in subparagraph (A) the agency
24 shall deny the permit.

1 (4) AGENCY REQUIREMENTS.—In any applica-
2 tion for a permit, authorization, or other agency ac-
3 tion, the agency shall be prohibited from requiring
4 the applicant to perform any analyses, studies, or
5 other activities that are novel, unprecedented, or
6 otherwise inconsistent with past requirements for
7 permit applicants in the same or similar situations.

8 (5) FAILURE TO ACT.—In the event the agency
9 fails to meet any deadline set forth in this section,
10 the agency shall immediately grant the requested
11 permit, authorization, or other approval.

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

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

21 (2) The environmental protection standards
22 that governed the initial Coastal Plain seismic explo-
23 ration program under parts 37.31 to 37.33 of title
24 50, Code of Federal Regulations.

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

6 (l) ENVIRONMENTAL APPEALS BOARD.—

7 (1) LIMITATION ON DELEGATION OF AUTHOR-
8 ITY.—The Administrator of the Environmental Pro-
9 tection Agency shall not delegate any authority to
10 the Environmental Appeals Board to consider, re-
11 view, reject, remand, or otherwise invalidate any per-
12 mit for activity under a lease under this title.

13 (2) PERFORMANCE BY SECRETARY.—The Ad-
14 ministrator shall perform all duties currently as-
15 signed to the Environmental Appeals Board in the
16 Secretary's individual capacity.

17 (m) FACILITY CONSOLIDATION PLANNING.—

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

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

1 (A) Avoiding unnecessary duplication of fa-
2 cilities and activities.

3 (B) Encouraging consolidation of common
4 facilities and activities.

5 (C) Locating or confining facilities and ac-
6 tivities to areas that will minimize impact on
7 fish and wildlife, their habitat, and the environ-
8 ment.

9 (D) Utilizing existing facilities wherever
10 practicable.

11 (E) Enhancing compatibility between wild-
12 life values and development activities.

13 (n) ACCESS TO PUBLIC LANDS.—The Secretary
14 shall—

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

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

22 (o) EXPEDITED JUDICIAL REVIEW.—

23 (1) FILING OF COMPLAINT.—

24 (A) DEADLINE.—A complaint seeking judi-
25 cial review of any provision of this section or

1 any action of the Secretary under this section
2 shall be filed—

3 (i) within the 90-day period beginning
4 on the date of the action being challenged;
5 or

6 (ii) in the case of a complaint based
7 solely on grounds arising after such period,
8 within 90 days after the complainant knew
9 or reasonably should have known of the
10 grounds for the complaint.

11 (B) VENUE.—Any complaint seeking judi-
12 cial review of any provision of this subtitle or
13 any action of the Secretary under this subtitle
14 may be filed only in the United States Court of
15 Appeals for the District of Columbia.

16 (C) LIMITATION ON SCOPE OF CERTAIN
17 REVIEW.—Judicial review of a Secretarial deci-
18 sion to conduct a lease sale under this subtitle,
19 including the environmental analysis thereof,
20 shall be limited to whether the Secretary has
21 complied with this subtitle and shall be based
22 upon the administrative record of that decision.
23 The Secretary's identification of a preferred
24 course of action to enable leasing to proceed
25 and the Secretary's analysis of environmental

1 effects under this subtitle shall be presumed to
2 be correct unless shown otherwise by clear and
3 convincing evidence to the contrary.

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

9 **SEC. 133. FEDERAL AND STATE DISTRIBUTION OF REVE-**
10 **NUES.**

11 (a) IN GENERAL.—All adjusted bonus, rental, and
12 royalty revenues from Federal oil and gas leasing and op-
13 erations authorized under this subtitle shall be subject to
14 distribution in the same manner as for Federal oil and
15 gas leases under section 35 of the Mineral Leasing Act
16 (30 U.S.C. 191).

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

19 **SEC. 134. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

23 (1) except as provided in paragraph (2), under
24 section 28 of the Mineral Leasing Act (30 U.S.C.
25 185), without regard to title XI of the Alaska Na-

1 tional Interest Lands Conservation Act (30 U.S.C.
2 3161 et seq.); and

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

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

16 (c) REGULATIONS.—The Secretary shall include in
17 regulations under section 132 provisions granting rights-
18 of-way and easements described in subsection (a).

19 **SEC. 135. CONVEYANCE.**

20 In order to maximize Federal revenues by removing
21 clouds on title to lands and clarifying land ownership pat-
22 terns within the Coastal Plain, the Secretary, notwith-
23 standing section 1302(h)(2) of the Alaska National Inter-
24 est Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall
25 convey—

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

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

17 **Subtitle D—State Control of En-**
18 **ergy Development and Produc-**
19 **tion on All Available Federal**
20 **Land**

21 **SEC. 141. SHORT TITLE.**

22 This subtitle may be cited as the “Federal Land
23 Freedom Act of 2013”.

1 **SEC. 142. STATE CONTROL OF ENERGY DEVELOPMENT AND**
2 **PRODUCTION ON ALL AVAILABLE FEDERAL**
3 **LAND.**

4 (a) DEFINITIONS.—In this section:

5 (1) AVAILABLE FEDERAL LAND.—The term
6 “available Federal land” means any Federal land
7 that, as of May 31, 2013—

8 (A) is located within the boundaries of a
9 State;

10 (B) is not held by the United States in
11 trust for the benefit of a federally recognized
12 Indian tribe;

13 (C) is not a unit of the National Park Sys-
14 tem;

15 (D) is not a unit of the National Wildlife
16 Refuge System; and

17 (E) is not a Congressionally designated
18 wilderness area.

19 (2) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 (3) STATE.—The term “State” means—

22 (A) a State; and

23 (B) the District of Columbia.

24 (b) STATE PROGRAMS.—

25 (1) IN GENERAL.—A State—

1 (A) may establish a program covering the
2 leasing and permitting processes, regulatory re-
3 quirements, and any other provisions by which
4 the State would exercise its rights to develop all
5 forms of energy resources on available Federal
6 land in the State; and

7 (B) as a condition of certification under
8 subsection (c)(2) shall submit a declaration to
9 the Departments of the Interior, Agriculture,
10 and Energy that a program under subpara-
11 graph (A) has been established or amended.

12 (2) AMENDMENT OF PROGRAMS.—A State may
13 amend a program developed and certified under this
14 section at any time.

15 (3) CERTIFICATION OF AMENDED PROGRAMS.—
16 Any program amended under paragraph (2) shall be
17 certified under subsection (c)(2).

18 (c) LEASING, PERMITTING, AND REGULATORY PRO-
19 GRAMS.—

20 (1) SATISFACTION OF FEDERAL REQUIRE-
21 MENTS.—Each program certified under this section
22 shall be considered to satisfy all applicable require-
23 ments of Federal law (including regulations), includ-
24 ing—

1 (A) the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.);

3 (B) the Endangered Species Act of 1973
4 (16 U.S.C. 1531 et seq.); and

5 (C) the National Historic Preservation Act
6 (16 U.S.C. 470 et seq.).

7 (2) FEDERAL CERTIFICATION AND TRANSFER
8 OF DEVELOPMENT RIGHTS.—Upon submission of a
9 declaration by a State under subsection (b)(1)(B)—

10 (A) the program under subsection
11 (b)(1)(A) shall be certified; and

12 (B) the State shall receive all rights from
13 the Federal Government to develop all forms of
14 energy resources covered by the program.

15 (3) ISSUANCE OF PERMITS AND LEASES.—If a
16 State elects to issue a permit or lease for the devel-
17 opment of any form of energy resource on any avail-
18 able Federal land within the borders of the State in
19 accordance with a program certified under para-
20 graph (2), the permit or lease shall be considered to
21 meet all applicable requirements of Federal law (in-
22 cluding regulations).

23 (d) JUDICIAL REVIEW.—Activities carried out in ac-
24 cordance with this Act shall not be subject to judicial re-
25 view.

1 (e) ADMINISTRATIVE PROCEDURE ACT.—Activities
2 carried out in accordance with this Act shall not be subject
3 to subchapter II of chapter 5, and chapter 7, of title 5,
4 United States Code (commonly known as the “Administra-
5 tive Procedure Act”).

6 **Subtitle E—Prohibition on New**
7 **Wilderness or Wilderness Study**
8 **Areas on Lands Administered by**
9 **the BLM Without Congressional**
10 **Approval; Indian Land Develop-**
11 **ment**

12 **SEC. 151. REPEAL OF EXECUTIVE ORDER.**

13 The Bureau of Land Management shall not imple-
14 ment, administer, or enforce Secretarial Order No. 3310,
15 issued by the Secretary of the Interior on December 22,
16 2010, except by Congressional approval.

17 **SEC. 152. WILDERNESS DESIGNATION PROCEDURES.**

18 (a) PRECONDITION TO DESIGNATION.—The Sec-
19 retary of the Interior may not designate or issue a rec-
20 ommendation to designate a wilderness or wilderness
21 study area as “Wild Lands”, “Wilderness”, or any other
22 protective designation on lands administered by the Bu-
23 reau of Land Management before the last day of the 30-
24 day period beginning on the date on which the Secretary
25 provides a description and map of the land proposed to

1 be so designated to Congress and to the Governor of each
2 State with jurisdiction over parcels of land located within
3 the boundaries of the area proposed to be designated.

4 (b) PUBLIC PARTICIPATION.—

5 (1) PUBLIC HEARING REQUIREMENT.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (D), not later than 90 days after the
8 date on which the Secretary of the Interior
9 issues a recommendation under subsection (a),
10 the Secretary shall hold not fewer than one
11 public hearing within a county (or comparable
12 unit of local government) located wholly or in
13 part within the boundaries of the proposed wil-
14 derness or wilderness study area. The Secretary
15 shall ensure that all interested individuals are
16 afforded an opportunity to participate in a
17 hearing held under this paragraph.

18 (B) COMMENTS.—The Secretary of the In-
19 terior shall solicit comments from the public at
20 a hearing held under subparagraph (A), and
21 shall enter all comments received at or related
22 to such hearing into the record of the hearing.

23 (C) AVAILABILITY OF RECORD.—The Sec-
24 retary of the Interior shall promptly make the
25 record of a hearing held under subparagraph

1 (A), including a transcript of the hearing, avail-
2 able to the public on the Internet or by other
3 electronic means. The Secretary shall ensure
4 that any components of the record that are
5 completed before the entire record is finalized
6 are made available upon their completion.

7 (D) WAIVER.—The Secretary of the Inte-
8 rior may decline to hold a public hearing under
9 subparagraph (A) if each unit of local govern-
10 ment located wholly or in part within the
11 boundaries of the national monument expressly
12 waives the right to such hearing.

13 (2) NOTICE AND COMMENT PERIOD REQUIRE-
14 MENT.—Not later than 30 days after the date on
15 which Secretary of the Interior issues a rec-
16 ommendation under subsection (a), the Secretary
17 shall initiate a notice and comment period to receive
18 comments from the public regarding the rec-
19 ommendation.

20 (3) REPORT.—

21 (A) CONTENTS.—Not later than one year
22 after issuing a recommendation to designate a
23 wilderness or wilderness study area under sub-
24 section (a), the Secretary shall submit to Con-
25 gress a report containing the following:

1 (i) An analysis of the economic impact
2 of the designation on the communities
3 within 100 miles of the boundaries of the
4 proposed wilderness or wilderness study
5 area, including an estimate of the tax reve-
6 nues that will be lost to, or gained for, the
7 Federal, State, and local governments as a
8 result of the designation.

9 (ii) An analysis of the impact the des-
10 igation will have on the Nation's energy
11 security, including the effects of the loss of
12 sites to produce wind, geothermal, or solar
13 energy, and the number of barrels of oil,
14 tons of coal, or cubic feet of natural gas
15 that will become unavailable as a result of
16 the designation.

17 (iii) The projected impact of the des-
18 igation on interests, rights, and uses as-
19 sociated with the parcels of land within the
20 boundaries of the monument, including
21 water rights, hunting, recreational shoot-
22 ing, grazing, timber production, vegetation
23 manipulation to maintain forest health,
24 off-road vehicle use, hiking, horseback

1 riding, and mineral and energy leases,
2 claims, and permits.

3 (iv) The record of any hearings held
4 under paragraph (1).

5 (v) Any written comments received
6 during the notice and comment period con-
7 ducted under paragraph (2).

8 (B) PUBLICATION.—The Secretary of the
9 Interior shall ensure that—

10 (i) a report submitted to Congress
11 under subparagraph (A) is published on
12 the Department of the Interior Web site
13 upon completion; and

14 (ii) any components of the report that
15 are completed before the entire report is fi-
16 nalized and submitted to Congress are
17 published on the Department of the Inte-
18 rior Web site upon their completion.

19 (4) IMPLEMENTATION GUIDELINES.—The Sec-
20 retary of the Interior, in cooperation with the States,
21 shall develop and publish guidelines to provide for
22 the implementation of subsection.

23 (c) CONGRESSIONAL APPROVAL OF DESIGNATION.—

24 (1) APPROVAL REQUIRED.—A designation
25 issued under subsection (a) shall cease to be effec-

1 tive following the last day of the 2-year period begin-
2 ning on the date on which the Secretary of the Inte-
3 rior issued the designation, unless the report is ap-
4 proved by an Act of Congress on or before that last
5 day.

6 (2) MANAGEMENT OF LAND BEFORE AP-
7 PROVAL.—During the period between the issuance of
8 the report described in subsection (b)(3) and con-
9 gressional approval described above, the Secretary of
10 the Interior shall ensure that any restriction placed
11 on land and interests, rights, or uses associated with
12 the parcels of land designated as a national monu-
13 ment, including water rights, hunting, recreational
14 shooting, grazing, timber production, vegetation ma-
15 nipulation to maintain forest health, off-road vehicle
16 use, hiking, horseback riding, and mineral and en-
17 ergy leases, claims, and permits, is narrowly tailored
18 and essential to the proper care and management of
19 the objects to be protected.

20 (3) EFFECT OF NONAPPROVAL.—If Congress
21 does not approve the report, any reservation of land
22 made by the report, and any restriction imposed as
23 a result of the report on interests, rights, or uses as-
24 sociated with the parcels of land, shall cease to be

1 effective following the last day of the 2-year period
2 referred to in paragraph (1).

3 **SEC. 153. FUTURE EXECUTIVE BRANCH ACTIONS.**

4 (a) EFFECTIVENESS.—Upon enactment of this Act,
5 no executive branch action that withdraws more than 100
6 acres, in the aggregate, of public lands within the United
7 States pursuant to the Antiquities Act of 1906 (16 U.S.C.
8 431 et seq.) or any other relevant authority shall be effec-
9 tive except by compliance with this section. The provisions
10 of this subsection shall apply to executive branch actions
11 that withdraw less than 100 acres of public land where
12 such withdrawals are located within 100 miles of any other
13 withdrawal of public lands.

14 (b) WITHDRAWAL.—To the extent authorized by ex-
15 isting law, the President or the relevant head of an agency
16 may withdraw public lands in the United States provided
17 that such withdrawal shall not be effective until notice is
18 provided in the Federal Register and to the House of Rep-
19 resentatives and the Senate. Such withdrawal shall termi-
20 nate unless approved by a Federal statute not later than
21 one year after the notice of such withdrawal has been sub-
22 mitted to Congress.

23 (c) LIMITATION.—If Congress fails to pass an Act ap-
24 proving a withdrawal under subsection (b), the President
25 or the relevant head of an agency shall be prohibited from

1 withdrawing such land or a similar area of public lands
2 until at least 5 years after the end of the time period de-
3 scribed in subsection (b).

4 **SEC. 154. LEASES FOR DEVELOPMENT OF NATURAL RE-**
5 **SOURCES ON INDIAN LANDS.**

6 Subsection (a) of the first section of the Act to au-
7 thorize the leasing of restricted Indian lands for public,
8 religious, educational, recreational, residential, business,
9 and other purposes requiring the grant of long-term leases
10 (25 U.S.C. 415(a); commonly known as the “Long-term
11 Leasing Act”) is amended by striking “including the de-
12 velopment or utilization of natural resources in connection
13 with operations under such leases” and inserting “except
14 leases for the development or utilization of natural re-
15 sources and leases in connection with operations under
16 such leases, neither of which shall require Secretarial ap-
17 proval under this section,”.

1 **Subtitle F—Legal Causes and**
2 **Claims Pertaining to the Leas-**
3 **ing and Development of Federal**
4 **Lands for Exploration and Pro-**
5 **duction of Oil, Natural Gas, As-**
6 **sociated Hydrocarbons, and Oil**
7 **Shale**

8 **SEC. 161. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC**
9 **UNCONVENTIONAL FUELS.**

10 (a) JURISDICTION.—Upon enactment of this Act, the
11 Federal Energy Regulatory Commission, in lieu of the De-
12 partment of the Interior, shall be granted exclusive juris-
13 diction and all relevant authority to implement and admin-
14 ister the leasing program for research and development
15 of oil shale and tar sands and all other programs and re-
16 quirements contained in section 369 of the Energy Policy
17 Act of 2005 (Public Law 109–58; 42 U.S.C. 15927).

18 (b) REGULATIONS.—Upon enactment of this Act and
19 pursuant to paragraph (1), the Federal Energy Regu-
20 latory Commission shall immediately stay all regulations
21 and guidelines promulgated by the Department of the In-
22 terior or any other agency under section 369 of the En-
23 ergy Policy Act of 2005 and, notwithstanding any other
24 law, publish proposed rules in the Federal Register not
25 later than 6 months following enactment of this Act that

1 fully implement as expeditiously as practicable the provi-
2 sions of such section 369. The Federal Energy Regulatory
3 Commission shall publish final rules not later than 18
4 months following enactment of this Act.

5 (c) RESOURCES.—The Federal Energy Regulatory
6 Commission is authorized to request from the Department
7 of the Interior and the Department of Energy any re-
8 sources and personnel that it deems necessary to imple-
9 ment and administer the provisions of this subsection, and
10 the Department of the Interior and the Department of En-
11 ergy are required to provide such resources and personnel
12 as requested.

13 **SEC. 162. ENERGY PRODUCTION ON FEDERAL LANDS.**

14 (a) REQUIREMENT.—The Secretary of the Interior is
15 directed to take sufficient actions to ensure that by Janu-
16 ary 1, 2018, not less than 10 percent of the Federal outer
17 Continental Shelf lands and not less than 10 percent of
18 onshore Federal lands and interests in lands that are
19 under the Secretary’s jurisdiction are being leased for the
20 production of energy.

21 (b) AUTHORIZATION.—The Secretary of the Interior
22 shall utilize all available authority pursuant to this Act
23 and any other Federal law, as applicable, to comply with
24 the requirement in subsection (a).

1 **SEC. 163. JURISDICTION.**

2 (a) **EXCLUSIVE JURISDICTION.**—Notwithstanding
3 any other provision of law, including section 23(c)(2) of
4 the Outer Continental Shelf Lands Act (43 U.S.C.
5 1349(c)(2)), any final agency decision concerning any cov-
6 ered oil and natural gas activity shall be subject to judicial
7 review only in the United States District Court for the
8 District of Columbia.

9 (b) **FINALITY OF LEASING DECISIONS.**—Notwith-
10 standing the provisions of any law or regulation to the
11 contrary, a decision by the Bureau of Land Management
12 or the Minerals Management Service to issue a Final No-
13 tice of Sale and proceed with an oil and gas lease sale
14 pursuant to any authorizing leasing statute shall not be
15 subject to further administrative review within the Depart-
16 ment of the Interior, and shall be the final decision of the
17 agency for purposes of judicial review.

18 (c) **EXPEDITED REVIEW.**—Section 390 of the Energy
19 Policy Act of 2005 (42 U.S.C. 15942) is amended—

20 (1) by striking “be subject to a rebuttable pre-
21 sumption that the use of” and inserting “apply”;
22 and

23 (2) by striking “would apply”.

24 **SEC. 164. JUDICIAL REVIEW.**

25 (a) **IN GENERAL.**—

1 (1) EXCLUSIVE JURISDICTION.—The United
2 States Court of Appeals for the circuit in which a
3 Priority Energy Project is proposed to be con-
4 structed, expanded, or operated shall have original
5 and exclusive jurisdiction over the review of an order
6 or action of a Federal agency or State administra-
7 tive agency acting pursuant to Federal law to issue,
8 condition, or deny any permit, license, concurrence,
9 or approval (hereinafter in this section collectively
10 referred to as a “permit”) required under Federal
11 law.

12 (2) AGENCY DELAY.—The United States Court
13 of Appeals for the District of Columbia shall have
14 original and exclusive jurisdiction over the review of
15 an alleged failure to act by a Federal agency or
16 State administrative agency acting pursuant to Fed-
17 eral law to issue, condition, or deny any permit re-
18 quired under Federal law for a Priority Energy
19 Project.

20 (3) COURT ACTION.—

21 (A) IN GENERAL.—The Court shall act as
22 expeditiously as possible for all appeals under
23 this section.

24 (B) REMAND.—If a Court finds that such
25 order or action is inconsistent with the Federal

1 law governing such permit and would prevent
2 the construction, expansion, or operation of the
3 Priority Energy Project, the Court shall re-
4 mand the proceeding to the agency to take ap-
5 propriate action consistent with the order of the
6 Court. If the Court remands the order or action
7 to a Federal or State agency, the Court shall
8 set as expeditious a schedule and deadline as
9 possible for the agency to act on remand, and
10 in any event shall allow not more than 90 days
11 for agency action on remand.

12 (C) ATTORNEY'S FEES AND OTHER EX-
13 PENSES.—Attorney's fees and other expenses of
14 litigation shall be awarded to the prevailing
15 party in actions challenging an agency action
16 granting a permit for or otherwise authorizing
17 a Priority Energy Project, but in no event shall
18 a Priority Energy Project Developer be required
19 to pay attorney's fees and other expenses of liti-
20 gation to a prevailing party.

21 (4) APPEALS.—Appeals brought pursuant to
22 this section may only be filed within 30 days of a
23 final agency action regarding a permit.

24 (b) CITIZEN SUITS.—

1 (1) STANDING.—In any suit involving a Priority
2 Energy Project brought under a citizen suit provi-
3 sion under a Federal law, any fact material to the
4 standing of the party bringing the suit that is in dis-
5 pute shall be adjudicated by the Court prior to the
6 adjudication of any other issue relating to the merits
7 of the suit.

8 (2) PRESERVATION OF AGENCY DISCRETION.—

9 (A) NOTICE OF CITIZEN SUIT RE-
10 QUIRED.—A party seeking to file a citizen suit
11 pursuant to a Federal law involving a Priority
12 Energy Project shall first notify in writing the
13 relevant agency and the Priority Energy Project
14 Developer of its intent to file a citizen suit, the
15 claims it intends to bring, and all relevant stat-
16 utory and regulatory provisions.

17 (B) DETERMINATION REQUIRED.—

18 (i) IN GENERAL.—Not later than 60
19 days following receipt of such notice, the
20 agency shall exercise discretion in deter-
21 mining whether enforcement of the claims
22 described in such notice are an appropriate
23 use of agency resources.

24 (ii) DISMISSAL REQUIRED.—If the
25 agency determines such claims are not an

1 appropriate use of agency resources, the
2 citizen suit shall be not be considered au-
3 thorized under relevant Federal law and if
4 filed shall be immediately dismissed by the
5 Court.

6 (iii) AGENCY RESPONSE REQUIRED.—

7 If the agency determines such claims are
8 an appropriate use of agency resources, the
9 agency shall have a period of 24 months to
10 act in response to such claims, including
11 by bringing an enforcement action or by
12 consulting with the Priority Energy
13 Project Developer, before the citizen suit
14 shall be considered authorized under rel-
15 evant Federal law. Upon the request of the
16 Priority Energy Project Developer, the
17 agency must allow for an additional 24
18 months to act in response to such claims.

19 (C) CITIZEN SUIT AUTHORIZED.—After
20 the 24-month period, or 48-month period, as
21 applicable, described in subparagraph (B)(iii)
22 has expired, if the agency publishes a notice in
23 the Federal Register expressly stating that it
24 declines to address the claims described by the
25 party seeking to file a citizen suit as described

1 pursuant to subparagraph (A), then such party
2 is authorized to file a citizen suit under relevant
3 Federal law. The agency is prohibited from
4 publishing such notice if the Priority Energy
5 Project Developer has consulted with the agen-
6 cy and taken remedial action regarding the
7 claims contained in the notice described in
8 paragraph (A).

9 (D) ATTORNEYS FEES AND EXPENSES.—

10 In a citizen suit filed pursuant a Federal law
11 that involves a Priority Energy Project, a Pri-
12 ority Energy Project Developer shall not be re-
13 quired to pay attorneys fees and expenses to a
14 prevailing party.

15 (3) SETTLEMENTS.—Notwithstanding any

16 other provision of law, no Federal agency shall enter
17 into a settlement agreement arising from a citizen
18 suit subject to this subsection that would require the
19 reallocation of agency resources that had been pre-
20 viously allocated by law or regulation.

21 **SEC. 165. TIME FOR FILING PETITION FOR JUDICIAL RE-**
22 **VIEW; STANDING, FILING OF RECORD.**

23 (a) DEADLINE.—All petitions for judicial review of
24 covered oil and natural gas activities must be filed within

1 45 days of the final agency decision or the challenge shall
2 be barred.

3 (b) STANDING.—Only persons whose legal rights will
4 be directly and adversely affected by the challenged action,
5 and who are within the zone of interest protected by each
6 Act under which the challenge is brought, shall have
7 standing to file any petition for judicial review of covered
8 oil and natural gas activities.

9 (c) LIMITATION.—Nothing in this section creates a
10 right to judicial review or places any limit on filing a claim
11 that a person has violated the terms of a permit, license,
12 or approval.

13 (d) CONSOLIDATED RECORD.—When any civil action
14 is brought concerning any covered oil and natural gas ac-
15 tivity, the Federal agencies involved shall immediately pre-
16 pare for the court the consolidated record compiled for the
17 challenged decision.

18 (e) COMPLETION OF REVIEW.—The court shall com-
19 plete all judicial review, including rendering a judgment,
20 before the end of the 210-day period beginning on the date
21 on which a petition is filed that is subject to this subtitle,
22 unless all parties to such proceeding agree to an extension
23 of such period.

24 (f) EXPEDITED MANDAMUS REVIEW.—Notwith-
25 standing subsection (e), within 30 days after the filing of

1 an action that is subject to this subtitle, the court shall
2 issue a decision either compelling permit issuance or es-
3 tablishing a schedule that enables the most expeditious
4 possible completion of proceedings. The court may issue
5 orders to enforce any schedule it establishes under this
6 subsection.

7 (g) NO PRIVATE RIGHT OF ACTION.—Except as ex-
8 pressly provided in this section, this subtitle shall not be
9 construed to create any additional right, benefit, or trust
10 responsibility, substantive or procedural, enforceable at
11 law or equity, by a person against the United States, its
12 agencies, its officers, or any person.

13 **SEC. 166. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

14 (a) PROSPECTIVE RELIEF.—In any proceeding for
15 judicial review that is subject to this subtitle, the court
16 shall not grant or approve any prospective relief unless
17 the court finds that such relief is narrowly drawn, extends
18 no further than necessary to correct the violation of a Fed-
19 eral law requirement, and is the least intrusive means nec-
20 essary to correct the violation.

21 (b) EFFECTIVENESS OF AGENCY DECISION PENDING
22 JUDICIAL REVIEW.—Final agency decisions relating to
23 covered oil and natural gas activities shall be effective
24 pending any judicial review of such decisions unless the
25 Court issues an order staying the effect of the decision.

1 **SEC. 167. EXCLUSION.**

2 This subtitle shall not apply to disputes between the
3 parties to a lease issued pursuant to an authorizing leas-
4 ing statute regarding the obligations of such lease or the
5 alleged breach thereof.

6 **Subtitle G—Development of Solar**
7 **and Wind Energy on Public Land**

8 **SEC. 171. DEFINITIONS.**

9 In this subtitle:

10 (1) COVERED LAND.—The term “covered land”
11 means land that is—

12 (A)(i) public land administered by the Sec-
13 retary; or

14 (ii) National Forest System land adminis-
15 tered by the Secretary of Agriculture; and

16 (B) not excluded from the development of
17 solar or wind energy under—

18 (i) a land use plan established under
19 the Federal Land Policy and Management
20 Act of 1976 (43 U.S.C. 1701 et seq.);

21 (ii) a land use plan established under
22 the National Forest Management Act of
23 1976 (16 U.S.C. 1600 et seq.); or

24 (iii) other law.

1 (2) PILOT PROGRAM.—The term “pilot pro-
2 gram” means the wind and solar leasing pilot pro-
3 gram established under section 173(a).

4 (3) PUBLIC LAND.—The term “public land”
5 has the meaning given the term “public lands” in
6 section 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702).

8 (4) SECRETARIES.—The term “Secretaries”
9 means—

10 (A) in the case of public land administered
11 by the Secretary, the Secretary; and

12 (B) in the case of National Forest System
13 land administered by the Secretary of Agri-
14 culture, the Secretary of Agriculture.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 **SEC. 172. PROGRAMMATIC ENVIRONMENTAL IMPACT**
18 **STATEMENTS AND LAND USE PLANNING.**

19 (a) NATIONAL FOREST SYSTEM LAND.—As soon as
20 practicable but not later than 2 years after the date of
21 enactment of this Act, the Secretary of Agriculture shall—

22 (1) prepare and publish in the Federal Register
23 a notice of intent to prepare a programmatic envi-
24 ronmental impact statement in accordance with the
25 National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) to analyze the potential im-
2 pacts of—

3 (A) a program to develop solar and wind
4 energy on National Forest System land admin-
5 istered by the Secretary of Agriculture; and

6 (B) any necessary amendments to land use
7 plans for the land; and

8 (2) amend any land use plans as appropriate to
9 provide for the development of energy resources in
10 areas considered appropriate by the Secretary of Ag-
11 riculture immediately on completion of the pro-
12 grammatic environmental impact statement.

13 (b) EFFECT ON PROCESSING APPLICATIONS.—The
14 requirement for completion of programmatic environ-
15 mental impact statements under this section shall not re-
16 sult in any delay in processing or approving applications
17 for wind or solar development on public land administered
18 by the Secretary or on National Forest System land.

19 (c) MILITARY INSTALLATIONS.—

20 (1) REPORT.—

21 (A) IN GENERAL.—Not later than 2 years
22 after the date of enactment of this Act, the Sec-
23 retary of Defense, in consultation with the Sec-
24 retary of the Interior, shall conduct a study,
25 and prepare a report, that—

1 (i) identifies locations on land with-
2 drawn from the public domain and re-
3 served for military purposes that—

4 (I) exhibit a high potential for
5 solar, wind, geothermal, or other en-
6 ergy resources production;

7 (II) are disturbed or otherwise
8 have comparatively low value for other
9 resources; and

10 (III) could be developed for en-
11 ergy production in a manner con-
12 sistent with all present and reasonably
13 foreseeable military training and oper-
14 ational missions and research, devel-
15 opment, testing, and evaluation re-
16 quirements; and

17 (ii) describes the administration of
18 public land withdrawn for military pur-
19 poses for the development of commercial-
20 scale energy projects, including the legal
21 authorities governing authorization for
22 that use.

23 (B) RECOMMENDATIONS.—The report
24 shall include recommendations on—

1 (i) necessary changes in any law (in-
2 cluding regulations);

3 (ii) whether the authorization for the
4 use of the land for development of energy
5 projects should be pursuant to lease, con-
6 tract, right-of-way, permit, or other form
7 of authorization;

8 (iii) methods of improving coordina-
9 tion among the Federal, State, and local
10 agencies, if any, involved in authorizing the
11 projects; and

12 (iv) disposition of revenues resulting
13 from the development of energy projects on
14 the land.

15 (2) ENVIRONMENTAL IMPACT ANALYSIS.—Not
16 later than 1 year after the completion of the study
17 required by paragraph (1), the Secretary of Defense,
18 in consultation with the Secretary of the Interior,
19 shall prepare and publish in the Federal Register a
20 notice of intent to prepare an environmental impact
21 analysis document to support a program to develop
22 energy resources on withdrawn military land identi-
23 fied in the study as suitable for the production.

24 (3) REPORTS.—On completion of the report,
25 the Secretary and the Secretary of Defense shall

1 jointly submit the report required by paragraph (1)
2 to—

3 (A) the Committee on Armed Services of
4 the Senate;

5 (B) the Committee on Energy and Natural
6 Resources of the Senate;

7 (C) the Committee on Armed Services of
8 the House of Representatives; and

9 (D) the Committee on Natural Resources
10 of the House of Representatives.

11 **SEC. 173. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**
12 **PUBLIC LAND.**

13 (a) PILOT PROGRAM.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Sec-
16 retary shall establish a wind and solar leasing pilot
17 program on covered land administered by the Sec-
18 retary.

19 (2) SELECTION OF SITES.—

20 (A) IN GENERAL.—Not later than 90 days
21 after the date the pilot program is established
22 under this subsection, the Secretary shall (tak-
23 ing into consideration the multiple resource val-
24 ues of the land) select 2 sites that are appro-
25 priate for the development of a solar energy

1 project, and 2 sites that are appropriate for the
2 development of a wind energy project, on cov-
3 ered land administered by the Secretary as part
4 of the pilot program.

5 (B) SITE SELECTION.—In carrying out
6 subparagraph (A), the Secretary shall seek to
7 select sites—

8 (i) for which there is likely to be a
9 high level of industry interest;

10 (ii) that have a comparatively low
11 value for other resources; and

12 (iii) that are representative of sites on
13 which solar or wind energy is likely to be
14 developed on covered land.

15 (C) INELIGIBLE SITES.—The Secretary
16 shall not select as part of the pilot program any
17 site for which a right-of way for site testing or
18 construction has been issued.

19 (3) QUALIFICATIONS.—Prior to any lease sale,
20 the Secretary shall establish qualifications for bid-
21 ders that ensure bidders—

22 (A) are able to expeditiously develop a
23 wind or solar energy project on the site for
24 lease;

25 (B) possess—

1 (i) financial resources necessary to
2 complete a project;

3 (ii) knowledge of the applicable tech-
4 nology; and

5 (iii) such other qualifications as are
6 determined appropriate by the Secretary;
7 and

8 (C) meet the eligibility requirements for
9 leasing under the first section of the Mineral
10 Leasing Act (30 U.S.C. 181).

11 (4) LEASE SALES.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (D)(ii), not later than 180 days
14 after the date sites are selected under para-
15 graph (2), the Secretary shall offer each site for
16 competitive leasing to qualified bidders under
17 such terms and conditions as are required by
18 the Secretary.

19 (B) BIDDING SYSTEMS.—

20 (i) IN GENERAL.—In offering the sites
21 for lease, the Secretary may vary the bid-
22 ding systems to be used at each lease sale,
23 including—

1 (I) cash bonus bids with a re-
2 quirement for payment of the royalty
3 established under this Act;

4 (II) variable royalty bids based
5 on a percentage of the gross proceeds
6 from the sale of electricity produced
7 from the lease, except that the royalty
8 shall not be less than the royalty re-
9 quired under this Act, together with a
10 fixed cash bonus; and

11 (III) such other bidding system
12 as ensures a fair return to the public
13 consistent with the royalty established
14 under this Act.

15 (ii) ROUND.—The Secretary shall
16 limit bidding to 1 round in any lease sale.

17 (iii) EXPENDITURES.—In any case in
18 which the land that is subject to lease has
19 1 or more pending applications for the de-
20 velopment of wind or solar energy at the
21 time of the lease sale, the Secretary shall
22 give credit toward any bid submitted by
23 the applicant for expenditures of the appli-
24 cant considered by the Secretary to be

1 qualified and necessary for the preparation
2 of the application.

3 (C) REVENUES.—Bonus bids, royalties,
4 rentals, fees, or other payments collected by the
5 Secretary under this section shall be subject to
6 section 174.

7 (D) LEASE TERMS.—

8 (i) IN GENERAL.—As part of the pilot
9 program, the Secretary may vary the
10 length of the lease terms and establish
11 such other lease terms and conditions as
12 the Secretary considers appropriate.

13 (ii) DATA COLLECTION.—As part of
14 the pilot program, the Secretary shall—

15 (I) offer on a noncompetitive
16 basis on at least 1 site a short-term
17 lease for data collection; and

18 (II) on the expiration of the
19 short-term lease, offer on a competi-
20 tive basis a long-term lease, giving
21 credit toward the bonus bid to the
22 holder of the short-term lease for any
23 qualified expenditures to collect data
24 to develop the site during the short-
25 term lease.

1 (5) COMPLIANCE WITH LAWS.—In offering for
2 lease the selected sites under paragraph (4), the Sec-
3 retary shall comply with all applicable environmental
4 and other laws.

5 (6) REPORT.—The Secretary shall—

6 (A) compile a report of the results of each
7 lease sale under the pilot program, including—

8 (i) the level of competitive interest;

9 (ii) a summary of bids and revenues
10 received; and

11 (iii) any other factors that may have
12 impacted the lease sale process; and

13 (B) not later than 90 days after the final
14 lease sale, submit to the Committee on Energy
15 and Natural Resources of the Senate and the
16 Committee on Natural Resources of the House
17 of Representatives the report described in sub-
18 paragraph (A).

19 (7) RIGHTS-OF-WAY.—During the pendency of
20 the pilot program, the Secretary shall continue to
21 issue rights-of-way, in compliance with authority in
22 effect on the date of enactment of this Act, for avail-
23 able sites not selected for the pilot program.

24 (b) SECRETARIAL DETERMINATION.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of enactment of this Act, the Secretaries
3 shall make a joint determination on whether to es-
4 tablish a leasing program under this section for wind
5 or solar energy, or both, on all covered land.

6 (2) SYSTEM.—If the Secretaries determine that
7 a leasing program should be established, the pro-
8 gram shall apply to all covered land in accordance
9 with this Act and other provisions of law applicable
10 to public land or National Forest System land.

11 (3) ESTABLISHMENT.—The Secretaries shall
12 establish a leasing program unless the Secretaries
13 determine that the program—

14 (A) is not in the public interest; and

15 (B) does not provide an effective means of
16 developing wind or solar energy.

17 (4) CONSULTATION.—In making the determina-
18 tions required under this subsection, the Secretaries
19 shall consult with—

20 (A) the heads of other relevant Federal
21 agencies;

22 (B) interested States, Indian tribes, and
23 local governments;

24 (C) representatives of the solar and wind
25 industries;

1 (D) representatives of the environment,
2 conservation, and outdoor sporting commu-
3 nities;

4 (E) other users of the covered land; and

5 (F) the public.

6 (5) CONSIDERATIONS.—In making the deter-
7 minations required under this subsection, the Secre-
8 taries shall consider the results of the pilot program.

9 (6) REGULATIONS.—Not later than 1 year after
10 the date on which any determination is made to es-
11 tablish a leasing program, the Secretaries shall joint-
12 ly promulgate final regulations to implement the
13 program.

14 (7) REPORT.—If the Secretaries determine that
15 a leasing program should not be established, not
16 later than 60 days after the date of the determina-
17 tion, the Secretaries shall jointly submit to the Com-
18 mittee on Energy and Natural Resources of the Sen-
19 ate and the Committee on Natural Resources of the
20 House of Representatives a report describing the
21 basis and findings for the determination.

22 (c) TRANSITION.—

23 (1) IN GENERAL.—If the Secretaries determine
24 under subsection (b) that a leasing program should
25 be established for covered land, until the program is

1 established and final regulations for the program are
2 issued—

3 (A) the Secretary shall continue to accept
4 applications for rights-of-way on covered land,
5 and provide for the issuance of rights-of-way on
6 covered land within the jurisdiction of the Sec-
7 retary for the development of wind or solar en-
8 ergy pursuant to each requirement described in
9 title V of the Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1761 et seq.) and
11 other applicable law; and

12 (B) the Secretary of Agriculture shall con-
13 tinue to accept applications for authorizations,
14 and provide for the issuance of the authoriza-
15 tions, for the development of wind or solar en-
16 ergy on covered land within the jurisdiction of
17 the Secretary pursuant to applicable law.

18 (2) EXISTING RIGHTS-OF-WAY AND AUTHORIZA-
19 TIONS.—

20 (A) IN GENERAL.—Effective beginning on
21 the date on which the wind or solar leasing pro-
22 grams are established and final regulations are
23 issued, the Secretaries shall not renew an exist-
24 ing right-of-way or other authorization for wind

1 or solar energy development at the end of the
2 term of the right-of-way or authorization.

3 (B) LEASE.—

4 (i) IN GENERAL.—Subject to clause
5 (ii), at the end of the term of the right-of-
6 way or other authorization for the wind or
7 solar energy project, the Secretary or, in
8 the case of National Forest System land,
9 the Secretary of Agriculture, shall grant,
10 without a competitive process, a lease to
11 the holder of the right-of-way or other au-
12 thorization for the same covered land as
13 was authorized under the right-of-way or
14 other authorization if (as determined by
15 the Secretary concerned)—

16 (I) the holder of the right-of-way
17 or other authorization has met the re-
18 quirements of diligent development;
19 and

20 (II) issuance of the lease is in the
21 public interest and consistent with ap-
22 plicable law.

23 (ii) TERMS AND CONDITIONS.—Any
24 lease described in clause (i) shall be sub-
25 ject to—

1 (I) terms and conditions that are
2 consistent with this Act and the regu-
3 lations issued under this Act; and

4 (II) the regulations in effect on
5 the date of renewal and any other
6 terms and conditions that the Sec-
7 retary considers necessary to protect
8 the public interest.

9 (3) PENDING RIGHTS-OF-WAY.—Effective begin-
10 ning on the date on which the wind or solar leasing
11 programs are established and final regulations for
12 the programs are issued, the Secretary or, with re-
13 spect to National Forest System land, the Secretary
14 of Agriculture shall provide any applicant that has
15 filed a plan of development for a right-of-way or, in
16 the case of National Forest System land, for an ap-
17 plicable authorization, for a wind or solar energy
18 project with an option to acquire a lease on a non-
19 competitive basis, under such terms and conditions
20 as are required by this Act, applicable regulations,
21 and the Secretary concerned, for the same covered
22 land included in the plan of development if—

23 (A) the plan of development has been de-
24 termined by the Secretary concerned to be ade-
25 quate for the initiation of environmental review;

1 (B) granting the lease is consistent with all
2 applicable land use planning, environmental,
3 and other laws;

4 (C) the applicant has made a good faith ef-
5 fort to obtain a right-of-way or, in the case of
6 National Forest System land, other authoriza-
7 tion, for the project; and

8 (D) issuance of the lease is in the public
9 interest.

10 (d) LEASING PROGRAM.—If the Secretaries deter-
11 mine under subsection (b) that a leasing program should
12 be established, the program shall be established in accord-
13 ance with subsections (e) through (k).

14 (e) COMPETITIVE LEASES.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), leases for wind or solar energy develop-
17 ment under this section shall be issued on a competi-
18 tive basis with a single round of bidding in any lease
19 sale.

20 (2) EXCEPTIONS.—Paragraph (1) shall not
21 apply if the Secretary or, with respect to National
22 Forest System land, the Secretary of Agriculture de-
23 termines that—

24 (A) no competitive interest exists for the
25 covered land;

1 (B) the public interest would not be served
2 by the competitive issuance of a lease;

3 (C) the lease is for the placement and op-
4 eration of a meteorological or data collection fa-
5 cility or for the development or demonstration
6 of a new wind or solar technology and has a
7 term of not more than 5 years; or

8 (D) the covered land is eligible to be grant-
9 ed a noncompetitive lease under subsection (e).

10 (f) PAYMENTS.—

11 (1) IN GENERAL.—The Secretaries shall jointly
12 establish fees, rentals, bonuses, or other payments to
13 ensure a fair return to the United States for any
14 lease issued under this section.

15 (2) BONUS BIDS.—The Secretaries may grant
16 credit toward any bonus bid for a qualified expendi-
17 ture by the holder of a lease described in subsection
18 (e)(2)(C) in any competitive lease sale held for a
19 long-term lease covering the same land covered by
20 the lease described in subsection (e)(2)(C).

21 (g) QUALIFICATIONS.—Prior to any lease sale, the
22 Secretary shall establish qualifications for bidders that en-
23 sure bidders meet the requirements described in sub-
24 section (a)(3).

1 (h) REQUIREMENTS.—The Secretaries shall ensure
2 that any activity under a leasing program is carried out
3 in a manner that—

4 (1) is consistent with all applicable land use
5 planning, environmental, and other laws; and

6 (2) provides for—

7 (A) safety;

8 (B) protection of the environment and fish
9 and wildlife habitat;

10 (C) mitigation of impacts;

11 (D) prevention of waste;

12 (E) diligent development of the resource,
13 with specific milestones to be met by the lessee
14 as determined by the Secretaries;

15 (F) coordination with applicable Federal
16 agencies;

17 (G) a fair return to the United States for
18 any lease;

19 (H) use of best management practices, in-
20 cluding planning and practices for mitigation of
21 impacts;

22 (I) public notice and comment on any pro-
23 posal submitted for a lease under this section;

1 (J) oversight, inspection, research, moni-
2 toring, and enforcement relating to a lease
3 under this section;

4 (K) the quantity of acreage to be commen-
5 surate with the size of the project covered by a
6 lease; and

7 (L) efficient use of water resources.

8 (i) LEASE DURATION, SUSPENSION, AND CANCELLA-
9 TION.—

10 (1) DURATION.—A lease under this section
11 shall be for—

12 (A) an initial term of 25 years; and

13 (B) any additional period after the initial
14 term during which electricity is being produced
15 annually in commercial quantities from the
16 lease.

17 (2) ADMINISTRATION.—The Secretary shall es-
18 tablish terms and conditions for the issuance, trans-
19 fer, renewal, suspension, and cancellation of a lease
20 under this section.

21 (3) READJUSTMENT.—

22 (A) IN GENERAL.—Royalties, rentals, and
23 other terms and conditions of a lease under this
24 section shall be subject to readjustment—

1 (i) on the date that is 15 years after
2 the date on which the lease is issued; and

3 (ii) every 10 years thereafter.

4 (B) LEASE.—Each lease issued under this
5 Act shall provide for readjustment in accord-
6 ance with subparagraph (A).

7 (j) SURFACE-DISTURBING ACTIVITIES.—The Secre-
8 taries shall—

9 (1) regulate all surface-disturbing activities con-
10 ducted pursuant to any lease issued under this sec-
11 tion; and

12 (2) require any necessary reclamation and other
13 actions under the lease as are required in the inter-
14 est of conservation of surface resources.

15 (k) SECURITY.—The Secretaries shall require the
16 holder of a lease issued under this section—

17 (1) to furnish a surety bond or other form of
18 security, as prescribed by the Secretaries;

19 (2) to provide for the reclamation and restora-
20 tion of the area covered by the lease; and

21 (3) to comply with such other requirements as
22 the Secretaries consider necessary to protect the in-
23 terests of the public and the United States.

24 (l) PERIODIC REVIEW.—Not less frequently than
25 once every 5 years, the Secretary shall conduct a review

1 of the adequacy of the surety bond or other form of secu-
2 rity provided by the holder of a lease issued under this
3 section.

4 **SEC. 174. DISPOSITION OF REVENUES.**

5 (a) DISPOSITION OF REVENUES.—Of the amounts
6 collected as bonus bids, royalties, rentals, fees, or other
7 payments under a right-of-way, permit, lease, or other au-
8 thorization for the development of wind or solar energy
9 on covered land—

10 (1) 25 percent shall be paid by the Secretary of
11 the Treasury to the State within the boundaries of
12 which the income is derived;

13 (2) 25 percent shall be paid by the Secretary of
14 the Treasury to the 1 or more counties within the
15 boundaries of which the income is derived; and

16 (3) 50 percent shall be deposited in the Treas-
17 ury of the United States.

18 (b) PAYMENTS TO STATES AND COUNTIES.—
19 Amounts paid to States and counties under subsection (a)
20 shall be used consistent with section 35 of the Mineral
21 Leasing Act (30 U.S.C. 191).

1 **Subtitle H—Miscellaneous**
2 **Provisions**

3 **SEC. 181. MILITARY OPERATIONS.**

4 The Secretary shall consult with the Secretary of De-
5 fense regarding military operations needs in the waters of
6 the outer Continental Shelf. The Secretary shall work with
7 the Secretary of Defense to resolve any conflicts that
8 might arise between such operations and leasing under
9 this subtitle. If the Secretaries are unable to resolve all
10 such conflicts, any unresolved issues shall be referred by
11 the Secretaries to the President within 90 days for imme-
12 diate resolution.

13 **SEC. 182. ENVIRONMENTAL SENSITIVITY ANALYSIS UNDER**
14 **THE PROGRAM.**

15 (a) ENVIRONMENTAL SENSITIVITY INDEX.—The En-
16 vironmental Sensitivity Index, developed by the National
17 Oceanic and Atmospheric Administration, which considers
18 the sensitivity of different shoreline areas to oil spills, and
19 the ranking under the program of the areas of the outer
20 Continental Shelf based upon the Environmental Sensi-
21 tivity Index, satisfies the requirements of section 18 of the
22 Act (43 U.S.C. 1344), including the requirement to con-
23 sider the relative environmental sensitivity of different
24 areas of the outer Continental Shelf under section
25 18(a)(2)(G) of the Act (43 U.S.C. 1344(a)(2)(G)).

1 (b) PROGRAM DEEMED SUFFICIENT.—The Final
2 Outer Continental Shelf Oil and Gas Leasing Program,
3 2007–2012, is deemed to meet all requirements of section
4 18 of the Act (43 U.S.C. 1344) and is effective as of the
5 date on which the Secretary made that program effective.

6 **SEC. 183. VALIDITY OF EXISTING LEASES.**

7 Any lease heretofore issued pursuant to a lease sale
8 held under the Final Outer Continental Shelf Oil and Gas
9 Leasing Program, 2007–2012, including any lease issued
10 pursuant to Lease Sale 193 or 213, is deemed to be in
11 full compliance with the Act and all other legal require-
12 ments.

13 **SEC. 184. INTEGRITY OF LEASE SALES AND LEASING**
14 **SCHEDULE.**

15 (a) LEASING DURING JUDICIAL OR ADMINISTRATIVE
16 REVIEW.—Section 18(d)(3) of the Act (43 U.S.C.
17 1344(d)(3)) is amended to read as follows:

18 “(3) After the leasing program has been approved by
19 the Secretary, except as otherwise provided by applicable
20 law, no lease shall be issued unless it is for an area in-
21 cluded in the approved leasing program and unless it con-
22 tains provisions consistent with the approved leasing pro-
23 gram, except that leasing shall continue for so long as
24 such program is under judicial or administrative review
25 pursuant to this Act, including any administrative review

1 occasioned by the remand of such program as a result of
2 judicial review. Any lease issued pursuant to a lease sale
3 held in the period that the approved leasing program is
4 under judicial or administrative review is deemed to have
5 been issued pursuant to an approved leasing program.”.

6 (b) COURT ACTION UPON APPEAL.—The last sen-
7 tence of section 23(c)(6) of the Act (43 U.S.C. 1349(c)(6))
8 is amended to read as follows: “The court may affirm or
9 modify any order or decision or may remand the pro-
10 ceedings to the Secretary for such further action as it may
11 direct.”.

12 **SEC. 185. AUTHORITY TO CONDUCT OFFSHORE DRILLING**
13 **UNDER APPROVED PERMITS.**

14 (a) IN GENERAL.—Subject to subsection (b), each
15 holder of a permit issued pursuant to an application for
16 a permit to drill, including an application for a permit to
17 sidetrack, that was approved by the Minerals Management
18 Service before May 3, 2010, for purposes of outer Conti-
19 nental Shelf energy exploration or development and pro-
20 duction may conduct all operations authorized under the
21 terms of the permit (including all exploration plans, devel-
22 opment operations coordination documents, and develop-
23 ment production plans submitted for the permit)—

24 (1) without further review by the Bureau of
25 Ocean Energy Management, Regulation and En-

1 enforcement and Bureau of Safety and Environmental
2 Enforcement; and

3 (2) without further review or delay under the
4 National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) or any other similar statutes,
6 including the Federal Water Pollution Control Act
7 (33 U.S.C. 1251 et seq.) or the Marine Mammal
8 Protection Act of 1972 (16 U.S.C. 1361 et seq.).

9 (b) OPERATIONS.—Operations conducted under sub-
10 section (a) shall be carried out in accordance with the safe-
11 ty protocols contained in part 250 of title 30, Code of Fed-
12 eral Regulations.

13 (c) REVIEW OF COMPLIANCE.—This section does not
14 prohibit review of compliance with the terms of such a per-
15 mit.

16 **SEC. 186. TIME REQUIREMENT TO ACT ON OIL AND NAT-**
17 **URAL GAS DRILLING PERMITS.**

18 Subsection (d) of section 11 of the Act (43 U.S.C.
19 1340) is amended by designating the existing text as para-
20 graph (1) and adding at the end the following:

21 “(2)(A) The Secretary shall approve or dis-
22 approve any application for a permit for drilling a
23 well under an approved exploration or development
24 plan, or any application to amend a previously ap-
25 proved permit, within 30 days after its submission,

1 except that the Secretary may disapprove such permit only upon a determination that—

2 “(i) any proposed activity under the permit
3 would result in any condition described in section 5(a)(2)(A)(i); and

4 “(ii) such proposed activity cannot be
5 modified to avoid such condition.

6 “(B) The Secretary may request additional information from the applicant prior to approving or
7 disapproving such application, but the request for additional information must be received by the applicant within 15 days after submission of the application to the Secretary. Upon receipt of the additional information requested by the Secretary, the Secretary shall approve or disapprove the application within 15 days in accordance with this subsection. If the Secretary disapproves a permit application or an amended permit application pursuant to this subsection, and there is no other well on the lease tract capable of production in paying quantities, within 90 days after receipt of a final disapproval decision all record title holders of the lease may request cancellation of the lease, and within 60 days after receipt of such cancellation request the Secretary shall pay to the record title holders the amount of any

1 bonus bid paid for such lease. The Secretary shall
2 make such payment from amounts that otherwise
3 would be credited to miscellaneous receipts pursuant
4 to section 9.”.

5 **SEC. 187. TIMELY ISSUANCE OF ONSHORE OIL AND GAS**
6 **LEASES.**

7 Section 17(a)(1) of the Mineral Leasing Act (30
8 U.S.C. 226(b)(1)(A)) is amended by striking “Leases shall
9 be issued within 60 days following payment by the success-
10 ful bidder of the remainder of the bonus bid, if any, and
11 the annual rental for the first lease year.” and inserting
12 “Unless the Secretary issues a lease sooner, leases shall
13 automatically issue exactly 60 days following payment by
14 the successful bidder of the remainder of the bonus bid,
15 if any, and the annual rental for the first lease year. The
16 filing of any protest to the sale or issuance of a lease shall
17 not act to extend the date by which the lease is to be
18 issued following payment by the successful bidder under
19 the preceding sentence, nor shall the issuance of a lease
20 be delayed or deferred beyond 60 days following payment
21 by the successful bidder pending resolution of a protest
22 to the sale or issuance of the lease.”.

23 **SEC. 188. STATE AUDITING.**

24 Where authority is ceded to States to audit proc-
25 essing and transportation for purposes of royalty calcula-

1 tion under section 205 of the Royalty Simplification and
2 Fairness Act of 1996, State auditors shall provide back-
3 ground methodology and supporting detail to the payor
4 for audit findings; including formulas and supporting
5 worksheets detailing the calculations used when costs from
6 processing plants and transportation providers are dis-
7 allowed by the State auditor. The State shall seek written
8 authority from the processors and transporters to provide
9 this information when necessary and requested.

10 **TITLE II—CONTINENTAL** 11 **PIPELINE APPROVAL**

12 **SEC. 201. KEYSTONE XL PERMIT APPROVAL.**

13 Notwithstanding Executive Order No. 13337 (3
14 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.
15 301 note), section 301 of title 3, United States Code, and
16 any other Executive order or provision of law, no Presi-
17 dential permit shall be required for the pipeline described
18 in the application filed on May 4, 2012, by TransCanada
19 Keystone Pipeline, L.P. to the Department of State for
20 the Keystone XL pipeline, as supplemented to include the
21 Nebraska reroute evaluated in the Final Evaluation Re-
22 port issued by the Nebraska Department of Environ-
23 mental Quality in January 2013 and approved by the Ne-
24 braska governor. The final environmental impact state-
25 ment issued by the Secretary of State on August 26, 2011,

1 coupled with the Final Evaluation Report described in the
2 previous sentence, shall be considered to satisfy all re-
3 quirements of the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) and of the National His-
5 toric Preservation Act (16 U.S.C. 470 et seq.).

6 **SEC. 202. JUDICIAL REVIEW.**

7 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
8 the Supreme Court on writ of certiorari, the United States
9 Court of Appeals for the District of Columbia Circuit shall
10 have original and exclusive jurisdiction to determine—

11 (1) the validity of any final order or action (in-
12 cluding a failure to act) of any Federal agency or of-
13 ficer with respect to issuance of a permit relating to
14 the construction or maintenance of the Keystone XL
15 pipeline, including any final order or action deemed
16 to be taken, made, granted, or issued;

17 (2) the constitutionality of any provision of this
18 Act, or any decision or action taken, made, granted,
19 or issued, or deemed to be taken, made, granted, or
20 issued under this Act; or

21 (3) the adequacy of any environmental impact
22 statement prepared under the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
24 or of any analysis under any other Act, with respect
25 to any action taken, made, granted, or issued, or

1 deemed to be taken, made, granted, or issued under
2 this Act.

3 (b) **DEADLINE FOR FILING CLAIM.**—A claim arising
4 under this Act may be brought not later than 60 days
5 after the date of the decision or action giving rise to the
6 claim.

7 (c) **EXPEDITED CONSIDERATION.**—The United
8 States Court of Appeals for the District of Columbia Cir-
9 cuit shall set any action brought under subsection (a) for
10 expedited consideration, taking into account the national
11 interest of enhancing national energy security by providing
12 access to the significant oil reserves in Canada that are
13 needed to meet the demand for oil.

14 **SEC. 203. AMERICAN BURYING BEETLE.**

15 (a) **FINDINGS.**—The Congress finds that—

16 (1) environmental reviews performed for the
17 Keystone XL pipeline project satisfy the require-
18 ments of section 7 of the Endangered Species Act of
19 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and

20 (2) for purposes of that Act, the Keystone XL
21 pipeline project will not jeopardize the continued ex-
22 istence of the American burying beetle or destroy or
23 adversely modify American burying beetle critical
24 habitat.

1 (b) BIOLOGICAL OPINION.—The Secretary of the In-
2 terior is deemed to have issued a written statement setting
3 forth the Secretary’s opinion containing such findings
4 under section 7(b)(1)(A) of the Endangered Species Act
5 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the
6 American burying beetle that is incidental to the construc-
7 tion or operation and maintenance of the Keystone XL
8 pipeline as it may be ultimately defined in its entirety,
9 shall not be considered a prohibited taking of such species
10 under such Act.

11 **SEC. 204. RIGHT-OF-WAY AND TEMPORARY USE PERMIT.**

12 The Secretary of the Interior is deemed to have
13 granted or issued a grant of right-of-way and temporary
14 use permit under section 28 of the Mineral Leasing Act
15 (30 U.S.C. 185) and the Federal Land Policy and Man-
16 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
17 in the application tendered to the Bureau of Land Man-
18 agement for the Keystone XL pipeline.

19 **SEC. 205. PERMITS FOR ACTIVITIES IN NAVIGABLE**
20 **WATERS.**

21 (a) ISSUANCE OF PERMITS.—The Secretary of the
22 Army, not later than 90 days after receipt of an applica-
23 tion therefor, shall issue all permits under section 404 of
24 the Federal Water Pollution Control Act (33 U.S.C. 1344)
25 and section 10 of the Act of March 3, 1899 (33 U.S.C.

1 403; commonly known as the Rivers and Harbors Appro-
2 priations Act of 1899), necessary for the construction, op-
3 eration, and maintenance of the pipeline described in the
4 May 4, 2012, application referred to in section 201, as
5 supplemented by the Nebraska reroute. The application
6 shall be based on the administrative record for the pipeline
7 as of the date of enactment of this Act, which shall be
8 considered complete.

9 (b) WAIVER OF PROCEDURAL REQUIREMENTS.—The
10 Secretary may waive any procedural requirement of law
11 or regulation that the Secretary considers desirable to
12 waive in order to accomplish the purposes of this section.

13 (c) ISSUANCE IN ABSENCE OF ACTION BY THE SEC-
14 RETARY.—If the Secretary has not issued a permit de-
15 scribed in subsection (a) on or before the last day of the
16 90-day period referred to in subsection (a), the permit
17 shall be deemed issued under section 404 of the Federal
18 Water Pollution Control Act (33 U.S.C. 1344) or section
19 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-
20 priate, on the day following such last day.

21 (d) LIMITATION.—The Administrator of the Environ-
22 mental Protection Agency may not prohibit or restrict an
23 activity or use of an area that is authorized under this
24 section.

1 **SEC. 206. MIGRATORY BIRD TREATY ACT PERMIT.**

2 The Secretary of the Interior is deemed to have
3 issued a special purpose permit under the Migratory Bird
4 Treaty Act (16 U.S.C. 703 et seq.), as described in the
5 application filed with the United States Fish and Wildlife
6 Service for the Keystone XL pipeline on January 11,
7 2013.

8 **SEC. 207. OIL SPILL RESPONSE PLAN DISCLOSURE.**

9 (a) IN GENERAL.—Any pipeline owner or operator
10 required under Federal law to develop an oil spill response
11 plan for the Keystone XL pipeline shall make such plan
12 available to the Governor of each State in which such pipe-
13 line operates to assist with emergency response prepared-
14 ness.

15 (b) UPDATES.—A pipeline owner or operator required
16 to make available to a Governor a plan under subsection
17 (a) shall make available to such Governor any update of
18 such plan not later than 7 days after the date on which
19 such update is made.

20 **TITLE III—RADIOLOGICAL**
21 **MATERIAL REPOSITORY**

22 **SEC. 301. RADIOLOGICAL MATERIAL REPOSITORY.**

23 (a) REPOSITORY REQUIRED.—The Federal Govern-
24 ment shall site and permit at least one radiological mate-
25 rial geologic repository for the disposal of radiological ma-
26 terial.

1 (b) YUCCA MOUNTAIN.—

2 (1) IN GENERAL.—The repository site at Yucca
3 Mountain shall remain the site for the Nation’s radi-
4 ological material repository following full statutory
5 review of the Department of Energy’s license appli-
6 cation to construct the Yucca Mountain repository.

7 (2) APPLICATION.—The Nuclear Regulatory
8 Commission shall continue to review the Department
9 of Energy’s pending license application to construct
10 the repository at Yucca Mountain until a determina-
11 tion is made on the merits of the application.

12 (c) DEADLINES.—

13 (1) SUITABILITY DETERMINATION.—Not later
14 than 90 days after the enactment of this Act, the
15 Nuclear Regulatory Commission shall make a deter-
16 mination regarding the suitability of Yucca Moun-
17 tain under subsection (a).

18 (2) ACTION ON APPLICATION.—Not later than
19 180 days after the enactment of this Act, the Nu-
20 clear Regulatory Commission shall approve the ap-
21 plication under subsection (b).

22 (d) LIMITATIONS ON AMOUNT OF RADIOLOGICAL
23 MATERIAL.—All statutory limitations on the amount of
24 radiological material that can be placed in Yucca Moun-
25 tain are hereby removed and shall be replaced by the Nu-

1 clear Regulatory Commission with new limits based on sci-
2 entific and technical analysis of the full capacity of Yucca
3 Mountain for the storage of radiological material.

4 **TITLE IV—RELIEF FROM REGU-**
5 **LATIONS AND PROHIBITIONS**
6 **THAT CAUSE ARTIFICIAL**
7 **PRICE INCREASES**

8 **SEC. 401. ENDANGERED SPECIES ACT OF 1973 REFORM.**

9 The Endangered Species Act of 1973 (16 U.S.C.
10 1531 et seq.) is amended—

11 (1) by striking “best scientific and commercial
12 data available” each place it appears and inserting
13 “best scientific and economic data available at the
14 time, including analysis of the costs and benefits of
15 the matter under consideration”; and

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

17 **“SEC. 19. SCOPE.**

18 “Nothing in this Act shall be construed to authorize
19 the use of this Act or the rules and regulations promul-
20 gated pursuant to this Act to regulate greenhouse gas
21 emissions.”.

22 **SEC. 402. REPEAL OF EPA CLIMATE CHANGE REGULATION.**

23 (a) GREENHOUSE GAS REGULATION UNDER CLEAN
24 AIR ACT.—Section 302(g) of the Clean Air Act (42 U.S.C.
25 7602(g)) is amended by adding the following at the end

1 thereof: “The term ‘air pollutant’ does not include carbon
2 dioxide, water vapor, methane, nitrous oxide,
3 hydrofluorocarbons, perfluorocarbons, or sulfur
4 hexafluoride.”.

5 (b) NO REGULATION OF CLIMATE CHANGE.—Noth-
6 ing in the Clean Air Act (42 U.S.C. 7401 et seq.), the
7 Federal Water Pollution Control Act (33 U.S.C. 1251 et
8 seq.), the National Environmental Policy Act of 1969 (42
9 U.S.C. 4321 et seq.), the Endangered Species Act of 1973
10 (16 U.S.C. 1531 et seq.), or the Solid Waste Disposal Act
11 (42 U.S.C. 6901 et seq.), shall be treated as authorizing
12 or requiring the regulation of climate change or global
13 warming.

14 **SEC. 403. REPEAL OF FEDERAL BAN ON SYNTHETIC FUELS**
15 **PURCHASING REQUIREMENT.**

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

18 **SEC. 404. REPEAL OF ETHANOL MANDATES.**

19 Section 211(o) of the Clean Air Act (42 U.S.C.
20 7545(o); relating to the Renewable Fuel Program) is re-
21 pealed.

22 **TITLE V—REFINERY REFORM**

23 **SEC. 501. REFINERY PERMITTING PROCESS.**

24 (a) DEFINITIONS.—In this section:

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

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

7 (3) INDIAN TRIBE.—The term “Indian tribe”
8 has the meaning given the term in section 4 of the
9 Indian Self-Determination and Education Assistance
10 Act (25 U.S.C. 450b).

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

14 (A) under any Federal law; or

15 (B) from a State or Indian tribal govern-
16 ment agency delegated authority by the Federal
17 Government, or authorized under Federal law,
18 to issue permits.

19 (5) REFINER.—The term “refiner” means a
20 person that—

21 (A) owns or operates a refinery; or

22 (B) seeks to become an owner or operator
23 of a refinery.

24 (6) REFINERY.—

1 (A) IN GENERAL.—The term “refinery”
2 means—

3 (i) a facility at which crude oil is re-
4 fined into transportation fuel or other pe-
5 troleum products; and

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

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

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

15 (8) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 and

20 (D) any other territory or possession of the
21 United States.

22 (b) STREAMLINING OF REFINERY PERMITTING
23 PROCESS.—

24 (1) IN GENERAL.—At the request of the Gov-
25 ernor of a State or the governing body of an Indian

1 tribe, the Administrator shall enter into a refinery
2 permitting agreement with the State or Indian tribe
3 under which the process for obtaining all permits
4 necessary for the construction and operation of a re-
5 finery shall be streamlined using a systematic inter-
6 disciplinary multimedia approach as provided in this
7 section.

8 (2) AUTHORITY OF ADMINISTRATOR.—Under a
9 refinery permitting agreement the Administrator
10 shall have authority, as applicable and necessary,
11 to—

12 (A) accept from a refiner a consolidated
13 application for all permits that the refiner is re-
14 quired to obtain to construct and operate a re-
15 finery;

16 (B) in consultation and cooperation with
17 each Federal, State, or Indian tribal govern-
18 ment agency that is required to make any de-
19 termination to authorize the issuance of a per-
20 mit, establish a schedule under which each
21 agency shall—

22 (i) concurrently consider, to the max-
23 imum extent practicable, each determina-
24 tion to be made; and

1 (ii) complete each step in the permit-
2 ting process; and

3 (C) issue a consolidated permit that com-
4 bines all permits issued under the schedule es-
5 tablished under subparagraph (B).

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

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

11 (B) each State or Indian tribal government
12 agency shall—

13 (i) in accordance with State law, make
14 such structural and operational changes in
15 the agencies as are necessary to enable the
16 agencies to carry out consolidated project-
17 wide permit reviews concurrently and in
18 coordination with the Environmental Pro-
19 tection Agency and other Federal agencies;
20 and

21 (ii) comply, to the maximum extent
22 practicable, with the applicable schedule
23 established under paragraph (2)(B).

24 (4) DEADLINES.—

1 (A) NEW REFINERIES.—In the case of a
2 consolidated permit for the construction of a
3 new refinery, the Administrator and the State
4 or governing body of an Indian tribe shall ap-
5 prove or disapprove the consolidated permit not
6 later than—

7 (i) 365 days after the date of the re-
8 ceipt of the administratively complete ap-
9 plication for the consolidated permit; or

10 (ii) on agreement of the applicant, the
11 Administrator, and the State or governing
12 body of the Indian tribe, 90 days after the
13 expiration of the deadline established
14 under clause (i).

15 (B) EXPANSION OF EXISTING REFIN-
16 ERIES.—In the case of a consolidated permit
17 for the expansion of an existing refinery, the
18 Administrator and the State or governing body
19 of an Indian tribe shall approve or disapprove
20 the consolidated permit not later than—

21 (i) 120 days after the date of the re-
22 ceipt of the administratively complete ap-
23 plication for the consolidated permit; or

24 (ii) on agreement of the applicant, the
25 Administrator, and the State or governing

1 body of the Indian tribe, 30 days after the
2 expiration of the deadline established
3 under clause (i).

4 (5) FEDERAL AGENCIES.—Each Federal agency
5 that is required to make any determination to au-
6 thorize the issuance of a permit shall comply with
7 the applicable schedule established under paragraph
8 (2)(B).

9 (6) JUDICIAL REVIEW.—Any civil action for re-
10 view of any permit determination under a refinery
11 permitting agreement shall be brought exclusively in
12 the United States district court for the district in
13 which the refinery is located or proposed to be lo-
14 cated.

15 (7) EFFICIENT PERMIT REVIEW.—In order to
16 reduce the duplication of procedures, the Adminis-
17 trator shall use State permitting and monitoring
18 procedures to satisfy substantially equivalent Fed-
19 eral requirements under this title.

20 (8) SEVERABILITY.—If 1 or more permits that
21 are required for the construction or operation of a
22 refinery are not approved on or before any deadline
23 established under paragraph (4), the Administrator
24 may issue a consolidated permit that combines all

1 other permits that the refiner is required to obtain
2 other than any permits that are not approved.

3 (9) SAVINGS.—Nothing in this subsection af-
4 fects the operation or implementation of otherwise
5 applicable law regarding permits necessary for the
6 construction and operation of a refinery.

7 (10) CONSULTATION WITH LOCAL GOVERN-
8 MENTS.—Congress directs the Administrator, States,
9 and tribal governments to consult, to the maximum
10 extent practicable, with local governments in car-
11 rying out this subsection.

12 (11) EFFECT ON LOCAL AUTHORITY.—Nothing
13 in this subsection affects—

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

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

18 **SEC. 502. EXISTING REFINERY PERMIT APPLICATION DEAD-**
19 **LINE.**

20 Notwithstanding any other provision of law, applica-
21 tions for a permit for existing refinery applications shall
22 not be considered to be timely if submitted after 120 days
23 after the date of enactment of this Act.

1 **SEC. 503. NEW REFINING CAPACITY ON CLOSED MILITARY**
2 **INSTALLATIONS.**

3 (a) DEFINITIONS.—For purposes of this section—

4 (1) the term “base closure law” means the De-
5 fense Base Closure and Realignment Act of 1990
6 (part A of title XXIX of Public Law 101–510; 10
7 U.S.C. 2687 note) and title II of the Defense Au-
8 thorization Amendments and Base Closure and Re-
9 alignment Act (Public Law 100–526; 10 U.S.C.
10 2687 note);

11 (2) the term “closed military installation”
12 means a military installation closed or approved for
13 closure pursuant to a base closure law;

14 (3) the term “designated refinery” means a re-
15 finery designated under subsection (b)(1);

16 (4) the term “Federal refinery authorization”—

17 (A) means any authorization required
18 under Federal law, whether administered by a
19 Federal or State administrative agency or offi-
20 cial, with respect to siting, construction, expan-
21 sion, or operation of a refinery; and

22 (B) includes any permits, special use au-
23 thorizations, certifications, opinions, or other
24 approvals required under Federal law with re-
25 spect to siting, construction, expansion, or oper-
26 ation of a refinery;

1 (5) the term “refinery” means—

2 (A) a facility designed and operated to re-
3 ceive, load, unload, store, transport, process,
4 and refine crude oil by any chemical or physical
5 process, including distillation, fluid catalytic
6 cracking, hydrocracking, coking, alkylation,
7 etherification, polymerization, catalytic reform-
8 ing, isomerization, hydrotreating, blending, and
9 any combination thereof, in order to produce
10 gasoline or other fuel; or

11 (B) a facility designed and operated to re-
12 ceive, load, unload, store, transport, process,
13 and refine coal by any chemical or physical
14 process, including liquefaction, in order to
15 produce gasoline, diesel, or other liquid fuel as
16 its primary output;

17 (6) the term “Secretary” means the Secretary
18 of Energy; and

19 (7) the term “State” means a State, the Dis-
20 trict of Columbia, the Commonwealth of Puerto
21 Rico, and any other territory or possession of the
22 United States.

23 (b) STATE PARTICIPATION AND PRESIDENTIAL DES-
24 IGNATION.—

1 (1) DESIGNATION REQUIREMENT.—Not later
2 than 90 days after the date of enactment of this
3 Act, the President shall designate no less than 3
4 closed military installations, or portions thereof, sub-
5 ject to paragraph (3)(B), that are appropriate for
6 the purposes of siting a refinery.

7 (2) ANALYSIS OF REFINERY SITES.—In consid-
8 ering any site for possible designation under para-
9 graph (1), the President shall conduct an analysis
10 of—

11 (A) the availability of crude oil supplies to
12 the site, including supplies from domestic pro-
13 duction of shale oil and tar sands and other
14 strategic unconventional fuels;

15 (B) the distribution of the Nation’s refined
16 petroleum product demand;

17 (C) whether such site is in close proximity
18 to substantial pipeline infrastructure, including
19 both crude oil and refined petroleum product
20 pipelines, and potential infrastructure feasi-
21 bility;

22 (D) the need to diversify the geographical
23 location of the domestic refining capacity;

24 (E) the effect that increased refined petro-
25 leum products from a refinery on that site may

1 have on the price and supply of gasoline to con-
2 sumers;

3 (F) the impact of locating a refinery on
4 the site on the readiness and operations of the
5 Armed Forces; and

6 (G) such other factors as the President
7 considers appropriate.

8 (3) SALE OR DISPOSAL.—

9 (A) DESIGNATION.—Except as provided in
10 subparagraph (B), until the expiration of 2
11 years after the date of enactment of this Act,
12 the Federal Government shall not sell or other-
13 wise dispose of the military installations des-
14 ignated pursuant to paragraph (1).

15 (B) GOVERNOR'S OBJECTION.—No site
16 may be used for a refinery under this section if,
17 not later than 60 days after designation of the
18 site under paragraph (1), the Governor of the
19 State in which the site is located transmits to
20 the President an objection to the designation,
21 unless, not later than 60 days after the Presi-
22 dent receives such objection, the Congress has
23 by law overridden the objection.

24 (4) REDEVELOPMENT AUTHORITY.—With re-
25 spect to a closed military installation, or portion

1 thereof, designated by the President as a potentially
2 suitable refinery site pursuant to paragraph (1)—

3 (A) the redevelopment authority for the in-
4 stallation, in preparing or revising the redevel-
5 opment plan for the installation, shall consider
6 the feasibility and practicability of siting a re-
7 finery on the installation; and

8 (B) the Secretary of Defense, in managing
9 and disposing of real property at the installa-
10 tion pursuant to the base closure law applicable
11 to the installation, shall give substantial def-
12 erence to the recommendations of the redevelop-
13 ment authority, as contained in the redevelop-
14 ment plan for the installation, regarding the
15 siting of a refinery on the installation.

16 (c) PROCESS COORDINATION AND RULES OF PROCE-
17 DURE.—

18 (1) DESIGNATION AS LEAD AGENCY.—

19 (A) IN GENERAL.—The Department of
20 Energy shall act as the lead agency for the pur-
21 poses of coordinating all applicable Federal re-
22 finery authorizations and related environmental
23 reviews with respect to a designated refinery.

24 (B) OTHER AGENCIES.—Each Federal and
25 State agency or official required to provide a

1 Federal refinery authorization shall cooperate
2 with the Secretary and comply with the dead-
3 lines established by the Secretary.

4 (2) SCHEDULE.—

5 (A) SECRETARY'S AUTHORITY TO SET
6 SCHEDULE.—The Secretary shall establish a
7 schedule for all Federal refinery authorizations
8 with respect to a designated refinery. In estab-
9 lishing the schedule, the Secretary shall—

10 (i) ensure expeditious completion of
11 all such proceedings; and

12 (ii) accommodate the applicable sched-
13 ules established by Federal law for such
14 proceedings.

15 (B) FAILURE TO MEET SCHEDULE.—If a
16 Federal or State administrative agency or offi-
17 cial does not complete a proceeding for an ap-
18 proval that is required for a Federal refinery
19 authorization in accordance with the schedule
20 established by the Secretary under this para-
21 graph, the applicant may pursue remedies
22 under paragraph (4).

23 (3) CONSOLIDATED RECORD.—The Secretary
24 shall, with the cooperation of Federal and State ad-
25 ministrative agencies and officials, maintain a com-

1 plete consolidated record of all decisions made or ac-
2 tions taken by the Secretary or by a Federal admin-
3 istrative agency or officer (or State administrative
4 agency or officer acting under delegated Federal au-
5 thority) with respect to any Federal refinery author-
6 ization. Such record shall be the record for judicial
7 review under paragraph (4) of decisions made or ac-
8 tions taken by Federal and State administrative
9 agencies and officials, except that, if the Court de-
10 termines that the record does not contain sufficient
11 information, the Court may remand the proceeding
12 to the Secretary for further development of the con-
13 solidated record.

14 (4) JUDICIAL REVIEW.—

15 (A) IN GENERAL.—The United States
16 Court of Appeals for the District of Columbia
17 shall have original and exclusive jurisdiction
18 over any civil action for the review of—

19 (i) an order or action, related to a
20 Federal refinery authorization, by a Fed-
21 eral or State administrative agency or offi-
22 cial; and

23 (ii) an alleged failure to act by a Fed-
24 eral or State administrative agency or offi-

1 cial acting pursuant to a Federal refinery
2 authorization.

3 The failure of an agency or official to act on a
4 Federal refinery authorization in accordance
5 with the Secretary's schedule established pursu-
6 ant to paragraph (2) shall be considered incon-
7 sistent with Federal law for the purposes of
8 subparagraph (B) of this paragraph.

9 (B) COURT ACTION.—If the Court finds
10 that an order or action described in subpara-
11 graph (A)(i) is inconsistent with the Federal
12 law governing such Federal refinery authoriza-
13 tion, or that a failure to act as described in
14 subparagraph (A)(ii) has occurred, and the
15 order, action, or failure to act would prevent
16 the siting, construction, expansion, or operation
17 of the designated refinery, the Court shall re-
18 mand the proceeding to the agency or official to
19 take appropriate action consistent with the
20 order of the Court. If the Court remands the
21 order, action, or failure to act to the Federal or
22 State administrative agency or official, the
23 Court shall set a reasonable schedule and dead-
24 line for the agency or official to act on remand.

1 (C) SECRETARY'S ACTION.—For any civil
2 action brought under this paragraph, the Sec-
3 retary shall promptly file with the Court the
4 consolidated record compiled by the Secretary
5 pursuant to paragraph (3).

6 (D) EXPEDITED REVIEW.—The Court
7 shall set any civil action brought under this
8 paragraph for expedited consideration.

9 (E) ATTORNEY'S FEES.—In any action
10 challenging a Federal refinery authorization
11 that has been granted, reasonable attorney's
12 fees and other expenses of litigation shall be
13 awarded to the prevailing party. This subpara-
14 graph shall not apply to any action seeking
15 remedies for denial of a Federal refinery au-
16 thorization or failure to act on an application
17 for a Federal refinery authorization.

18 **TITLE VI—REPEAL OF ENERGY**
19 **TAX SUBSIDIES**

20 **SEC. 600. AMENDMENT OF 1986 CODE.**

21 Except as otherwise expressly provided, whenever in
22 this title an amendment or repeal is expressed in terms
23 of an amendment to, or repeal of, a section or other provi-
24 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **SEC. 601. CORPORATE AND INDIVIDUAL INCOME TAX**
4 **RATES REDUCED.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of the enactment of this Act, the Secretary of the
7 Treasury shall prescribe rates of tax in accordance with
8 subsection (b) so that such rates as the Secretary esti-
9 mates would result in—

10 (1) a decrease in revenue to the Treasury for
11 taxable years beginning during the 10-year period
12 beginning on the date of the enactment of this Act,
13 equal to

14 (2) the increase in revenue for such taxable
15 years by reason of the amendments made by title I
16 of this Act.

17 (b) PRESCRIBED RATES IN LIEU OF STATUTORY
18 RATES.—For purposes of determining the decrease in rev-
19 enues under subsection (a)(1)—

20 (1) CORPORATE INCOME TAX RATE.—In deter-
21 mining a flat rate of tax in lieu of the rates of tax
22 under paragraphs (1) and (2) of section 11(b), sec-
23 tion 1201(a), and paragraphs (1), (2), and (6) of
24 section 1445(e) of the Internal Revenue Code of
25 1986, the Secretary shall take into account one-half

1 of the revenue increase described in subsection
2 (a)(2).

3 (2) INDIVIDUAL 10 PERCENT INCOME TAX
4 RATE.—In determining a rate of tax in lieu of the
5 10 percent rate under section 1(i) of the Internal
6 Revenue Code of 1986, the Secretary shall take into
7 account one-half of the revenue increase described in
8 subsection (a)(2).

9 (c) EFFECTIVE DATE.—The rates of tax prescribed
10 by the Secretary under subsection (a) shall apply to tax-
11 able years beginning more than 1 year after the date of
12 the enactment of this Act.

13 **SEC. 602. REPEAL OF CREDIT FOR ALCOHOL FUEL, BIO-**
14 **DIESEL, AND ALTERNATIVE FUEL MIXTURES.**

15 (a) IN GENERAL.—Section 6426 is repealed.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Subparagraph (D) of section 6427(e)(6) is
18 amended by striking “September 30, 2014” and in-
19 serting “December 31, 2013”.

20 (2) Paragraph (1) of section 4101(a) is amend-
21 ed by striking “or alcohol (as defined in section
22 6426(b)(4)(A))”.

23 (3) Paragraph (2) of section 4104(a) is amend-
24 ed by striking “6426, or 6427(e)”.

1 (4) Subparagraph (E) of section 7704(d)(1) is
2 amended—

3 (A) by inserting “(as in effect on the day
4 before the date of the enactment of the Energy
5 Exploration and Production to Achieve National
6 Demand Act)” after “of section 6426”, and

7 (B) by inserting “(as so in effect)” after
8 “section 6426(b)(4)(A)”.

9 (5) Paragraph (1) of section 9503(b) is amend-
10 ed by striking the second sentence.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for subchapter B of chapter 65 is amended by striking
13 the item relating to section 6426.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to fuel sold and used
16 after December 31, 2014.

17 **SEC. 603. REPEAL OF CREDIT FOR CERTAIN PLUG-IN ELEC-**
18 **TRIC VEHICLES.**

19 (a) IN GENERAL.—Section 30 is repealed.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Paragraph (3) of section 24(b) is amended
22 by striking “, 30”.

23 (2) Clause (ii) of section 25(e)(1)(C) is amend-
24 ed by striking “, 30”.

1 (3) Paragraph (2) of section 25B(g) is amended
2 by striking “, 30”.

3 (4) Paragraph (1) of section 26(a) is amended
4 by striking “, 30”.

5 (5) Subclause (VI) of section 48C(e)(1)(A)(i) is
6 amended by inserting “(as in effect on the day be-
7 fore the date of the enactment of the Energy Explo-
8 ration and Production to Achieve National Demand
9 Act)” after “section 30(d)”.

10 (6) Paragraph (3) of section 179A(c) is amend-
11 ed by inserting “(as in effect on the day before the
12 date of the enactment of the Energy Exploration
13 and Production to Achieve National Demand Act)”
14 after section “30(c)”.

15 (7) Subsection (a) of section 1016 is amended
16 by striking paragraph (25) and by redesignating
17 paragraphs (26) through (37) as paragraphs (25)
18 through (36), respectively.

19 (8) Subsection (m) of section 6501 is amended
20 by striking “30(e)(6)”.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for subpart B of part IV of subchapter A of chapter 1
23 is amended by striking the item relating to section 30.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to vehicles acquired after Decem-
3 ber 31, 2011.

4 **SEC. 604. EARLY TERMINATION OF CREDIT FOR QUALIFIED**
5 **FUEL CELL MOTOR VEHICLES.**

6 (a) IN GENERAL.—Section 30B is repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (A) of section 24(b)(3) is
9 amended by striking “, 30B”.

10 (2) Clause (ii) of section 25(e)(1)(C) is amend-
11 ed by striking “, 30B”.

12 (3) Paragraph (2) of section 25B(g) is amended
13 by striking “, 30B,”.

14 (4) Paragraph (1) of section 26(a) is amended
15 by striking “, 30B”.

16 (5) Subsection (b) of section 38 is amended by
17 striking paragraph (25).

18 (6) Subsection (a) of section 1016, as amended
19 by section 602 of this Act, is amended by striking
20 paragraph (33) and by redesignating paragraphs
21 (34), (35), and (36) as paragraphs (33), (34), and
22 (35), respectively.

23 (7) Paragraph (2) of section 1400C(d) is
24 amended by striking “, 30B”.

1 (8) Subsection (m) of section 6501 is amended
2 by striking “, 30B(h)(9)”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart B of part IV of subchapter A of chapter 1
5 is amended by striking the item relating to section 30B.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 December 31, 2014.

9 **SEC. 605. REPEAL OF ALTERNATIVE FUEL VEHICLE RE-**
10 **FUELING PROPERTY CREDIT.**

11 (a) IN GENERAL.—Section 30C is repealed.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (b) of section 38 is amended by
14 striking paragraph (26).

15 (2) Paragraph (3) of section 55(c) is amended
16 by striking “, 30C(d)(2),”.

17 (3) Subsection (a) of section 1016, as amended
18 by sections 602 and 603 of this Act, is amended by
19 striking paragraph (33) and by redesignating para-
20 graphs (34) and (35) as paragraphs (33) and (34),
21 respectively.

22 (4) Subsection (m) of section 6501 is amended
23 by striking “, 30C(e)(5)”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subpart B of part IV of subchapter A of chapter 1
3 is amended by striking the item relating to section 30C.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to property placed in service after
6 December 31, 2014.

7 **SEC. 606. REPEAL OF CREDIT FOR ALCOHOL USED AS**
8 **FUEL.**

9 (a) IN GENERAL.—Section 40 is repealed.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Subsection (b) of section 38 is amended by
12 striking paragraph (3).

13 (2) Subsection (c) of section 196 is amended by
14 striking paragraph (3) and by redesignating para-
15 graphs (4) through (14) as paragraphs (3) through
16 (13), respectively.

17 (3) Paragraph (1) of section 4101(a) is amend-
18 ed by striking “, and every person producing cellu-
19 losic biofuel (as defined in section 40(b)(6)(E))”.

20 (4) Paragraph (1) of section 4104(a) is amend-
21 ed by striking “, 40”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to fuel sold or used after December
24 31, 2014.

1 **SEC. 607. REPEAL OF CREDIT FOR BIODIESEL AND RENEW-**
2 **ABLE DIESEL USED AS FUEL.**

3 (a) IN GENERAL.—Section 40A is repealed.

4 (b) CONFORMING AMENDMENT.—

5 (1) Subsection (b) of section 38 is amended by
6 striking paragraph (17).

7 (2) Section 87 is repealed.

8 (3) Subsection (c) of section 196, as amended
9 by section 606 of this Act, is amended by striking
10 paragraph (11) and by redesignating paragraphs
11 (11), (12), and (13) as paragraphs (10), (11), and
12 (12), respectively.

13 (4) Paragraph (1) of section 4101(a) is amend-
14 ed by striking “, every person producing or import-
15 ing biodiesel (as defined in section 40A(d)(1))”.

16 (5) Paragraph (1) of section 4104(a) is amend-
17 ed by striking “, and 40A”.

18 (6) Subparagraph (E) of section 7704(d)(1) is
19 amended by inserting “(as so in effect)” after “sec-
20 tion 40A(d)(1)”.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for subpart D of part IV of subchapter A of chapter 1
23 is amended by striking the item relating to section 40A.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to fuel produced, and sold or used,
26 after December 31, 2014.

1 **SEC. 608. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

2 (a) IN GENERAL.—Section 43 is repealed.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsection (b) of section 38 is amended by
5 striking paragraph (6).

6 (2) Paragraph (4) of section 45Q(d) is amended
7 by inserting “(as in effect on the day before the date
8 of the enactment of the Energy Exploration and
9 Production to Achieve National Demand Act)” after
10 “section 43(c)(2)”.

11 (3) Subsection (c) of section 196, as amended
12 by sections 606 and 607 of this Act, is amended by
13 striking paragraph (5) and by redesignating para-
14 graphs (6) through (12) as paragraphs (5) through
15 (11), respectively.

16 (c) CLERICAL AMENDMENT.—The table of sections
17 for subpart D of part IV of subchapter A of chapter 1
18 is amended by striking the item relating to section 43.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to costs paid or incurred in taxable
21 years beginning after December 31, 2014.

22 **SEC. 609. TERMINATION OF CREDIT FOR ELECTRICITY**
23 **PRODUCED FROM CERTAIN RENEWABLE RE-**
24 **SOURCES.**

25 (a) IN GENERAL.—Section 45 is repealed.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart D of part IV of subchapter A of chapter 1
3 is amended by striking the item relating to section 45.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to property placed in service after
6 December 31, 2014.

7 **SEC. 610. REPEAL OF CREDIT FOR PRODUCING OIL AND**
8 **GAS FROM MARGINAL WELLS.**

9 (a) IN GENERAL.—Section 45I is repealed.

10 (b) CONFORMING AMENDMENT.—Subsection (b) of
11 section 38 is amended by striking paragraph (19).

12 (c) CLERICAL AMENDMENT.—The table of sections
13 for subpart D of part IV of subchapter A of chapter 1
14 is amended by striking the item relating to section 45I.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to production in taxable years be-
17 ginning after December 31, 2014.

18 **SEC. 611. TERMINATION OF CREDIT FOR PRODUCTION**
19 **FROM ADVANCED NUCLEAR POWER FACILI-**
20 **TIES.**

21 (a) IN GENERAL.—Subparagraph (B) of section
22 45J(d)(1) is amended by striking “January 1, 2021” and
23 inserting “January 1, 2015”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2014.

4 **SEC. 612. REPEAL OF CREDIT FOR CARBON DIOXIDE SE-**
5 **QUESTRATION.**

6 (a) IN GENERAL.—Section 45Q is repealed.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to carbon dioxide captured after
9 December 31, 2014.

10 **SEC. 613. TERMINATION OF ENERGY CREDIT.**

11 (a) IN GENERAL.—Section 48 is amended—

12 (1) by striking “January 1, 2017” each place
13 it appears and inserting “January 1, 2015”, and

14 (2) by striking “December 31, 2016” each
15 place it appears and inserting “December 31,
16 2014”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2014.

20 **SEC. 614. REPEAL OF QUALIFYING ADVANCED COAL**
21 **PROJECT.**

22 (a) IN GENERAL.—Section 48A is repealed.

23 (b) CONFORMING AMENDMENT.—Section 46 is
24 amended by striking paragraph (3) and by redesignating

1 paragraphs (4), (5), and (6) as paragraphs (3), (4), and
2 (5), respectively.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart E of part IV of subchapter A of chapter 1
5 is amended by striking the item relating to section 48A.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 December 31, 2014.

9 **SEC. 615. REPEAL OF QUALIFYING GASIFICATION PROJECT**
10 **CREDIT.**

11 (a) IN GENERAL.—Section 48B is repealed.

12 (b) CONFORMING AMENDMENT.—Section 46, as
13 amended by section 614, is amended by striking para-
14 graph (3) and by redesignating paragraphs (4) and (5)
15 as paragraphs (3) and (4), respectively.

16 (c) CLERICAL AMENDMENT.—The table of sections
17 for subpart E of part IV of subchapter A of chapter 1
18 is amended by striking the item relating to section 48B.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 December 31, 2014.

1 **SEC. 616. REPEAL OF AMERICAN RECOVERY AND REIN-**
2 **VESTMENT ACT OF 2009 ENERGY GRANT PRO-**
3 **GRAM.**

4 (a) IN GENERAL.—Section 1603 of division B of the
5 American Recovery and Reinvestment Act of 2009 is re-
6 pealed.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to property placed in service after
9 December 31, 2014.

10 **SEC. 617. ELECTION TO EXPENSE PROPERTY USED IN THE**
11 **PRODUCTION OF ENERGY.**

12 (a) IN GENERAL.—Part VI of subchapter B of chap-
13 ter 1 is amended by inserting after section 179E the fol-
14 lowing new section:

15 **“SEC. 179F. ELECTION TO EXPENSE PROPERTY USED IN**
16 **THE PRODUCTION OF ENERGY.**

17 “(a) TREATMENT AS EXPENSES.—A taxpayer may
18 elect to treat the cost of any property used in the produc-
19 tion of energy as an expense which is not chargeable to
20 capital account. Any cost so treated shall be allowed as
21 a deduction for the taxable year in which the property is
22 placed in service.

23 “(b) ELECTION.—

24 “(1) IN GENERAL.—An election under this sec-
25 tion for any taxable year shall be made on the tax-
26 payer’s return of the tax imposed by this chapter for

1 the taxable year. Such election shall specify the
2 property to which the election applies and shall be
3 made in such manner as the Secretary may by regu-
4 lations prescribe.

5 “(2) ELECTION IRREVOCABLE.—Any election
6 made under this section may not be revoked except
7 with the consent of the Secretary.

8 “(c) PROPERTY USED IN THE PRODUCTION OF EN-
9 ERGY.—For purposes of this section, the term ‘property
10 used in the production of energy’ means property—

11 “(1) used in the production of energy,

12 “(2) the original use of which commences with
13 the taxpayer, and

14 “(3) which is placed in service by the taxpayer
15 after the date of the enactment of this section.

16 “(d) COORDINATION.—No expenditures shall be
17 taken into account under subsection (a) with respect to
18 the portion of the cost of any property taken into account
19 in determining a credit or deduction under any other sec-
20 tion of this chapter.

21 “(e) BASIS REDUCTION.—For purposes of this sub-
22 title, if a deduction is allowed under this section with re-
23 spect to any property, the basis of such property shall be
24 reduced by the amount of the deduction so allowed.

1 “(f) REPORTING.—No deduction shall be allowed
2 under subsection (a) to any taxpayer for any taxable year
3 unless such taxpayer files with the Secretary a report con-
4 taining such information with respect to the operation of
5 the mines of the taxpayer as the Secretary shall require.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 1016(a) is amended by striking
8 “and” at the end of paragraph (36), by striking the
9 period at the end of paragraph (37) and inserting “,
10 and”, and by adding at the end the following new
11 paragraph:

12 “(38) to the extent provided in section
13 179F(e).”.

14 (2) Section 263(a)(1) of the Internal Revenue
15 Code of 1986 (relating to capital expenditures) is
16 amended by striking “or” at the end of subpara-
17 graph (K), by striking the period at the end of para-
18 graph (L) and inserting “, or”, and by adding at the
19 end the following new subparagraph:

20 “(M) expenditures for which a deduction is
21 allowed under section 179F.”.

22 (3) Section 1245(a) of such Code is amended
23 by inserting “179F,” after “179E,” both places it
24 appears in paragraphs (2)(C) and (3)(C).

1 (4) The table of sections for part VI of sub-
2 chapter B of chapter 1 of such Code is amended by
3 inserting after the item relating to section 179E the
4 following new item:

“Sec. 179F. Election to expense property used in the production of energy.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2014.

8 **TITLE VII—REGULATORY** 9 **RELIEF**

10 **SEC. 701. LEGISLATIVE STAY.**

11 (a) ESTABLISHMENT OF STANDARDS.—In place of
12 the rules specified in subsection (b), and notwithstanding
13 the date by which such rules would otherwise be required
14 to be promulgated, the Administrator of the Environ-
15 mental Protection Agency (in this title referred to as the
16 “Administrator”) shall—

17 (1) propose regulations for industrial, commer-
18 cial, and institutional boilers and process heaters,
19 and commercial and industrial solid waste inciner-
20 ator units, subject to any of the rules specified in
21 subsection (b)—

22 (A) establishing maximum achievable con-
23 trol technology standards, performance stand-
24 ards, and other requirements under sections

1 112 and 129, as applicable, of the Clean Air
2 Act (42 U.S.C. 7412, 7429); and

3 (B) identifying non-hazardous secondary
4 materials that, when used as fuels or ingredi-
5 ents in combustion units of such boilers, proc-
6 ess heaters, or incinerator units are solid waste
7 under the Solid Waste Disposal Act (42 U.S.C.
8 6901 et seq.; commonly referred to as the “Re-
9 source Conservation and Recovery Act”) for
10 purposes of determining the extent to which
11 such combustion units are required to meet the
12 emissions standards under section 112 of the
13 Clean Air Act (42 U.S.C. 7412) or the emission
14 standards under section 129 of such Act (42
15 U.S.C. 7429); and

16 (2) finalize the regulations on the date that is
17 15 months after the date of the enactment of this
18 Act.

19 (b) STAY OF EARLIER RULES.—The following rules
20 are of no force or effect, shall be treated as though such
21 rules had never taken effect, and shall be replaced as de-
22 scribed in subsection (a):

23 (1) “National Emission Standards for Haz-
24 arduous Air Pollutants for Major Sources: Industrial,
25 Commercial, and Institutional Boilers and Process

1 Heaters”, published at 76 Fed. Reg. 15608 (March
2 21, 2011).

3 (2) “National Emission Standards for Haz-
4 arduous Air Pollutants for Area Sources: Industrial,
5 Commercial, and Institutional Boilers”, published at
6 76 Fed. Reg. 15554 (March 21, 2011).

7 (3) “Standards of Performance for New Sta-
8 tionary Sources and Emission Guidelines for Exist-
9 ing Sources: Commercial and Industrial Solid Waste
10 Incineration Units”, published at 76 Fed. Reg.
11 15704 (March 21, 2011).

12 (4) “Identification of Non-Hazardous Sec-
13 ondary Materials That Are Solid Waste”, published
14 at 76 Fed. Reg. 15456 (March 21, 2011).

15 (c) INAPPLICABILITY OF CERTAIN PROVISIONS.—
16 With respect to any standard required by subsection (a)
17 to be promulgated in regulations under section 112 of the
18 Clean Air Act (42 U.S.C. 7412), the provisions of sub-
19 sections (g)(2) and (j) of such section 112 shall not apply
20 prior to the effective date of the standard specified in such
21 regulations.

22 **SEC. 702. COMPLIANCE DATES.**

23 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
24 each regulation promulgated pursuant to section 701, the
25 Administrator—

1 (1) shall establish a date for compliance with
2 standards and requirements under such regulation
3 that is, notwithstanding any other provision of law,
4 not earlier than 5 years after the effective date of
5 the regulation; and

6 (2) in proposing a date for such compliance,
7 shall take into consideration—

8 (A) the costs of achieving emissions reduc-
9 tions;

10 (B) any non-air quality health and environ-
11 mental impact and energy requirements of the
12 standards and requirements;

13 (C) the feasibility of implementing the
14 standards and requirements, including the time
15 needed to—

16 (i) obtain necessary permit approvals;

17 and

18 (ii) procure, install, and test control
19 equipment;

20 (D) the availability of equipment, sup-
21 pliers, and labor, given the requirements of the
22 regulation and other proposed or finalized regu-
23 lations of the Environmental Protection Agency;
24 and

25 (E) potential net employment impacts.

1 (b) NEW SOURCES.—The date on which the Adminis-
2 trator proposes a regulation pursuant to section 701(a)(1)
3 establishing an emission standard under section 112 or
4 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
5 be treated as the date on which the Administrator first
6 proposes such a regulation for purposes of applying the
7 definition of a new source under section 112(a)(4) of such
8 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid
9 waste incineration unit under section 129(g)(2) of such
10 Act (42 U.S.C. 7429(g)(2)).

11 (c) RULE OF CONSTRUCTION.—Nothing in this title
12 shall be construed to restrict or otherwise affect the provi-
13 sions of paragraphs (3)(B) and (4) of section 112(i) of
14 the Clean Air Act (42 U.S.C. 7412(i)).

15 **SEC. 703. ENERGY RECOVERY AND CONSERVATION.**

16 Notwithstanding any other provision of law, and to
17 ensure the recovery and conservation of energy consistent
18 with the Solid Waste Disposal Act (42 U.S.C. 6901 et
19 seq.; commonly referred to as the “Resource Conservation
20 and Recovery Act”), in promulgating rules under section
21 701(a) addressing the subject matter of the rules specified
22 in paragraphs (3) and (4) of section 701(b), the Adminis-
23 trator—

24 (1) shall adopt the definitions of the terms
25 “commercial and industrial solid waste incineration

1 unit”, “commercial and industrial waste”, and “con-
2 tained gaseous material” in the rule entitled “Stand-
3 ards of Performance for New Stationary Sources
4 and Emission Guidelines for Existing Sources: Com-
5 mercial and Industrial Solid Waste Incineration
6 Units”, published at 65 Fed. Reg. 75338 (December
7 1, 2000); and

8 (2) shall identify non-hazardous secondary ma-
9 terial to be solid waste only if—

10 (A) the material meets such definition of
11 commercial and industrial waste; or

12 (B) if the material is a gas, it meets such
13 definition of contained gaseous material.

14 **SEC. 704. OTHER PROVISIONS.**

15 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
16 PRACTICE.—In promulgating rules under section 701(a),
17 the Administrator shall ensure that emissions standards
18 for existing and new sources established under section 112
19 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as
20 applicable, can be met under actual operating conditions
21 consistently and concurrently with emission standards for
22 all other air pollutants regulated by the rule for the source
23 category, taking into account variability in actual source
24 performance, source design, fuels, inputs, controls, ability

1 to measure the pollutant emissions, and operating condi-
2 tions.

3 (b) REGULATORY ALTERNATIVES.—For each regula-
4 tion promulgated pursuant to section 701(a), from among
5 the range of regulatory alternatives authorized under the
6 Clean Air Act (42 U.S.C. 7401 et seq.) including work
7 practice standards under section 112(h) of such Act (42
8 U.S.C. 7412(h)), the Administrator shall impose the least
9 burdensome, consistent with the purposes of such Act and
10 Executive Order No. 13563 published at 76 Fed. Reg.
11 3821 (January 21, 2011).

12 **SEC. 705. MANAGEMENT AND DISPOSAL OF COAL COMBUS-**
13 **TION RESIDUALS.**

14 (a) AMENDMENT TO SUBTITLE D OF THE SOLID
15 WASTE DISPOSAL ACT.—Subtitle D of the Solid Waste
16 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
17 ing at the end the following new section:

18 **“SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COM-**
19 **BUSTION RESIDUALS.**

20 “(a) STATE PERMIT PROGRAMS FOR COAL COMBUS-
21 TION RESIDUALS.—Each State may adopt and implement
22 a coal combustion residuals permit program.

23 “(b) STATE ACTIONS.—

24 “(1) NOTIFICATION.—Not later than 6 months
25 after the date of enactment of this section (except

1 as provided by the deadline identified under sub-
2 section (d)(2)(B)), the Governor of each State shall
3 notify the Administrator, in writing, whether such
4 State will adopt and implement a coal combustion
5 residuals permit program.

6 “(2) CERTIFICATION.—

7 “(A) IN GENERAL.—Not later than 36
8 months after the date of enactment of this sec-
9 tion (except as provided in subsections (f)(1)(A)
10 and (f)(1)(C)), in the case of a State that has
11 notified the Administrator that it will imple-
12 ment a coal combustion residuals permit pro-
13 gram, the head of the lead State agency respon-
14 sible for implementing the coal combustion re-
15 siduals permit program shall submit to the Ad-
16 ministrator a certification that such coal com-
17 bustion residuals permit program meets the
18 specifications described in subsection (e)(1).

19 “(B) CONTENTS.—A certification sub-
20 mitted under this paragraph shall include—

21 “(i) a letter identifying the lead State
22 agency responsible for implementing the
23 coal combustion residuals permit program,
24 signed by the head of such agency;

1 “(ii) identification of any other State
2 agencies involved with the implementation
3 of the coal combustion residuals permit
4 program;

5 “(iii) a narrative description that pro-
6 vides an explanation of how the State will
7 ensure that the coal combustion residuals
8 permit program meets the requirements of
9 this section, including a description of the
10 State’s—

11 “(I) process to inspect or other-
12 wise determine compliance with such
13 permit program;

14 “(II) process to enforce the re-
15 quirements of such permit program;
16 and

17 “(III) public participation proc-
18 ess for the promulgation, amendment,
19 or repeal of regulations for, and the
20 issuance of permits under, such per-
21 mit program;

22 “(iv) a legal certification that the
23 State has, at the time of certification, fully
24 effective statutes or regulations necessary
25 to implement a coal combustion residuals

1 permit program that meets the specifica-
2 tions described in subsection (c)(1); and

3 “(v) copies of State statutes and regu-
4 lations described in clause (iv).

5 “(3) MAINTENANCE OF 4005(c) OR 3006 PRO-
6 GRAM.—In order to adopt or implement a coal com-
7 bustion residuals permit program under this section
8 (including pursuant to subsection (f)), the State
9 agency responsible for implementing a coal combus-
10 tion residuals permit program in a State shall main-
11 tain an approved program under section 4005(c) or
12 an authorized program under section 3006.

13 “(c) PERMIT PROGRAM SPECIFICATIONS.—

14 “(1) MINIMUM REQUIREMENTS.—The specifica-
15 tions described in this subsection for a coal combus-
16 tion residuals permit program are as follows:

17 “(A) The revised criteria described in
18 paragraph (2) shall apply to a coal combustion
19 residuals permit program, except as provided in
20 paragraph (3).

21 “(B) Each structure shall be, in accord-
22 ance with generally accepted engineering stand-
23 ards for the structural integrity of such struc-
24 tures, designed, constructed, and maintained to
25 provide for containment of the maximum vol-

1 umes of coal combustion residuals appropriate
2 for the structure. If a structure is determined
3 by the head of the agency responsible for imple-
4 menting the coal combustion residuals permit
5 program to be deficient, the head of such agen-
6 cy has authority to require action to correct the
7 deficiency according to a schedule determined
8 by such agency. If the identified deficiency is
9 not corrected according to such schedule, the
10 head of such agency has authority to require
11 that the structure close in accordance with sub-
12 section (h).

13 “(C) The coal combustion residuals permit
14 program shall apply the revised criteria promul-
15 gated pursuant to section 4010(c) for location,
16 design, groundwater monitoring, corrective ac-
17 tion, financial assurance, closure, and post-clo-
18 sure described in paragraph (2) and the speci-
19 fications described in this paragraph to surface
20 impoundments.

21 “(D) If a structure that is classified as
22 posing a high hazard potential pursuant to the
23 guidelines published by the Federal Emergency
24 Management Agency entitled ‘Federal Guide-
25 lines for Dam Safety: Hazard Potential Classi-

1 fication System for Dams’ (FEMA Publication
2 Number 333) is determined by the head of the
3 agency responsible for implementing the coal
4 combustion residuals permit program to be defi-
5 cient with respect to the structural integrity re-
6 quirement in subparagraph (B), the head of
7 such agency has authority to require action to
8 correct the deficiency according to a schedule
9 determined by such agency. If the identified de-
10 ficiency is not corrected according to such
11 schedule, the head of such agency has authority
12 to require that the structure close in accordance
13 with subsection (h).

14 “(E) New structures that first receive coal
15 combustion residuals after the date of enact-
16 ment of this section shall be constructed with a
17 base located a minimum of two feet above the
18 upper limit of the natural water table.

19 “(F) In the case of a coal combustion re-
20 siduals permit program implemented by a
21 State, the State has the authority to inspect
22 structures and implement and enforce such per-
23 mit program.

24 “(G) In the case of a coal combustion re-
25 siduals permit program implemented by a

1 State, the State has the authority to address
2 wind dispersal of dust from coal combustion re-
3 siduals by requiring dust control measures, as
4 determined appropriate by the head of the lead
5 State agency responsible for implementing the
6 coal combustion residuals permit program.

7 “(2) REVISED CRITERIA.—The revised criteria
8 described in this paragraph are—

9 “(A) the revised criteria for design,
10 groundwater monitoring, corrective action, clo-
11 sure, and post-closure, for structures, includ-
12 ing—

13 “(i) for new structures, and lateral ex-
14 pansions of existing structures, that first
15 receive coal combustion residuals after the
16 date of enactment of this section, the re-
17 vised criteria regarding design require-
18 ments described in section 258.40 of title
19 40, Code of Federal Regulations; and

20 “(ii) for all structures that receive
21 coal combustion residuals after the date of
22 enactment of this section, the revised cri-
23 teria regarding groundwater monitoring
24 and corrective action requirements de-
25 scribed in subpart E of part 258 of title

1 40, Code of Federal Regulations, except
2 that, for the purposes of this paragraph,
3 such revised criteria shall also include—

4 “(I) for the purposes of detection
5 monitoring, the constituents boron,
6 chloride, conductivity, fluoride, mer-
7 cury, pH, sulfate, sulfide, and total
8 dissolved solids; and

9 “(II) for the purposes of assess-
10 ment monitoring, the constituents alu-
11 minum, boron, chloride, fluoride, iron,
12 manganese, molybdenum, pH, sulfate,
13 and total dissolved solids;

14 “(B) the revised criteria for location re-
15 strictions described in—

16 “(i) for new structures, and lateral ex-
17 pansions of existing structures, that first
18 receive coal combustion residuals after the
19 date of enactment of this section, sections
20 258.11 through 258.15 of title 40, Code of
21 Federal Regulations; and

22 “(ii) for existing structures that re-
23 ceive coal combustion residuals after the
24 date of enactment of this section, sections

1 258.11 and 258.15 of title 40, Code of
2 Federal Regulations;

3 “(C) for all structures that receive coal
4 combustion residuals after the date of enact-
5 ment of this section, the revised criteria for air
6 quality described in section 258.24 of title 40,
7 Code of Federal Regulations;

8 “(D) for all structures that receive coal
9 combustion residuals after the date of enact-
10 ment of this section, the revised criteria for fi-
11 nancial assurance described in subpart G of
12 part 258 of title 40, Code of Federal Regula-
13 tions;

14 “(E) for all structures that receive coal
15 combustion residuals after the date of enact-
16 ment of this section, the revised criteria for sur-
17 face water described in section 258.27 of title
18 40, Code of Federal Regulations;

19 “(F) for all structures that receive coal
20 combustion residuals after the date of enact-
21 ment of this section, the revised criteria for rec-
22 ordkeeping described in section 258.29 of title
23 40, Code of Federal Regulations;

24 “(G) for landfills and other land-based
25 units, other than surface impoundments, that

1 receive coal combustion residuals after the date
2 of enactment of this section, the revised criteria
3 for run-on and run-off control systems de-
4 scribed in section 258.26 of title 40, Code of
5 Federal Regulations; and

6 “(H) for surface impoundments that re-
7 ceive coal combustion residuals after the date of
8 enactment of this section, the revised criteria
9 for run-off control systems described in section
10 258.26(a)(2) of title 40, Code of Federal Regu-
11 lations.

12 “(3) APPLICABILITY OF CERTAIN REQUIRE-
13 MENTS.—A State may determine that one or more
14 of the requirements of the revised criteria described
15 in paragraph (2) is not needed for the management
16 of coal combustion residuals in that State, and may
17 decline to apply such requirement as part of its coal
18 combustion residuals permit program. If a State de-
19 clines to apply a requirement under this paragraph,
20 the State shall include in the certification under sub-
21 section (b)(2) a description of such requirement and
22 the reasons such requirement is not needed in the
23 State. If the Administrator determines that a State
24 determination under this paragraph does not accu-
25 rately reflect the needs for the management of coal

1 combustion residuals in the State, the Administrator
2 may treat such State determination as a deficiency
3 under subsection (d).

4 “(d) WRITTEN NOTICE AND OPPORTUNITY TO REM-
5 EDY.—

6 “(1) IN GENERAL.—The Administrator shall
7 provide to a State written notice and an opportunity
8 to remedy deficiencies in accordance with paragraph
9 (2) if at any time the State—

10 “(A) does not satisfy the notification re-
11 quirement under subsection (b)(1);

12 “(B) has not submitted a certification
13 under subsection (b)(2);

14 “(C) does not satisfy the maintenance re-
15 quirement under subsection (b)(3); or

16 “(D) is not implementing a coal combus-
17 tion residuals permit program that meets the
18 specifications described in subsection (c)(1).

19 “(2) CONTENTS OF NOTICE; DEADLINE FOR RE-
20 SPONSE.—A notice provided under this subsection
21 shall—

22 “(A) include findings of the Administrator
23 detailing any applicable deficiencies in—

1 “(i) compliance by the State with the
2 notification requirement under subsection
3 (b)(1);

4 “(ii) compliance by the State with the
5 certification requirement under subsection
6 (b)(2);

7 “(iii) compliance by the State with the
8 maintenance requirement under subsection
9 (b)(3); and

10 “(iv) the State coal combustion re-
11 siduals permit program in meeting the
12 specifications described in subsection
13 (c)(1); and

14 “(B) identify, in collaboration with the
15 State, a reasonable deadline, which shall be not
16 sooner than 6 months after the State receives
17 the notice, by which the State shall remedy the
18 deficiencies detailed under subparagraph (A).

19 “(e) IMPLEMENTATION BY ADMINISTRATOR.—

20 “(1) IN GENERAL.—The Administrator shall
21 implement a coal combustion residuals permit pro-
22 gram for a State only in the following cir-
23 cumstances:

24 “(A) If the Governor of such State notifies
25 the Administrator under subsection (b)(1) that

1 such State will not adopt and implement such
2 a permit program.

3 “(B) If such State has received a notice
4 under subsection (d) and, after any review
5 brought by the State under section 7006, fails,
6 by the deadline identified in such notice under
7 subsection (d)(2)(B), to remedy the deficiencies
8 detailed in such notice under subsection
9 (d)(2)(A).

10 “(C) If such State informs the Adminis-
11 trator, in writing, that such State will no longer
12 implement such a permit program.

13 “(2) REQUIREMENTS.—If the Administrator
14 implements a coal combustion residuals permit pro-
15 gram for a State under paragraph (1), such permit
16 program shall consist of the specifications described
17 in subsection (c)(1).

18 “(3) ENFORCEMENT.—If the Administrator im-
19 plements a coal combustion residuals permit pro-
20 gram for a State under paragraph (1), the authori-
21 ties referred to in section 4005(c)(2)(A) shall apply
22 with respect to coal combustion residuals and struc-
23 tures and the Administrator may use such authori-
24 ties to inspect, gather information, and enforce the
25 requirements of this section in the State.

1 “(f) STATE CONTROL AFTER IMPLEMENTATION BY
2 ADMINISTRATOR.—

3 “(1) STATE CONTROL.—

4 “(A) NEW ADOPTION AND IMPLEMENTA-
5 TION BY STATE.—For a State for which the
6 Administrator is implementing a coal combus-
7 tion residuals permit program under subsection
8 (e)(1)(A), the State may adopt and implement
9 such a permit program by—

10 “(i) notifying the Administrator that
11 the State will adopt and implement such a
12 permit program;

13 “(ii) not later than 6 months after the
14 date of such notification, submitting to the
15 Administrator a certification under sub-
16 section (b)(2); and

17 “(iii) receiving from the Adminis-
18 trator—

19 “(I) a determination that the
20 State coal combustion residuals per-
21 mit program meets the specifications
22 described in subsection (e)(1); and

23 “(II) a timeline for transition of
24 control of the coal combustion residu-
25 als permit program.

1 “(B) REMEDYING DEFICIENT PERMIT PRO-
2 GRAM.—For a State for which the Adminis-
3 trator is implementing a coal combustion re-
4 siduals permit program under subsection
5 (e)(1)(B), the State may adopt and implement
6 such a permit program by—

7 “(i) remedying the deficiencies de-
8 tailed in the notice provided under sub-
9 section (d)(2)(A); and

10 “(ii) receiving from the Adminis-
11 trator—

12 “(I) a determination that the de-
13 ficiencies detailed in such notice have
14 been remedied; and

15 “(II) a timeline for transition of
16 control of the coal combustion residu-
17 als permit program.

18 “(C) RESUMPTION OF IMPLEMENTATION
19 BY STATE.—For a State for which the Adminis-
20 trator is implementing a coal combustion re-
21 siduals permit program under subsection
22 (e)(1)(C), the State may adopt and implement
23 such a permit program by—

1 “(i) notifying the Administrator that
2 the State will adopt and implement such a
3 permit program;

4 “(ii) not later than 6 months after the
5 date of such notification, submitting to the
6 Administrator a certification under sub-
7 section (b)(2); and

8 “(iii) receiving from the Adminis-
9 trator—

10 “(I) a determination that the
11 State coal combustion residuals per-
12 mit program meets the specifications
13 described in subsection (c)(1); and

14 “(II) a timeline for transition of
15 control of the coal combustion residu-
16 als permit program.

17 “(2) REVIEW OF DETERMINATION.—

18 “(A) DETERMINATION REQUIRED.—The
19 Administrator shall make a determination
20 under paragraph (1) not later than 90 days
21 after the date on which the State submits a cer-
22 tification under paragraph (1)(A)(ii) or
23 (1)(C)(ii), or notifies the Administrator that the
24 deficiencies have been remedied pursuant to
25 paragraph (1)(B)(i), as applicable.

1 “(B) REVIEW.—A State may obtain a re-
2 view of a determination by the Administrator
3 under paragraph (1) as if such determination
4 was a final regulation for purposes of section
5 7006.

6 “(3) IMPLEMENTATION DURING TRANSITION.—

7 “(A) EFFECT ON ACTIONS AND ORDERS.—
8 Actions taken or orders issued pursuant to a
9 coal combustion residuals permit program shall
10 remain in effect if—

11 “(i) a State takes control of its coal
12 combustion residuals permit program from
13 the Administrator under paragraph (1); or

14 “(ii) the Administrator takes control
15 of a coal combustion residuals permit pro-
16 gram from a State under subsection (e).

17 “(B) CHANGE IN REQUIREMENTS.—Sub-
18 paragraph (A) shall apply to such actions and
19 orders until such time as the Administrator or
20 the head of the lead State agency responsible
21 for implementing the coal combustion residuals
22 permit program, as applicable—

23 “(i) implements changes to the re-
24 quirements of the coal combustion residu-

1 als permit program with respect to the
2 basis for the action or order; or

3 “(ii) certifies the completion of a cor-
4 rective action that is the subject of the ac-
5 tion or order.

6 “(4) SINGLE PERMIT PROGRAM.—If a State
7 adopts and implements a coal combustion residuals
8 permit program under this subsection, the Adminis-
9 trator shall cease to implement the permit program
10 implemented under subsection (e) for such State.

11 “(g) EFFECT ON DETERMINATION UNDER 4005(c)
12 OR 3006.—The Administrator shall not consider the im-
13 plementation of a coal combustion residuals permit pro-
14 gram by the Administrator under subsection (e) in making
15 a determination of approval for a permit program or other
16 system of prior approval and conditions under section
17 4005(c) or of authorization for a program under section
18 3006.

19 “(h) CLOSURE.—If it is determined, pursuant to a
20 coal combustion residuals permit program, that a struc-
21 ture should close, the time period and method for the clo-
22 sure of such structure shall be set forth in a closure plan
23 that establishes a deadline for completion and that takes
24 into account the nature and the site-specific characteris-
25 tics of the structure to be closed. In the case of a surface

1 impoundment, the closure plan shall require, at a min-
2 imum, the removal of liquid and the stabilization of re-
3 maining waste, as necessary to support the final cover.

4 “(i) AUTHORITY.—

5 “(1) STATE AUTHORITY.—Nothing in this sec-
6 tion shall preclude or deny any right of any State to
7 adopt or enforce any regulation or requirement re-
8 specting coal combustion residuals that is more
9 stringent or broader in scope than a regulation or
10 requirement under this section.

11 “(2) AUTHORITY OF THE ADMINISTRATOR.—

12 “(A) IN GENERAL.—Except as provided in
13 subsection (e) of this section and section 6005
14 of this title, the Administrator shall, with re-
15 spect to the regulation of coal combustion re-
16 siduals, defer to the States pursuant to this sec-
17 tion.

18 “(B) IMMINENT HAZARD.—Nothing in this
19 section shall be construed to affect the author-
20 ity of the Administrator under section 7003
21 with respect to coal combustion residuals.

22 “(C) TECHNICAL AND ENFORCEMENT AS-
23 SISTANCE ONLY UPON REQUEST.—Upon re-
24 quest from the head of a lead State agency that
25 is implementing a coal combustion residuals

1 permit program, the Administrator may provide
2 to such State agency only the technical or en-
3 forcement assistance requested.

4 “(3) CITIZEN SUITS.—Nothing in this section
5 shall be construed to affect the authority of a person
6 to commence a civil action in accordance with sec-
7 tion 7002.

8 “(j) MINE RECLAMATION ACTIVITIES.—A coal com-
9 bustion residuals permit program implemented under sub-
10 section (e) by the Administrator shall not apply to the uti-
11 lization, placement, and storage of coal combustion residu-
12 als at surface mining and reclamation operations.

13 “(k) DEFINITIONS.—In this section:

14 “(1) COAL COMBUSTION RESIDUALS.—The
15 term ‘coal combustion residuals’ means—

16 “(A) the solid wastes listed in section
17 3001(b)(3)(A)(i), including recoverable mate-
18 rials from such wastes;

19 “(B) coal combustion wastes that are co-
20 managed with wastes produced in conjunction
21 with the combustion of coal, provided that such
22 wastes are not segregated and disposed of sepa-
23 rately from the coal combustion wastes and
24 comprise a relatively small proportion of the
25 total wastes being disposed in the structure;

1 “(C) fluidized bed combustion wastes;

2 “(D) wastes from the co-burning of coal
3 with nonhazardous secondary materials pro-
4 vided that coal makes up at least 50 percent of
5 the total fuel burned; and

6 “(E) wastes from the co-burning of coal
7 with materials described in subparagraph (A)
8 that are recovered from monofills.

9 “(2) COAL COMBUSTION RESIDUALS PERMIT
10 PROGRAM.—The term ‘coal combustion residuals
11 permit program’ means a permit program or other
12 system of prior approval and conditions that is
13 adopted by or for a State for the management and
14 disposal of coal combustion residuals to the extent
15 such activities occur in structures in such State.

16 “(3) STRUCTURE.—The term ‘structure’ means
17 a landfill, surface impoundment, or other land-based
18 unit which may receive coal combustion residuals.

19 “(4) REVISED CRITERIA.—The term ‘revised
20 criteria’ means the criteria promulgated for munic-
21 ipal solid waste landfill units under section 4004(a)
22 and under section 1008(a)(3), as revised under sec-
23 tion 4010(c) in accordance with the requirement of
24 such section that the criteria protect human health
25 and the environment.”.

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents contained in section 1001 of the Solid Waste Dis-
3 posal Act is amended by inserting after the item relating
4 to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

5 (c) 2000 REGULATORY DETERMINATION.—Nothing
6 in this section, or the amendments made by this section,
7 shall be construed to alter in any manner the Environ-
8 mental Protection Agency’s regulatory determination enti-
9 tled “Notice of Regulatory Determination on Wastes from
10 the Combustion of Fossil Fuels”, published at 65 Fed.
11 Reg. 32214 (May 22, 2000), that the fossil fuel combus-
12 tion wastes addressed in that determination do not war-
13 rant regulation under subtitle C of the Solid Waste Dis-
14 posal Act (42 U.S.C. 6921 et seq.).

15 **SEC. 706. PROHIBITION ON USE OF SOCIAL COST OF CAR-**
16 **BON IN ANALYSIS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law or any Executive order, a Federal department
19 or agency shall not use the social cost of carbon in order
20 to incorporate social benefits of reducing carbon dioxide
21 emissions, or for any other reason, in any cost-benefit
22 analysis.

23 (b) DEFINITION.—In this section, the term “social
24 cost of carbon” means the social cost of carbon as de-
25 scribed in the technical support document entitled “Tech-

1 nical Support Document: Technical Update of the Social
2 Cost of Carbon for Regulatory Impact Analysis Under Ex-
3 ecutive Order 12866”, published by the Interagency
4 Working Group on Social Cost of Carbon, United States
5 Government, in May 2013, or any successor or substan-
6 tially related document, or any other estimate of the mone-
7 tized damages associated with an incremental increase in
8 carbon dioxide emissions in a given year.

9 **SEC. 707. CLARIFICATION OF LEGAL ENFORCEMENT**
10 **AGAINST NONCRIMINAL ENERGY PRO-**
11 **DUCERS.**

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

13 (1) The Migratory Bird Treaty Act (MBTA)
14 was enacted in 1918 to protect the migratory bird
15 population from overhunting and poaching and has
16 not been updated to reflect the societal changes that
17 have occurred in our Nation over the last 95 years.

18 (2) Anyone involved in an otherwise legal activ-
19 ity may be subject to criminal liability for the unin-
20 tentional death of any one of over 1,000 species of
21 birds protected under the MBTA.

22 (3) The Act of June 8, 1940 (chapter 278; 16
23 U.S.C. 668), popularly known as the Bald and Gold-
24 en Eagle Protection Act (BGEPA), was first enacted
25 in 1940 to protect the dwindling population of bald

1 eagles and amended in 1962 to cover golden eagles
2 in order to provide additional protective measures
3 for bald eagles and for other purposes.

4 (4) The BGEPA includes a program for the
5 Federal Government to issue permits in order to
6 protect companies from legal liability if eagles are
7 unintentionally injured or killed, but the Federal
8 Government has failed to issue permits issued under
9 the program.

10 (5) Among other goals, the BGEPA's permit
11 program was established to assure the protection of
12 interests fundamental to the basic operation of our
13 society like agriculture and energy infrastructure de-
14 velopment and maintenance.

15 (6) The BGEPA was successful in helping the
16 overall eagle population recover, leading to bald ea-
17 gles being removed from the list of threatened and
18 endangered species in 2007.

19 (7) There are differing legal and judicial inter-
20 pretations regarding the scope of criminality in those
21 statutes.

22 (8) It appears criminal prosecution under those
23 statutes has been subjective, selective, and not ap-
24 plied uniformly and fairly across all sectors of soci-
25 ety.

1 (9) Those statutes need to be updated to reflect
2 significant changes in our Nation over the last half
3 century, including the urbanization of rural areas
4 and how domestic energy is produced, transmitted,
5 and distributed.

6 (10) Protecting the avian population and its
7 habitat is important.

8 (11) Federal enforcement actions should be ap-
9 propriate, uniform, nondiscriminatory, and just.

10 (b) PERMITS FOR INCIDENTAL TAKE.—Section 1 of
11 the Act of June 8, 1940 (chapter 278; 16 U.S.C. 668),
12 popularly known as the Bald and Golden Eagle Protection
13 Act, is amended by adding at the end the following:

14 “(d) PERMITS FOR INCIDENTAL TAKE.—Upon sub-
15 mission of a substantially completed application, the Sec-
16 retary shall issue or deny an eagle take permit for no less
17 than 30 years under section 22.26 of title 50, Code of
18 Federal Regulations, that authorizes taking of any bald
19 eagle or golden eagle that is incidental to, but not the pur-
20 pose of, an otherwise lawful activity. Failure to issue or
21 deny such a permit within a reasonable time (which shall
22 not exceed one year) is deemed issuance of such permit,
23 and the applicant shall not be subject to liability for any
24 incidental take of a bald eagle or golden eagle that is in

1 conformity with the information submitted to the Sec-
 2 retary as part of the application for the permit.”.

3 (c) MIGRATORY BIRD TREATY ACT.—Section 6(a) of
 4 the Migratory Bird Treaty Act (16 U.S.C. 707(a)) is
 5 amended—

6 (1) by striking “shall” the first and second
 7 place it appears and inserting “shall with intent
 8 knowingly”; and

9 (2) by adding at the end the following: “For the
 10 purposes of this subsection, ‘with intent knowingly’
 11 does not include any taking, killing, or other harm
 12 to any migratory bird that is accidental or incidental
 13 to the presence or operation of an otherwise lawful
 14 activity.”.

15 **TITLE VIII—ATTAINMENT OF NA-**
 16 **TIONAL AMBIENT AIR QUAL-**
 17 **ITY STANDARDS**

18 **SEC. 801. AIR QUALITY MONITORING AND MODELING**
 19 **METHODOLOGIES.**

20 (a) NONATTAINMENT DESIGNATION TO BE BASED
 21 ON MONITORING DATA.—Section 107 of the Clean Air Act
 22 (42 U.S.C. 7407) is amended by adding at the end the
 23 following:

24 “(f) NONATTAINMENT DESIGNATION TO BE BASED
 25 ON MONITORING DATA.—Any designation or redesigna-

1 tion of an area or portion of an area within a State or
2 interstate area as a nonattainment area for a pollutant
3 within the meaning of subsection (d)(1)(A)(i) shall—

4 “(1) be based on monitoring data; and

5 “(2) not take into consideration modeling
6 data.”.

7 (b) AIR QUALITY MODELING METHODOLOGIES.—

8 (1) METHODOLOGIES.—Section 110 of the
9 Clean Air Act (42 U.S.C. 7410) is amended by add-
10 ing at the end the following:

11 “(d) AIR QUALITY MODELING METHODOLOGIES.—
12 The Administrator shall, by regulation, set forth the air
13 quality modeling methodologies required to be used for
14 purposes of air quality modeling pursuant to subsection
15 (a)(2)(K).”.

16 (2) REGULATIONS.—The Administrator of the
17 Environmental Protection Agency shall promulgate
18 final regulations, as required by section 110(d) of
19 the Clean Air Act, as added by paragraph (1), not
20 later than one year after the date of the enactment
21 of this Act.

22 **SEC. 802. EXTENDING COMPLIANCE FOR NAAQS ATTAIN-**
23 **MENT FOR DOWNWIND STATES.**

24 Section 181 of the Clean Air Act (42 U.S.C. 7511)
25 is amended by adding at the end the following:

1 “(d) EXTENDED ATTAINMENT DATE FOR CERTAIN
2 DOWNWIND AREAS.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) The term ‘upwind area’ means an
5 area that—

6 “(i) affects nonattainment in another
7 area (in this subsection referred to as the
8 ‘downwind area’); and

9 “(ii) is either—

10 “(I) a nonattainment area with a
11 later attainment date than the down-
12 wind area; or

13 “(II) an area in another State
14 that the Administrator has found to
15 be significantly contributing to non-
16 attainment in the downwind area in
17 violation of section 110(a)(2)(D) and
18 for which the Administrator has es-
19 tablished requirements through notice
20 and comment rulemaking to reduce
21 the emissions causing such significant
22 contribution.

23 “(B) The term ‘current classification’
24 means the classification of a downwind area

1 under this section at the time of the determina-
2 tion under paragraph (2).

3 “(2) EXTENSION.—Notwithstanding subsection
4 (b)(2), a downwind area that is not in attainment
5 within 18 months of the attainment deadline re-
6 quired under this section may seek an extension of
7 time to come into attainment by petitioning the Ad-
8 ministrator for such an extension. If the Adminis-
9 trator—

10 “(A) determines that the area is a down-
11 wind area with respect to a particular national
12 ambient air quality standard for ozone;

13 “(B) approves a plan revision for such
14 area as provided in paragraph (3) prior to a re-
15 classification under subsection (b)(2)(A); and

16 “(C) determines that the petitioning down-
17 wind area has demonstrated that it is affected
18 by transport from an upwind area to a degree
19 that affects the area’s ability to attain,
20 the Administrator, in lieu of such reclassification,
21 may extend the attainment date for such downwind
22 area for such standard in accordance with paragraph
23 (5).

24 “(3) APPROVAL.—In order to extend the attain-
25 ment date for a downwind area under this sub-

1 section, the Administrator may approve a revision of
2 the applicable implementation plan for the downwind
3 area for the national ambient air quality standard
4 that—

5 “(A) complies with all requirements of this
6 Act applicable under the current classification
7 of the downwind area, including any require-
8 ments applicable to the area under section
9 172(c) for such standard;

10 “(B) includes any additional measures
11 needed to demonstrate attainment by the ex-
12 tended attainment date provided under this
13 subsection, and provides for implementation of
14 those measures as expeditiously as practicable;
15 and

16 “(C) provides appropriate measures to en-
17 sure that no area downwind of the area receiv-
18 ing the extended attainment date will be af-
19 fected by transport to a degree that affects the
20 other area’s ability to attain.

21 “(4) PRIOR RECLASSIFICATION DETERMINA-
22 TION.—If, after April 1, 2003, and prior to the time
23 the 1-hour ozone standard no longer applies to a
24 downwind area, the Administrator made a reclassi-
25 fication determination under subsection (b)(2)(A)

1 for such downwind area, and the Administrator ap-
2 proves a plan consistent with subparagraphs (A) and
3 (B) for such area, the reclassification shall be with-
4 drawn and, for purposes of implementing the 8-hour
5 ozone national ambient air quality standard, the
6 area shall be treated as if the reclassification never
7 occurred. Such plan must be submitted no later than
8 12 months following enactment of this subsection,
9 and—

10 “(A) the plan revision for the downwind
11 area must comply with all control and planning
12 requirements of this Act applicable under the
13 classification that applied immediately prior to
14 reclassification, including any requirements ap-
15 plicable to the area under section 172(c) for
16 such standard; and

17 “(B) the plan must include any additional
18 measures needed to demonstrate attainment no
19 later than the date on which the last reductions
20 in pollution transport that have been found by
21 the Administrator to significantly contribute to
22 nonattainment are required to be achieved by
23 the upwind area or areas.

24 “(5) EXTENDED DATE.—The attainment date
25 extended under this subsection shall provide for at-

1 tainment of such national ambient air quality stand-
 2 ard for ozone in the downwind area as expeditiously
 3 as practicable but no later than the new date that
 4 the area would have been subject to had it been re-
 5 classified under subsection (b)(2).

6 “(6) RULEMAKING.—Within 12 months after
 7 the enactment of this subsection, the Administrator
 8 shall, after notice and comment, promulgate rules to
 9 determine, for purposes of paragraphs (2) and (3),
 10 when an area is affected by transport to a degree
 11 that affects the area’s ability to attain. The purpose
 12 of such rules shall be to ensure that downwind areas
 13 are not unjustly penalized.”

14 **TITLE IX—SUB-BASIN REPORT-**
 15 **ING OF GREENHOUSE GAS**
 16 **EMISSIONS**

17 **SEC. 901. SUB-BASIN REPORTING OF GREENHOUSE GAS**
 18 **EMISSIONS.**

19 Section 114 of the Clean Air Act (42 U.S.C. 7414)
 20 is amended by adding at the end the following:

21 “(e) REPORTING OF GREENHOUSE GAS EMISSIONS
 22 FROM PETROLEUM AND NATURAL GAS SYSTEMS.—In re-
 23 quiring any owner or operator of any facility in the petro-
 24 leum and natural gas system source category (as such
 25 terms are used in part 98 of title 40, Code of Federal

1 Regulations, and any successor regulations) to report
2 greenhouse gas emissions from facilities in such category,
3 the Administrator shall allow the owner or operator, at
4 its election—

5 “(1) to designate sub-basins consisting of simi-
6 lar fields within a larger basin; and

7 “(2) to report such emissions from such sub-ba-
8 sins instead of reporting such emissions from the
9 larger basin.”.

10 **TITLE X—IMPLEMENTATION OF** 11 **NATIONAL OCEAN POLICY**

12 **SEC. 1001. PROHIBITION ON USE OF FUNDS.**

13 (a) Federal departments and agencies are prohibited
14 from performing activities to implement Executive Order
15 13547.

16 **TITLE XI—OTHER PROVISIONS**

17 **SEC. 1101. ADMINISTRATIVE RECORD.**

18 The administrative record compiled by an agency re-
19 garding an application for a permit, authorization, or
20 other agency action involving a Priority Energy Project
21 shall be the sole and exclusive record for any appeal or
22 review of the permit action or other activity by that agency
23 or other agency, as applicable. Upon final agency action,
24 such record shall be closed and shall not be subject to any

1 further evidentiary proceedings or requirements unless re-
2 quested by the applicant.

3 **SEC. 1102. STATEMENT OF ENERGY EFFECTS.**

4 (a) PREPARATION.—

5 (1) REQUIREMENT.—An agency shall prepare
6 and submit a Statement of Energy Effects to the
7 Administrator of the Office of Information and Reg-
8 ulatory Affairs of the Office of Management and
9 Budget, for each proposed significant energy action.

10 (2) CONTENTS.—A Statement of Energy Ef-
11 fects shall consist of a detailed statement by the
12 agency responsible for the significant energy action
13 relating to—

14 (A) any adverse effects on energy supply,
15 distribution, or use (including a shortfall in
16 supply, price increases, and increased use of
17 foreign supplies) should the proposal be imple-
18 mented; and

19 (B) reasonable alternatives to the action
20 with adverse energy effects, and the expected
21 effects of such alternatives on energy supply,
22 distribution, and use.

23 (3) GUIDANCE AND CONSULTATION.—The Ad-
24 ministrator of the Office of Information and Regu-
25 latory Affairs shall provide guidance to the agencies

1 on the implementation of this section and shall con-
2 sult with other agencies as appropriate in the imple-
3 mentation of this section.

4 (b) PUBLICATION.—Agencies shall publish their
5 Statements of Energy Effects, or a summary thereof, in
6 each related notice of proposed rulemaking and in any re-
7 sulting final rule.

8 (c) DEFINITIONS.—For purposes of this section—

9 (1) the term “agency” has the meaning given
10 that term in paragraph (1) of section 3502 of title
11 44, United States Code, except that the term does
12 not include an independent regulatory agency, as de-
13 fined in paragraph (5) of that section; and

14 (2) the term “significant energy action” means
15 any action by an agency that is expected to lead to
16 promulgation of a final regulation and that—

17 (A) is likely to have a significant adverse
18 effect on the supply, distribution, or use of en-
19 ergy; or

20 (B) is designated by the Administrator of
21 the Office of Information and Regulatory Af-
22 fairs as a significant energy action.

1 **SEC. 1103. PRIORITY-ENERGY PROJECT PERMIT DURATION.**

2 The approval to construct or operate a Priority En-
3 ergy Project pursuant to any Federal permit, as applica-
4 ble, shall remain valid and authorized for the later of—

5 (1) 18 months following the date on which the
6 last permit needed by a Priority Energy Project to
7 commence construction or operation is final and no
8 longer subject to judicial review;

9 (2) 3 years; or

10 (3) in the case of a nationwide permit issued by
11 the Army Corps of Engineers pursuant to part 330
12 of title 33, Code of Federal Regulations, 5 years.

13 **TITLE XII—FUTURE NUCLEAR**
14 **ENERGY**

15 **SEC. 1201. SHORT TITLE.**

16 This title may be cited as the “Streamline America’s
17 Future Energy Nuclear Act”.

18 **SEC. 1202. PUBLIC HEALTH AND SAFETY.**

19 Nothing in this title shall supersede, mitigate, detract
20 from, or in anyway decrease the Nuclear Regulatory Com-
21 mission’s ability to maintain the highest possible levels of
22 public health and safety standards, consistent with the
23 provisions of the Atomic Energy Act of 1954. No authority
24 granted by this title shall be executed in a manner that
25 jeopardizes, minimizes, reduces, or lessens public health
26 and safety standards.

1 **SEC. 1203. STREAMLINING COMBINED CONSTRUCTION AND**
2 **OPERATING LICENSE.**

3 (a) **IN GENERAL.**—The Nuclear Regulatory Commis-
4 sion shall establish and implement an expedited procedure
5 for issuing a Combined Construction and Operating Li-
6 cense.

7 (b) **QUALIFICATIONS.**—To qualify for the expedited
8 procedure under this section, an applicant shall—

9 (1) apply for construction of a reactor based on
10 a design approved by the Nuclear Regulatory Com-
11 mission;

12 (2) construct the new reactor on or adjacent to
13 a site where an operating nuclear power plant al-
14 ready exists;

15 (3) not be subject to a Nuclear Regulatory
16 Commission order to modify, suspend, or revoke a li-
17 cense under section 2.202 of title 10, Code of Fed-
18 eral Regulations; and

19 (4) submit a complete Combined Construction
20 and Operating License application that is docketed
21 by the Commission.

22 (c) **EXPEDITED PROCEDURE.**—With respect to a li-
23 cense for which the applicant has satisfied the require-
24 ments of subsection (b) and seeks fast track consideration,
25 the Nuclear Regulatory Commission shall follow the fol-
26 lowing procedures:

1 (1) Undertake an expedited environmental re-
2 view process and issue a draft Environmental Im-
3 pact Statement within 12 months after the applica-
4 tion is accepted for docketing.

5 (2) Complete any public licensing hearings and
6 related processes within 24 months of accepting for
7 docketing the expedited Combined Construction and
8 Operating License application. Such hearings shall
9 begin with the issuance of a draft Environmental
10 Impact Statement.

11 (3) Complete the technical review process and
12 issue the Safety Evaluation Report and the final En-
13 vironmental Impact Statement within 18 months
14 after the application is accepted for docketing.

15 (4) Make a final decision on whether to issue
16 the Combined Construction and Operating License
17 within 25 months after docketing the application.

18 (d) GOALS.—The Nuclear Regulatory Commission
19 shall present recommendations to Congress within 90 days
20 of the date of enactment of this Act for procedures that
21 would further facilitate the licensing of new nuclear reac-
22 tors in a timely manner.

23 **SEC. 1204. REACTOR DESIGN CERTIFICATION.**

24 The Nuclear Regulatory Commission shall reduce by
25 one-half the time necessary to certify a reactor design and

1 may include designs under consideration for certification
2 by the Nuclear Regulatory Commission as of the date of
3 enactment of this Act. Such a schedule shall be presented
4 to Congress within one year of the date of enactment of
5 this Act.

6 **SEC. 1205. TECHNOLOGY NEUTRAL PLANT DESIGN SPECI-**
7 **FICATIONS.**

8 Within one year of the date of enactment of this Act,
9 the Nuclear Regulatory Commission shall outline to the
10 Congress an approach that will allow the Nuclear Regu-
11 latory Commission to develop technology-neutral guide-
12 lines for nuclear plant licensing in the future that would
13 allow for the more seamless entry of new technologies into
14 the marketplace.

15 **SEC. 1206. ADDITIONAL FUNDING AND PERSONNEL RE-**
16 **SOURCES.**

17 Not later than 90 days after the date of enactment
18 of this Act, the Nuclear Regulatory Commission shall
19 transmit to the Congress a request for such additional
20 funding and personnel resources as are necessary to carry
21 out sections 1202 through 1205 without delaying consid-
22 eration of applications for Combined Construction and Op-
23 erating Licenses or reactor design certifications not sub-
24 ject to expedited procedures under this title.

1 **SEC. 1207. NEXT GENERATION NUCLEAR POWER PLANT.**

2 The Department of Energy and the Nuclear Regu-
3 latory Commission shall reevaluate the Next Generation
4 Nuclear Power Plant schedule with the purpose of signifi-
5 cant acceleration. Within 180 days of the date of enact-
6 ment of this Act, program managers shall submit to the
7 Congress a revised schedule, including funding require-
8 ments, that would allow for program completion as near
9 as is possible to 2017 (halving the current schedule of pro-
10 gram completion in 2021).

11 **SEC. 1208. URANIUM MINING ON FEDERAL LANDS.**

12 The Federal Land Policy and Management Act of
13 1976 shall not be used to arbitrarily prevent uranium min-
14 ing from taking place on Federal lands. The Federal Gov-
15 ernment shall not collect additional leasing fees, beyond
16 that which are currently applicable, to mine uranium on
17 Federal lands. Any fees collected in association with com-
18 mercial uranium mining on Federal lands that should be
19 applied for remediation purposes, shall only be applied to
20 the remediation of sites that incurred damage as a result
21 of commercial nuclear activities. Such fees shall not be ap-
22 plied to the remediation of any sites that incurred damage
23 as a result of Government or Government-sponsored ac-
24 tivities.

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