



THE AMERICAN ENERGY ACT

H.R. 2846

Introduced June 12, 2009



.....
(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R.

To increase energy independence and job creation by increasing safe American energy production, encouraging the development of alternative and renewable energy, and promoting greater efficiencies and conservation for a cleaner environment.

IN THE HOUSE OF REPRESENTATIVES

Mr. BOEHNER (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To increase energy independence and job creation by increasing safe American energy production, encouraging the development of alternative and renewable energy, and promoting greater efficiencies and conservation for a cleaner environment.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Energy Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—AMERICAN ENERGY

Subtitle A—OCS

- Sec. 101. Short title.
- Sec. 102. Policy.
- Sec. 103. Leasing program considered approved.
- Sec. 104. Lease sales.
- Sec. 105. Prohibitions on surface occupancy.
- Sec. 106. Definitions under the Submerged Lands Act.
- Sec. 107. Seaward boundaries of States.
- Sec. 108. Exceptions from confirmation and establishment of States' title,
power, and rights.
- Sec. 109. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 110. Determination of adjacent zones and planning areas.
- Sec. 111. Administration of leasing.
- Sec. 112. Grant of leases by Secretary.
- Sec. 113. Disposition of receipts.
- Sec. 114. Reservation of lands and rights.
- Sec. 115. Outer Continental Shelf leasing program.
- Sec. 116. Coordination with Adjacent States.
- Sec. 117. Environmental studies.
- Sec. 118. Outer Continental Shelf incompatible use.
- Sec. 119. Repurchase of certain leases.
- Sec. 120. Offsite environmental mitigation.
- Sec. 121. OCS regional headquarters.
- Sec. 122. Leases for areas located within 12 nautical miles of California or
Florida.
- Sec. 123. Coastal impact assistance.
- Sec. 124. Repeal of the Gulf of Mexico Energy Security Act of 2006.

Subtitle B—ANWR

- Sec. 141. Short title.
- Sec. 142. Definitions.
- Sec. 143. Leasing program for lands within the Coastal Plain.
- Sec. 144. Lease sales.
- Sec. 145. Grant of leases by the Secretary.
- Sec. 146. Lease terms and conditions.
- Sec. 147. Coastal Plain environmental protection.
- Sec. 148. Expedited judicial review.
- Sec. 149. Federal and State distribution of revenues.
- Sec. 150. Rights-of-way across the Coastal Plain.
- Sec. 151. Conveyance.
- Sec. 152. Local government impact aid and community service assistance.

Subtitle C—Oil Shale

- Sec. 161. Oil shale.

Subtitle D—Refinery Permit Process Schedule

- Sec. 171. Short title.
- Sec. 172. Definitions.
- Sec. 173. State assistance.
- Sec. 174. Refinery process coordination and procedures.
- Sec. 175. Designation of closed military bases.
- Sec. 176. Savings clause.
- Sec. 177. Refinery revitalization repeal.

TITLE II—CONSERVATION AND EFFICIENCY

Subtitle A—Tax Incentives for Fuel Efficiency

- Sec. 201. Extension of credit for alternative fuel vehicles.
- Sec. 202. Extension of alternative fuel vehicle refueling property credit.
- Sec. 203. Extension of credit for new qualified plug-in electric drive motor vehicles.

Subtitle B—Tapping America’s Ingenuity and Creativity

- Sec. 211. Definitions.
- Sec. 212. Statement of policy.
- Sec. 213. Prize authority.
- Sec. 214. Eligibility.
- Sec. 215. Intellectual property.
- Sec. 216. Waiver of liability.
- Sec. 217. Authorization of appropriations.
- Sec. 218. Next generation automobile prize program.
- Sec. 219. Advanced battery manufacturing incentive program.

Subtitle C—Home and Business Tax Incentives

- Sec. 221. Extension of credit for energy efficient appliances.
- Sec. 222. Extension of credit for nonbusiness energy property.
- Sec. 223. Extension of credit for residential energy efficient property.
- Sec. 224. Extension of new energy efficient home credit.
- Sec. 225. Extension of energy efficient commercial buildings deduction.
- Sec. 226. Extension of special rule to implement FERC and State electric restructuring policy.
- Sec. 227. Home energy audits.
- Sec. 228. Accelerated recovery period for depreciation of smart meters.

TITLE III—NEW AND EXPANDING TECHNOLOGIES

Subtitle A—Alternative Fuels

- Sec. 301. Repeal.
- Sec. 302. Government auction of long term put option contracts on coal-to-liquid fuel produced by qualified coal-to-liquid facilities.
- Sec. 303. Standby loans for qualifying coal-to-liquids projects.

Subtitle B—Tax Provisions

- Sec. 311. Extension of renewable electricity, refined coal, and Indian coal production credit.
- Sec. 312. Extension of energy credit.

- Sec. 313. Extension and modification of credit for clean renewable energy bonds.
- Sec. 314. Extension of credits for biodiesel and renewable diesel.

Subtitle C—American Renewable and Alternative Energy Trust Fund

- Sec. 321. American Renewable and Alternative Energy Trust Fund.

TITLE IV—NUCLEAR

- Sec. 401. Streamline the regulatory process.
- Sec. 402. Increase the supply of uranium.
- Sec. 403. Recycle and safely store spent nuclear fuel.
- Sec. 404. Confidence in availability of waste disposal.
- Sec. 405. Preferential treatment for certain nuclear reactors and related articles.
- Sec. 406. National Nuclear Energy Council.
- Sec. 407. Expansion of energy investment tax credit to include nuclear and clean-coal equipment.

TITLE V—ENVIRONMENTAL REVIEW; GREENHOUSE GASES

- Sec. 501. Environmental review for renewable energy projects.
- Sec. 502. Greenhouse gas regulation under Clean Air Act.
- Sec. 503. Prohibition of consideration of impact of greenhouse gas.

TITLE VI—LEGAL REFORM

- Sec. 601. Findings.
- Sec. 602. Exclusive jurisdiction over causes and claims relating to covered energy projects.
- Sec. 603. Time for filing complaint.
- Sec. 604. District court for the District of Columbia deadline.
- Sec. 605. Ability to seek appellate review.
- Sec. 606. Deadline for appeal to the Supreme Court.
- Sec. 607. Limitation on scope of review and relief.
- Sec. 608. Legal fees.
- Sec. 609. Exclusion.
- Sec. 610. Covered energy project defined.

1 **TITLE I—AMERICAN ENERGY**

2 **Subtitle A—OCS**

3 **SEC. 101. SHORT TITLE.**

4 This subtitle may be cited as the “Deep Ocean En-
5 ergy Resources Act of 2009”.

6 **SEC. 102. POLICY.**

7 It is the policy of the United States that—

1 (1) the United States is blessed with abundant
2 energy resources on the outer Continental Shelf and
3 has developed a comprehensive framework of envi-
4 ronmental laws and regulations and fostered the de-
5 velopment of state-of-the-art technology that allows
6 for the responsible development of these resources
7 for the benefit of its citizenry;

8 (2) Adjacent States are required by the cir-
9 cumstances to commit significant resources in sup-
10 port of exploration, development, and production ac-
11 tivities for mineral resources on the outer Conti-
12 nental Shelf, and it is fair and proper for a portion
13 of the receipts from such activities to be shared with
14 Adjacent States and their local coastal governments;
15 and

16 (3) among other bodies of inland waters, the
17 Great Lakes, Long Island Sound, Delaware Bay,
18 Chesapeake Bay, Albemarle Sound, San Francisco
19 Bay, and Puget Sound are not part of the outer
20 Continental Shelf, and are not subject to leasing by
21 the Federal Government for the exploration, develop-
22 ment, and production of any mineral resources that
23 might lie beneath them.

1 **SEC. 103. LEASING PROGRAM CONSIDERED APPROVED.**

2 (a) IN GENERAL.—The Draft Proposed Outer Conti-
3 nental Shelf Oil and Gas Leasing Program 2010–2015 re-
4 leased by the Secretary of the Interior (referred to in this
5 section as the “Secretary”) under section 18 of the Outer
6 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
7 ered to have been approved by the Secretary as a final
8 oil and gas leasing program under that section, and is con-
9 sidered to be in full compliance with and in accordance
10 with all requirements of the Outer Continental Shelf
11 Lands Act, National Environmental Policy Act, Endan-
12 gered Species Act, Clean Air Act, Marine Mammals Pro-
13 tection Act, the Oil Pollution Control Act, and all other
14 applicable laws.

15 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
16 The Secretary is considered to have issued a legally suffi-
17 cient final environmental impact statement for the pro-
18 gram described in subsection (a) in accordance with all
19 requirements under section 102(2)(C) of the National En-
20 vironmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)),
21 and all other applicable laws.

22 **SEC. 104. LEASE SALES.**

23 (a) OUTER CONTINENTAL SHELF.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), not later than 30 days after the date of
26 enactment of this Act and every 270 days thereafter,

1 the Secretary of the Interior (referred to in this sec-
2 tion as the “Secretary”) shall conduct a lease sale
3 in each outer Continental Shelf planning region for
4 which the Secretary determines that there is a com-
5 mercial interest in purchasing Federal oil and gas
6 leases for production on the outer Continental Shelf.

7 (2) SUBSEQUENT DETERMINATIONS AND
8 SALES.—If the Secretary determines that there is
9 not a commercial interest in purchasing Federal oil
10 and gas leases for production on the outer Conti-
11 nental Shelf in a planning area under this sub-
12 section, not later than 2 years after the date of en-
13 actment of the determination and every 2 years
14 thereafter, the Secretary shall—

15 (A) solicit if there is commercial interest in
16 purchasing Federal oil and gas leases for pro-
17 duction on the outer Continental Shelf in the
18 planning area; and

19 (B) if the Secretary determines that there
20 is a commercial interest described in subpara-
21 graph (A), conduct a lease sale in the planning
22 area.

23 (b) RENEWABLE ENERGY AND MARICULTURE.—The
24 Secretary may conduct commercial lease sales of re-
25 sources—

1 (1) to produce renewable energy (as defined in
2 section 203(b) of the Energy Policy Act of 2005 (42
3 U.S.C. 15852(b))); or

4 (2) to cultivate marine organisms in the natural
5 habitat of the organisms.

6 **SEC. 105. PROHIBITIONS ON SURFACE OCCUPANCY.**

7 (a) REGULATIONS.—

8 (1) IN GENERAL.—The Secretary of the Inte-
9 rior shall promulgate regulations that establish man-
10 agement of the surface occupancy of the portion of
11 the Outer Continental Shelf near the coastline to the
12 effect that—

13 (A) the coastal State shall have sole au-
14 thority to restrict or allow surface facilities
15 above the waterline for the purpose of produc-
16 tion of oil or gas resources in any area that is
17 within 12 nautical miles seaward from the
18 coastline of any coastal State, in any area of
19 the Outer Continental Shelf that has not been
20 made available for oil and gas leasing after
21 January 1, 2001, in a final notice of sale;

22 (B) unless permanent surface occupancy is
23 authorized by the coastal State, only sub-sur-
24 face production facilities may be installed for
25 areas that are located beyond 12 nautical miles

1 but not more than 25 nautical miles seaward
2 from the coastline of any coastal State, in any
3 area of the Outer Continental Shelf that has
4 not been made available for oil and gas leasing
5 after January 1, 2001, in a final notice of sale;
6 and

7 (C) new offshore production facilities are
8 encouraged and the impacts on coastal vistas
9 are minimized, to the extent practical; and

10 (D) onshore facilities that facilitate the de-
11 velopment and production of the resources of
12 the Outer Continental Shelf within 12 nautical
13 miles seaward of the coastline are allowed.

14 (2) TEMPORARY ACTIVITIES NOT AFFECTED.—
15 Nothing in these regulations shall restrict temporary
16 surface activities related to operations associated
17 with Outer Continental Shelf oil and gas leases.

18 **SEC. 106. DEFINITIONS UNDER THE SUBMERGED LANDS**

19 **ACT.**

20 Section 2 of the Submerged Lands Act (43 U.S.C.
21 1301) is amended—

22 (1) in subparagraph (2) of paragraph (a) by
23 striking all after “seaward to a line” and inserting
24 “twelve nautical miles distant from the coast line of
25 such State;”;

1 (2) by striking out paragraph (b) and redesignating the subsequent paragraphs in order as paragraphs (b) through (g);

2 (3) by striking the period at the end of paragraph (g) (as so redesignated) and inserting “; and”;

3 (4) by adding the following: “(i) The term ‘Secretary’ means the Secretary of the Interior.”; and

4 (5) by defining “State” as it is defined in section 2(r) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(r)).

5 **SEC. 107. SEAWARD BOUNDARIES OF STATES.**

6 Section 4 of the Submerged Lands Act (43 U.S.C. 1312) is amended—

7 (1) in the first sentence by striking “original”, and in the same sentence by striking “three geographical” and inserting “twelve nautical”; and

8 (2) by striking all after the first sentence and inserting the following: “Extension and delineation of lateral offshore State boundaries under the provisions of this Act shall follow the lines used to determine the Adjacent Zones of coastal States under the Outer Continental Shelf Lands Act to the extent such lines extend twelve nautical miles for the nearest coastline.”

1 **SEC. 108. EXCEPTIONS FROM CONFIRMATION AND ESTAB-**
2 **LISHMENT OF STATES' TITLE, POWER, AND**
3 **RIGHTS.**

4 Section 5 of the Submerged Lands Act (43 U.S.C.
5 1313) is amended—

6 (1) by redesignating paragraphs (a) through (c)
7 in order as paragraphs (1) through (3);

8 (2) by inserting “(a)” before “There is ex-
9 cepted”; and

10 (3) by inserting at the end the following:

11 “(b) **EXCEPTION OF OIL AND GAS MINERAL**
12 **RIGHTS.**—There is excepted from the operation of sections
13 3 and 4 all of the oil and gas mineral rights for lands
14 beneath the navigable waters that are located within the
15 expanded offshore State seaward boundaries established
16 under this Act. These oil and gas mineral rights shall re-
17 main Federal property and shall be considered to be part
18 of the Federal outer Continental Shelf for purposes of the
19 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
20 seq.) and subject to leasing under the authority of that
21 Act and to laws applicable to the leasing of the oil and
22 gas resources of the Federal outer Continental Shelf. All
23 existing Federal oil and gas leases within the expanded
24 offshore State seaward boundaries shall continue un-
25 changed by the provisions of this Act, except as otherwise
26 provided herein. However, a State may exercise all of its

1 sovereign powers of taxation within the entire extent of
2 its expanded offshore State boundaries.”.

3 **SEC. 109. DEFINITIONS UNDER THE OUTER CONTINENTAL**
4 **SHELF LANDS ACT.**

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

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

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

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

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

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

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

1 includes the Commonwealth of Puerto Rico, the Common-
2 wealth of the Northern Mariana Islands, the Virgin Is-
3 lands, American Samoa, Guam, and the other Territories
4 of the United States.

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

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

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

16 “(v) The term ‘Neighboring State’ means a coastal
17 State having a common boundary at the coastline with the
18 Adjacent State.”; and

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

1 **SEC. 110. DETERMINATION OF ADJACENT ZONES AND**
2 **PLANNING AREAS.**

3 Section 4(a)(2)(A) of the Outer Continental Shelf
4 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
5 first sentence by striking “, and the President” and all
6 that follows through the end of the sentence and inserting
7 the following: “. The lines extending seaward and defining
8 each State’s Adjacent Zone, and each OCS Planning Area,
9 are as indicated on the maps for each outer Continental
10 Shelf region entitled ‘Alaska OCS Region State Adjacent
11 Zone and OCS Planning Areas’, ‘Pacific OCS Region
12 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of
13 Mexico OCS Region State Adjacent Zones and OCS Plan-
14 ning Areas’, and ‘Atlantic OCS Region State Adjacent
15 Zones and OCS Planning Areas’, all of which are dated
16 September 2005 and on file in the Office of the Director,
17 Minerals Management Service.”.

18 **SEC. 111. ADMINISTRATION OF LEASING.**

19 Section 5 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1334) is amended by adding at the end the
21 following:

22 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A
23 LEASE.—Any lessee of a producing lease may relinquish
24 to the Secretary any portion of a lease that the lessee has
25 no interest in producing and that the Secretary finds is
26 geologically prospective. In return for any such relinquish-

1 ment, the Secretary shall provide to the lessee a royalty
2 incentive for the portion of the lease retained by the lessee,
3 in accordance with regulations promulgated by the Sec-
4 retary to carry out this subsection. The Secretary shall
5 publish final regulations implementing this subsection
6 within 365 days after the date of the enactment of the
7 Deep Ocean Energy Resources Act of 2009.”.

8 **SEC. 112. GRANT OF LEASES BY SECRETARY.**

9 Section 8 of the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1337) is amended—

11 (1) by adding at the end of subsection (b) the
12 following:

13 “The Secretary may issue more than one lease for
14 a given tract if each lease applies to a separate and dis-
15 tinct range of vertical depths, horizontal surface area, or
16 a combination of the two. The Secretary may issue regula-
17 tions that the Secretary determines are necessary to man-
18 age such leases consistent with the purposes of this Act.”;

19 (2) by amending subsection (p)(2)(B) to read
20 as follows:

21 “(B) The Secretary shall provide for the
22 payment to coastal States, and their local coast-
23 al governments, of 75 percent of Federal re-
24 ceipts from projects authorized under this sec-
25 tion located partially or completely within the

1 area extending seaward of State submerged
2 lands out to 4 marine leagues from the coast-
3 line, and the payment to coastal States of 50
4 percent of the receipts from projects completely
5 located in the area more than 4 marine leagues
6 from the coastline. Payments shall be based on
7 a formula established by the Secretary by rule-
8 making no later than 180 days after the date
9 of the enactment of the Deep Ocean Energy
10 Resources Act of 2009 that provides for equi-
11 table distribution, based on proximity to the
12 project, among coastal States that have coast-
13 line that is located within 200 miles of the geo-
14 graphic center of the project.”;

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

16 “(q) REMOVAL OF RESTRICTIONS ON JOINT BIDDING
17 IN CERTAIN AREAS OF THE OUTER CONTINENTAL
18 SHELF.—Restrictions on joint bidders shall no longer
19 apply to tracts located in the Alaska OCS Region. Such
20 restrictions shall not apply to tracts in other OCS regions
21 determined to be ‘frontier tracts’ or otherwise ‘high cost
22 tracts’ under final regulations that shall be published by
23 the Secretary by not later than 365 days after the date
24 of the enactment of the Deep Ocean Energy Resources
25 Act of 2009.

1 “(r) ROYALTY SUSPENSION PROVISIONS.—After the
2 date of the enactment of the Deep Ocean Energy Re-
3 sources Act of 2009, price thresholds shall apply to any
4 royalty suspension volumes granted by the Secretary. Un-
5 less otherwise set by Secretary by regulation or for a par-
6 ticular lease sale, the price thresholds shall be \$40.50 for
7 oil (January 1, 2006 dollars) and \$6.75 for natural gas
8 (January 1, 2006 dollars).

9 “(s) CONSERVATION OF RESOURCES FEES.—Not
10 later than one year after the date of the enactment of the
11 Deep Ocean Energy Resources Act of 2009, the Secretary
12 by regulation shall establish a conservation of resources
13 fee for nonproducing leases that will apply to new and ex-
14 isting leases which shall be set at \$3.75 per acre per year.
15 This fee shall apply from and after October 1, 2009, and
16 shall be treated as offsetting receipts.”;

17 (4) by striking subsection (a)(3)(A) and redesi-
18 gnating the subsequent subparagraphs as subpara-
19 graphs (A) and (B), respectively;

20 (5) in subsection (a)(3)(A) (as so redesignated)
21 by striking “In the Western” and all that follows
22 through “the Secretary” the first place it appears
23 and inserting “The Secretary”; and

24 (6) effective October 1, 2009, in subsection
25 (g)—

1 (A) by striking all after “(g)”, except para-
2 graph (3);

3 (B) by striking the last sentence of para-
4 graph (3); and

5 (C) by striking “(3)”.

6 **SEC. 113. DISPOSITION OF RECEIPTS.**

7 Section 9 of the Outer Continental Shelf Lands Act
8 (43 U.S.C. 1338) is amended—

9 (1) by designating the existing text as sub-
10 section (a);

11 (2) in subsection (a) (as so designated) by in-
12 serting “, if not paid as otherwise provided in this
13 title” after “receipts”; and

14 (3) by adding the following:

15 “(b) TREATMENT OF OCS RECEIPTS FROM TRACTS
16 COMPLETELY WITHIN 100 MILES OF THE COASTLINE.—

17 “(1) DEPOSIT.—The Secretary shall deposit
18 into a separate account in the Treasury the portion
19 of OCS Receipts for each fiscal year that will be
20 shared under paragraphs (2), (3), and (4).

21 “(2) PHASED-IN RECEIPTS SHARING.—

22 “(A) Beginning October 1, 2009, the Sec-
23 retary shall share OCS Receipts derived from
24 the following areas:

1 “(i) Lease tracts located on portions
2 of the Gulf of Mexico OCS Region com-
3 pletely beyond 4 marine leagues from any
4 coastline and completely within 100 miles
5 of any coastline that were available for
6 leasing under the 2002–2007 5–Year OCS
7 Oil and Gas Leasing Program.

8 “(ii) Lease tracts in production prior
9 to October 1, 2009, completely beyond 4
10 marine leagues from any coastline and
11 completely within 100 miles of any coast-
12 line located on portions of the OCS that
13 were not available for leasing under the
14 2002–2007 5–Year OCS Oil and Gas
15 Leasing Program.

16 “(iii) Lease tracts for which leases are
17 issued prior to October 1, 2009, located in
18 the Alaska OCS Region completely beyond
19 4 marine leagues from any coastline and
20 completely within 100 miles of the coast-
21 line.

22 “(B) The Secretary shall share the fol-
23 lowing percentages of OCS Receipts from the
24 leases described in subparagraph (A) derived
25 during the fiscal year indicated:

- 1 “(i) For fiscal year 2010, 5 percent.
- 2 “(ii) For fiscal year 2011, 8 percent.
- 3 “(iii) For fiscal year 2012, 11 per-
- 4 cent.
- 5 “(iv) For fiscal year 2013, 14 percent.
- 6 “(v) For fiscal year 2014, 17 percent.
- 7 “(vi) For fiscal year 2015, 20 percent.
- 8 “(vii) For fiscal year 2016, 23 per-
- 9 cent.
- 10 “(viii) For fiscal year 2017, 26 per-
- 11 cent.
- 12 “(ix) For fiscal year 2018, 29 percent.
- 13 “(x) For fiscal year 2019, 32 percent.
- 14 “(xi) For fiscal year 2020, 35 percent.
- 15 “(xii) For fiscal year 2021 and each
- 16 subsequent fiscal year, 37.5 percent.
- 17 “(C) The provisions of this paragraph shall
- 18 not apply to leases that could not have been
- 19 issued but for section 5(k) of this Act or section
- 20 106(2) of the Deep Ocean Energy Resources
- 21 Act of 2009.
- 22 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
- 23 ning October 1, 2009, the Secretary shall share
- 24 37.50 percent of OCS Receipts derived from all
- 25 leases located completely beyond 4 marine leagues

1 from any coastline and completely within 100 miles
2 of any coastline not included within the provisions of
3 paragraph (2), and 90 percent of the balance of
4 such OCS Receipts shall be deposited into the Amer-
5 ican Renewable and Alternative Energy Trust Fund
6 established by section 321 of the American Energy
7 Act.

8 “(4) RECEIPTS SHARING FROM TRACTS WITHIN
9 4 MARINE LEAGUES OF ANY COASTLINE.—

10 “(A) AREAS DESCRIBED IN PARAGRAPH
11 (2).—Beginning October 1, 2009, and con-
12 tinuing through September 30, 2011, the Sec-
13 retary shall share 25 percent of OCS Receipts
14 derived from all leases located within 4 marine
15 leagues from any coastline within areas de-
16 scribed in paragraph (2). For each fiscal year
17 after September 30, 2011, the Secretary shall
18 increase the percent shared in 5 percent incre-
19 ments each fiscal year until the sharing rate for
20 all leases located within 4 marine leagues from
21 any coastline within areas described in para-
22 graph (2) becomes 75 percent.

23 “(B) AREAS NOT DESCRIBED IN PARA-
24 GRAPH (2).—Beginning October 1, 2009, the
25 Secretary shall share 75 percent of OCS re-

1 receipts derived from all leases located completely
2 or partially within 4 marine leagues from any
3 coastline within areas not described paragraph
4 (2).

5 “(5) ALLOCATIONS.—The Secretary shall allo-
6 cate the OCS Receipts deposited into the separate
7 account established by paragraph (1) that are
8 shared under paragraphs (2), (3), and (4) as follows:

9 “(A) BONUS BIDS.—Deposits derived from
10 bonus bids from a leased tract, including inter-
11 est thereon, shall be allocated at the end of
12 each fiscal year to the Adjacent State.

13 “(B) ROYALTIES.—Deposits derived from
14 royalties from a leased tract, including interest
15 thereon, shall be allocated at the end of each
16 fiscal year to the Adjacent State and any other
17 producing State or States with a leased tract
18 within its Adjacent Zone within 100 miles of its
19 coastline that generated royalties during the fis-
20 cal year, if the other producing State or States
21 have a coastline point within 300 miles of any
22 portion of the leased tract, in which case the
23 amount allocated for the leased tract shall be—

24 “(i) one-third to the Adjacent State;
25 and

1 “(ii) two-thirds to each producing
2 State, including the Adjacent State, in-
3 versely proportional to the distance be-
4 tween the nearest point on the coastline of
5 the producing State and the geographic
6 center of the leased tract.

7 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS
8 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE
9 COASTLINE.—

10 “(1) DEPOSIT.—The Secretary shall deposit
11 into a separate account in the Treasury the portion
12 of OCS Receipts for each fiscal year that will be
13 shared under paragraphs (2) and (3).

14 “(2) PHASED-IN RECEIPTS SHARING.—

15 “(A) Beginning October 1, 2009, the Sec-
16 retary shall share OCS Receipts derived from
17 the following areas:

18 “(i) Lease tracts located on portions
19 of the Gulf of Mexico OCS Region partially
20 or completely beyond 100 miles of any
21 coastline that were available for leasing
22 under the 2002–2007 5–Year OCS Oil and
23 Gas Leasing Program.

24 “(ii) Lease tracts in production prior
25 to October 1, 2009, partially or completely

1 beyond 100 miles of any coastline located
2 on portions of the OCS that were not
3 available for leasing under the 2002–2007
4 5–Year OCS Oil and Gas Leasing Pro-
5 gram.

6 “(iii) Lease tracts for which leases are
7 issued prior to October 1, 2009, located in
8 the Alaska OCS Region partially or com-
9 pletely beyond 100 miles of the coastline.

10 “(B) The Secretary shall share the fol-
11 lowing percentages of OCS Receipts from the
12 leases described in subparagraph (A) derived
13 during the fiscal year indicated:

14 “(i) For fiscal year 2010, 5 percent.

15 “(ii) For fiscal year 2011, 8 percent.

16 “(iii) For fiscal year 2012, 11 per-
17 cent.

18 “(iv) For fiscal year 2013, 14 percent.

19 “(v) For fiscal year 2014, 17 percent.

20 “(vi) For fiscal year 2015, 20 percent.

21 “(vii) For fiscal year 2016, 23 per-
22 cent.

23 “(viii) For fiscal year 2017, 26 per-
24 cent.

25 “(ix) For fiscal year 2018, 29 percent.

1 “(x) For fiscal year 2019, 32 percent.

2 “(xi) For fiscal year 2020, 35 percent.

3 “(xii) For fiscal year 2021 and each
4 subsequent fiscal year, 37.5 percent.

5 “(C) The provisions of this paragraph shall
6 not apply to leases that could not have been
7 issued but for section 5(k) of this Act or section
8 106(2) of the Deep Ocean Energy Resources
9 Act of 2009.

10 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
11 ning October 1, 2009, the Secretary shall share 37.5
12 percent of OCS Receipts derived on and after Octo-
13 ber 1, 2009, from all leases located partially or com-
14 pletely beyond 100 miles of any coastline not in-
15 cluded within the provisions of paragraph (2), except
16 that the Secretary shall only share 25 percent of
17 such OCS Receipts derived from all such leases
18 within a State’s Adjacent Zone if no leasing is al-
19 lowed within any portion of that State’s Adjacent
20 Zone located completely within 100 miles of any
21 coastline.

22 “(4) ALLOCATIONS.—The Secretary shall allo-
23 cate the OCS Receipts deposited into the separate
24 account established by paragraph (1) that are
25 shared under paragraphs (2) and (3) as follows:

1 “(A) BONUS BIDS.—Deposits derived from
2 bonus bids from a leased tract, including inter-
3 est thereon, shall be allocated at the end of
4 each fiscal year to the Adjacent State.

5 “(B) ROYALTIES.—Deposits derived from
6 royalties from a leased tract, including interest
7 thereon, shall be allocated at the end of each
8 fiscal year to the Adjacent State and any other
9 producing State or States with a leased tract
10 within its Adjacent Zone partially or completely
11 beyond 100 miles of its coastline that generated
12 royalties during the fiscal year, if the other pro-
13 ducing State or States have a coastline point
14 within 300 miles of any portion of the leased
15 tract, in which case the amount allocated for
16 the leased tract shall be—

17 “(i) one-third to the Adjacent State;

18 and

19 “(ii) two-thirds to each producing
20 State, including the Adjacent State, in-
21 versely proportional to the distance be-
22 tween the nearest point on the coastline of
23 the producing State and the geographic
24 center of the leased tract.

25 “(d) TRANSMISSION OF ALLOCATIONS.—

1 “(1) IN GENERAL.—Not later than 90 days
2 after the end of each fiscal year, the Secretary shall
3 transmit—

4 “(A) to each State 60 percent of such
5 State’s allocations under subsections (b)(5)(A),
6 (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the im-
7 mediate prior fiscal year;

8 “(B) to each coastal county-equivalent and
9 municipal political subdivisions of such State a
10 total of 40 percent of such State’s allocations
11 under subsections (b)(5)(A), (b)(5)(B),
12 (c)(4)(A), and (c)(4)(B), together with all ac-
13 crued interest thereon; and

14 “(C) the remaining allocations under sub-
15 sections (b)(5) and (c)(4), together with all ac-
16 crued interest thereon.

17 “(2) ALLOCATIONS TO COASTAL COUNTY-
18 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
19 retary shall make an initial allocation of the OCS
20 Receipts to be shared under paragraph (1)(B) as fol-
21 lows:

22 “(A) 25 percent shall be allocated to coast-
23 al county-equivalent political subdivisions that
24 are completely more than 25 miles landward of
25 the coastline and at least a part of which lies

1 not more than 75 miles landward from the
2 coastline, with the allocation among such coast-
3 al county-equivalent political subdivisions based
4 on population.

5 “(B) 75 percent shall be allocated to coast-
6 al county-equivalent political subdivisions that
7 are completely or partially less than 25 miles
8 landward of the coastline, with the allocation
9 among such coastal county-equivalent political
10 subdivisions to be further allocated as follows:

11 “(i) 25 percent shall be allocated
12 based on the ratio of such coastal county-
13 equivalent political subdivision’s population
14 to the coastal population of all coastal
15 county-equivalent political subdivisions in
16 the State.

17 “(ii) 25 percent shall be allocated
18 based on the ratio of such coastal county-
19 equivalent political subdivision’s coastline
20 miles to the coastline miles of all coastal
21 county-equivalent political subdivisions in
22 the State as calculated by the Secretary.
23 In such calculations, coastal county-equiva-
24 lent political subdivisions without a coast-
25 line shall be considered to have 50 percent

1 of the average coastline miles of the coast-
2 al county-equivalent political subdivisions
3 that do have coastlines.

4 “(iii) 25 percent shall be allocated to
5 all coastal county-equivalent political sub-
6 divisions having a coastline point within
7 300 miles of the leased tract for which
8 OCS Receipts are being shared based on a
9 formula that allocates the funds based on
10 such coastal county-equivalent political
11 subdivision’s relative distance from the
12 leased tract.

13 “(iv) 25 percent shall be allocated to
14 all coastal county-equivalent political sub-
15 divisions having a coastline point within
16 300 miles of the leased tract for which
17 OCS Receipts are being shared based on
18 the relative level of outer Continental Shelf
19 oil and gas activities in a coastal political
20 subdivision compared to the level of outer
21 Continental Shelf activities in all coastal
22 political subdivisions in the State. The Sec-
23 retary shall define the term ‘outer Conti-
24 nental Shelf oil and gas activities’ for pur-
25 poses of this subparagraph to include, but

1 not be limited to, construction of vessels,
2 drillships, and platforms involved in explo-
3 ration, production, and development on the
4 outer Continental Shelf; support and sup-
5 ply bases, ports, and related activities; of-
6 fices of geologists, geophysicists, engineers,
7 and other professionals involved in support
8 of exploration, production, and develop-
9 ment of oil and gas on the outer Conti-
10 nental Shelf; pipelines and other means of
11 transporting oil and gas production from
12 the outer Continental Shelf; and processing
13 and refining of oil and gas production from
14 the outer Continental Shelf. For purposes
15 of this subparagraph, if a coastal county-
16 equivalent political subdivision does not
17 have a coastline, its coastal point shall be
18 the point on the coastline closest to it.

19 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
20 LITICAL SUBDIVISIONS.—The initial allocation to
21 each coastal county-equivalent political subdivision
22 under paragraph (2) shall be further allocated to the
23 coastal county-equivalent political subdivision and
24 any coastal municipal political subdivisions located
25 partially or wholly within the boundaries of the

1 coastal county-equivalent political subdivision as fol-
2 lows:

3 “(A) One-third shall be allocated to the
4 coastal county-equivalent political subdivision.

5 “(B) Two-thirds shall be allocated on a per
6 capita basis to the municipal political subdivi-
7 sions and the county-equivalent political sub-
8 division, with the allocation to the latter based
9 upon its population not included within the
10 boundaries of a municipal political subdivision.

11 “(e) INVESTMENT OF DEPOSITS.—Amounts depos-
12 ited under this section shall be invested by the Secretary
13 of the Treasury in securities backed by the full faith and
14 credit of the United States having maturities suitable to
15 the needs of the account in which they are deposited and
16 yielding the highest reasonably available interest rates as
17 determined by the Secretary of the Treasury.

18 “(f) USE OF FUNDS.—A recipient of funds under this
19 section may use the funds for one or more of the following:

20 “(1) To reduce in-State college tuition at public
21 institutions of higher learning and otherwise support
22 public education, including career technical edu-
23 cation.

24 “(2) To make transportation infrastructure im-
25 provements.

1 “(3) To reduce taxes.

2 “(4) To promote, fund, and provide for—

3 “(A) coastal or environmental restoration;

4 “(B) fish, wildlife, and marine life habitat
5 enhancement;

6 “(C) waterways construction and mainte-
7 nance;

8 “(D) levee construction and maintenance
9 and shore protection; and

10 “(E) marine and oceanographic education
11 and research.

12 “(5) To promote, fund, and provide for—

13 “(A) infrastructure associated with energy
14 production activities conducted on the outer
15 Continental Shelf;

16 “(B) energy demonstration projects;

17 “(C) supporting infrastructure for shore-
18 based energy projects;

19 “(D) State geologic programs, including
20 geologic mapping and data storage programs,
21 and State geophysical data acquisition;

22 “(E) State seismic monitoring programs,
23 including operation of monitoring stations;

24 “(F) development of oil and gas resources
25 through enhanced recovery techniques;

1 “(G) alternative energy development, in-
2 cluding bio fuels, coal-to-liquids, oil shale, tar
3 sands, geothermal, geopressure, wind, waves,
4 currents, hydro, solar, and other renewable en-
5 ergy;

6 “(H) energy efficiency and conservation
7 programs; and

8 “(I) front-end engineering and design for
9 facilities that produce liquid fuels from hydro-
10 carbons and other biological matter.

11 “(6) To promote, fund, and provide for—

12 “(A) historic preservation programs and
13 projects;

14 “(B) natural disaster planning and re-
15 sponse; and

16 “(C) hurricane and natural disaster insur-
17 ance programs.

18 “(7) For any other purpose as determined by
19 State law.

20 “(g) NO ACCOUNTING REQUIRED.—No recipient of
21 funds under this section shall be required to account to
22 the Federal Government for the expenditure of such
23 funds, except as otherwise may be required by law. How-
24 ever, States may enact legislation providing for accounting
25 for and auditing of such expenditures. Further, funds allo-

1 cated under this section to States and political subdivi-
2 sions may be used as matching funds for other Federal
3 programs.

4 “(h) EFFECT OF FUTURE LAWS.—Enactment of any
5 future Federal statute that has the effect, as determined
6 by the Secretary, of restricting any Federal agency from
7 spending appropriated funds, or otherwise preventing it
8 from fulfilling its pre-existing responsibilities as of the
9 date of enactment of the statute, unless such responsibil-
10 ities have been reassigned to another Federal agency by
11 the statute with no prevention of performance, to issue
12 any permit or other approval impacting on the OCS oil
13 and gas leasing program, or any lease issued thereunder,
14 or to implement any provision of this Act shall automati-
15 cally prohibit any sharing of OCS Receipts under this sec-
16 tion directly with the States, and their coastal political
17 subdivisions, for the duration of the restriction. The Sec-
18 retary shall make the determination of the existence of
19 such restricting effects within 30 days of a petition by any
20 outer Continental Shelf lessee or producing State.

21 “(i) DEFINITIONS.—In this section:

22 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
23 SUBDIVISION.—The term ‘coastal county-equivalent
24 political subdivision’ means a political jurisdiction
25 immediately below the level of State government, in-

1 including a county, parish, borough in Alaska, inde-
2 pendent municipality not part of a county, parish, or
3 borough in Alaska, or other equivalent subdivision of
4 a coastal State, that lies within the coastal zone.

5 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
6 SION.—The term ‘coastal municipal political subdivi-
7 sion’ means a municipality located within and part
8 of a county, parish, borough in Alaska, or other
9 equivalent subdivision of a State, all or part of which
10 coastal municipal political subdivision lies within the
11 coastal zone.

12 “(3) COASTAL POPULATION.—The term ‘coastal
13 population’ means the population of all coastal coun-
14 ty-equivalent political subdivisions, as determined by
15 the most recent official data of the Census Bureau.

16 “(4) COASTAL ZONE.—The term ‘coastal zone’
17 means that portion of a coastal State, including the
18 entire territory of any coastal county-equivalent po-
19 litical subdivision at least a part of which lies, within
20 75 miles landward from the coastline, or a greater
21 distance as determined by State law enacted to im-
22 plement this section.

23 “(5) BONUS BIDS.—The term ‘bonus bids’
24 means all funds received by the Secretary to issue
25 an outer Continental Shelf minerals lease.

1 “(6) ROYALTIES.—The term ‘royalties’ means
2 all funds received by the Secretary from production
3 of oil or natural gas, or the sale of production taken
4 in-kind, from an outer Continental Shelf minerals
5 lease.

6 “(7) PRODUCING STATE.—The term ‘producing
7 State’ means an Adjacent State having an Adjacent
8 Zone containing leased tracts from which OCS Re-
9 ceipts were derived.

10 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’
11 means bonus bids, royalties, and conservation of re-
12 sources fees.”.

13 **SEC. 114. RESERVATION OF LANDS AND RIGHTS.**

14 Section 12 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1341) is amended by adding at the end the
16 following:

17 “(g) PROHIBITION ON LEASING EAST OF THE MILI-
18 TARY MISSION LINE.—

19 “(1) Notwithstanding any other provision of
20 law, from and after the enactment of the Deep
21 Ocean Energy Resources Act of 2009, prior to Janu-
22 ary 1, 2022, no area of the outer Continental Shelf
23 located in the Gulf of Mexico east of the military
24 mission line may be offered for leasing for oil and
25 gas or natural gas unless a waiver is issued by the

1 Secretary of Defense. If such a waiver is granted,
2 62.5 percent of the OCS Receipts from a lease with-
3 in such area issued because of such waiver shall be
4 paid annually to the National Guards of all States
5 having a point within 1000 miles of such a lease, al-
6 located among the States on a per capita basis using
7 the entire population of such States.

8 “(2) In this subsection, the term ‘military mis-
9 sion line’ means a line located at 86 degrees, 41
10 minutes West Longitude, and extending south from
11 the coast of Florida to the outer boundary of United
12 States territorial waters in the Gulf of Mexico.”.

13 **SEC. 115. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

4 **SEC. 116. COORDINATION WITH ADJACENT STATES.**

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

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

10 (2) by adding the following:

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

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

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

6 **SEC. 117. ENVIRONMENTAL STUDIES.**

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

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

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

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

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

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

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

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

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

4 **SEC. 118. OUTER CONTINENTAL SHELF INCOMPATIBLE**
5 **USE.**

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

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

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

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

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

3 **SEC. 119. REPURCHASE OF CERTAIN LEASES.**

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

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

21 (1) The Secretary shall repurchase and cancel
22 a lease after written request by the lessee upon a
23 finding by the Secretary that—

24 (A) a request by the lessee for a required
25 permit or other approval complied with applica-

1 ble law, except the Coastal Zone Management
2 Act of 1972 (16 U.S.C. 1451 et seq.), and
3 terms of the lease and such permit or other ap-
4 proval was denied;

5 (B) a Federal agency failed to act on a re-
6 quest by the lessee for a required permit, other
7 approval, or administrative appeal within a reg-
8 ulatory or statutory time-frame associated with
9 the requested action, whether advisory or man-
10 datory, or if none, within 180 days; or

11 (C) a Federal agency attached a condition
12 of approval, without agreement by the lessee, to
13 a required permit or other approval if such con-
14 dition of approval was not mandated by Federal
15 statute or regulation in effect on the date of
16 lease issuance, or was not specifically allowed
17 under the terms of the lease.

18 (2) A lessee shall not be required to exhaust ad-
19 ministrative remedies regarding a permit request,
20 administrative appeal, or other required request for
21 approval for the purposes of this section.

22 (3) The Secretary shall make a final agency de-
23 cision on a request by a lessee under this section
24 within 180 days of request.

1 (4) Compensation to a lessee to repurchase and
2 cancel a lease under this section shall be the amount
3 that a lessee would receive in a restitution case for
4 a material breach of contract.

5 (5) Compensation shall be in the form of a
6 check or electronic transfer from the Department of
7 the Treasury from funds deposited into miscella-
8 neous receipts under the authority of the same Act
9 that authorized the issuance of the lease being re-
10 purchased.

11 (6) Failure of the Secretary to make a final
12 agency decision on a request by a lessee under this
13 section within 180 days of request shall result in a
14 10 percent increase in the compensation due to the
15 lessee if the lease is ultimately repurchased.

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

19 **SEC. 120. OFFSITE ENVIRONMENTAL MITIGATION.**

20 Notwithstanding any other provision of law, any per-
21 son conducting activities under the Mineral Leasing Act
22 (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30
23 U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-
24 quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16
25 U.S.C. 552 et seq.), the General Mining Act of 1872 (30

1 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.
2 601 et seq.), or the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1331 et seq.), may in satisfying any mitigation
4 requirements associated with such activities propose miti-
5 gation measures on a site away from the area impacted
6 and the Secretary of the Interior shall accept these pro-
7 posed measures if the Secretary finds that they generally
8 achieve the purposes for which mitigation measures apper-
9 tained.

10 **SEC. 121. OCS REGIONAL HEADQUARTERS.**

11 Not later than July 1, 2011, the Secretary of the In-
12 terior shall establish the headquarters for the Atlantic
13 OCS Region, the headquarters for the Gulf of Mexico OCS
14 Region, and the headquarters for the Pacific OCS Region
15 within a State bordering the Atlantic OCS Region, a State
16 bordering the Gulf of Mexico OCS Region, and a State
17 bordering the Pacific OCS Region. Such Atlantic and Pa-
18 cific OCS Regions headquarters shall be located within 25
19 miles of the coastline and each Minerals Management
20 Service OCS regional headquarters shall be the permanent
21 duty station for all Minerals Management Service per-
22 sonnel that on a daily basis spend on average 60 percent
23 or more of their time in performance of duties in support
24 of the activities of the respective Region, except that the
25 Minerals Management Service may house regional inspec-

1 tion staff in other locations. Each OCS Region shall each
2 be led by a Regional Director who shall be an employee
3 within the Senior Executive Service.

4 **SEC. 122. LEASES FOR AREAS LOCATED WITHIN 12 NAU-**
5 **TICAL MILES OF CALIFORNIA OR FLORIDA.**

6 (a) AUTHORIZATION TO CANCEL AND EXCHANGE
7 CERTAIN EXISTING OIL AND GAS LEASES.—

8 (1) AUTHORITY.—Within 2 years after the date
9 of enactment of this Act, the lessee of an existing oil
10 and gas lease for an area located completely within
11 12 nautical miles of the coastline within the Cali-
12 fornia or Florida Adjacent Zones shall have the op-
13 tion, without compensation, of exchanging such lease
14 for a new oil and gas lease having a primary term
15 of 5 years. For the area subject to the new lease, the
16 lessee may select any unleased tract on the outer
17 Continental Shelf that is in an area available for
18 leasing.

19 (2) ADMINISTRATIVE PROCESS.—The Secretary
20 of the Interior shall establish a reasonable adminis-
21 trative process to implement paragraph (1). Ex-
22 changes and conversions under subsection (a), in-
23 cluding the issuance of new leases, shall not be con-
24 sidered to be major Federal actions for purposes of
25 the National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.). Further, such actions con-
2 ducted in accordance with this section are deemed to
3 be in compliance all provisions of the Outer Conti-
4 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

5 (3) OPERATING RESTRICTIONS.—A new lease
6 issued in exchange for an existing lease under this
7 section shall be subject to such national defense op-
8 erating stipulations on the OCS tract covered by the
9 new lease as may be applicable upon issuance.

10 (4) PRIORITY.—The Secretary shall give pri-
11 ority in the lease exchange process based on the
12 amount of the original bonus bid paid for the
13 issuance of each lease to be exchanged. The Sec-
14 retary shall allow leases covering partial tracts to be
15 exchanged for leases covering full tracts conditioned
16 upon payment of additional bonus bids on a per-acre
17 basis as determined by the average per acre of the
18 original bonus bid per acre for the partial tract
19 being exchanged.

20 (b) FURTHER LEASE CANCELLATION AND EX-
21 CHANGE PROVISIONS.—

22 (1) CANCELLATION OF LEASE.—As part of the
23 lease exchange process under this section, the Sec-
24 retary shall cancel a lease that is exchanged under
25 this section.

1 **Subtitle B—ANWR**

2 **SEC. 141. SHORT TITLE.**

3 This subtitle may be cited as the “American Energy
4 Independence and Price Reduction Act”.

5 **SEC. 142. DEFINITIONS.**

6 In this subtitle:

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

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

13 **SEC. 143. LEASING PROGRAM FOR LANDS WITHIN THE**
14 **COASTAL PLAIN.**

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

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

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

16 (b) REPEAL.—

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

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

23 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
24 TAIN OTHER LAWS.—

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

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

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

1 ronmental effects of proposed leasing under this sub-
2 title.

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

6 (e) SPECIAL AREAS.—

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

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

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

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

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

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

13 (g) REGULATIONS.—

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

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

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

3 **SEC. 144. LEASE SALES.**

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

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

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

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

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

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

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

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

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

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

8 (2) evaluate the bids in such sale and issue
9 leases resulting from such sale, within 90 days after
10 the date of the completion of such sale; and

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

14 **SEC. 145. GRANT OF LEASES BY THE SECRETARY.**

15 (a) **IN GENERAL.**—The Secretary may grant to the
16 highest responsible qualified bidder in a lease sale con-
17 ducted pursuant to section 144 any lands to be leased on
18 the Coastal Plain upon payment by the lessee of such
19 bonus as may be accepted by the Secretary.

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

1 **SEC. 146. LEASE TERMS AND CONDITIONS.**

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

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

9 (2) provide that the Secretary may close, on a
10 seasonal basis, portions of the Coastal Plain to ex-
11 ploratory drilling activities as necessary to protect
12 caribou calving areas and other species of fish and
13 wildlife;

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

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

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

9 (6) contain terms and conditions relating to
10 protection of fish and wildlife, their habitat, subsist-
11 ence resources, and the environment as required
12 pursuant to section 143(a)(2);

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

22 (8) prohibit the export of oil produced under
23 the lease; and

24 (9) contain such other provisions as the Sec-
25 retary determines necessary to ensure compliance

1 with the provisions of this subtitle and the regula-
2 tions issued under this subtitle.

3 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
4 as a term and condition of each lease under this subtitle
5 and in recognizing the Government's proprietary interest
6 in labor stability and in the ability of construction labor
7 and management to meet the particular needs and condi-
8 tions of projects to be developed under the leases issued
9 pursuant to this subtitle and the special concerns of the
10 parties to such leases, shall require that the lessee and
11 its agents and contractors negotiate to obtain a project
12 labor agreement for the employment of laborers and me-
13 chanics on production, maintenance, and construction
14 under the lease.

15 **SEC. 147. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

16 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
17 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
18 The Secretary shall, consistent with the requirements of
19 section 143, administer the provisions of this subtitle
20 through regulations, lease terms, conditions, restrictions,
21 prohibitions, stipulations, and other provisions that—

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

1 (2) require the application of the best commer-
2 cially available technology for oil and gas explo-
3 ration, development, and production on all new ex-
4 ploration, development, and production operations;
5 and

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

11 (b) *SITE-SPECIFIC ASSESSMENT AND MITIGATION.*—
12 The Secretary shall also require, with respect to any pro-
13 posed drilling and related activities, that—

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

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

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

1 (c) REGULATIONS TO PROTECT COASTAL PLAIN
2 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
3 AND THE ENVIRONMENT.—Before implementing the leas-
4 ing program authorized by this subtitle, the Secretary
5 shall prepare and promulgate regulations, lease terms,
6 conditions, restrictions, prohibitions, stipulations, and
7 other measures designed to ensure that the activities un-
8 dertaken on the Coastal Plain under this subtitle are con-
9 ducted in a manner consistent with the purposes and envi-
10 ronmental requirements of this subtitle.

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

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

23 (2) Seasonal limitations on exploration, develop-
24 ment, and related activities, where necessary, to
25 avoid significant adverse effects during periods of

1 concentrated fish and wildlife breeding, denning,
2 nesting, spawning, and migration.

3 (3) That exploration activities, except for sur-
4 face geological studies, be limited to the period be-
5 tween approximately November 1 and May 1 each
6 year and that exploration activities shall be sup-
7 ported, if necessary, by ice roads, winter trails with
8 adequate snow cover, ice pads, ice airstrips, and air
9 transport methods, except that such exploration ac-
10 tivities may occur at other times if the Secretary
11 finds that such exploration will have no significant
12 adverse effect on the fish and wildlife, their habitat,
13 and the environment of the Coastal Plain.

14 (4) Design safety and construction standards
15 for all pipelines and any access and service roads,
16 that—

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

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

23 (5) Prohibitions on general public access and
24 use on all pipeline access and service roads.

1 (6) Stringent reclamation and rehabilitation re-
2 quirements, consistent with the standards set forth
3 in this subtitle, requiring the removal from the
4 Coastal Plain of all oil and gas development and
5 production facilities, structures, and equipment upon
6 completion of oil and gas production operations, ex-
7 cept that the Secretary may exempt from the re-
8 quirements of this paragraph those facilities, struc-
9 tures, or equipment that the Secretary determines
10 would assist in the management of the Arctic Na-
11 tional Wildlife Refuge and that are donated to the
12 United States for that purpose.

13 (7) Appropriate prohibitions or restrictions on
14 access by all modes of transportation.

15 (8) Appropriate prohibitions or restrictions on
16 sand and gravel extraction.

17 (9) Consolidation of facility siting.

18 (10) Appropriate prohibitions or restrictions on
19 use of explosives.

20 (11) Avoidance, to the extent practicable, of
21 springs, streams, and river system; the protection of
22 natural surface drainage patterns, wetlands, and ri-
23 parian habitats; and the regulation of methods or
24 techniques for developing or transporting adequate
25 supplies of water for exploratory drilling.

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

3 (13) Treatment and disposal of hazardous and
4 toxic wastes, solid wastes, reserve pit fluids, drilling
5 muds and cuttings, and domestic wastewater, includ-
6 ing an annual waste management report, a haz-
7 ardous materials tracking system, and a prohibition
8 on chlorinated solvents, in accordance with applica-
9 ble Federal and State environmental law.

10 (14) Fuel storage and oil spill contingency plan-
11 ning.

12 (15) Research, monitoring, and reporting re-
13 quirements.

14 (16) Field crew environmental briefings.

15 (17) Avoidance of significant adverse effects
16 upon subsistence hunting, fishing, and trapping by
17 subsistence users.

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

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

23 (20) Reasonable stipulations for protection of
24 cultural and archeological resources.

1 (21) All other protective environmental stipula-
2 tions, restrictions, terms, and conditions deemed
3 necessary by the Secretary.

4 (e) CONSIDERATIONS.—In preparing and promul-
5 gating regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations under this section, the Sec-
7 retary shall consider the following:

8 (1) The stipulations and conditions that govern
9 the National Petroleum Reserve-Alaska leasing pro-
10 gram, as set forth in the 1999 Northeast National
11 Petroleum Reserve-Alaska Final Integrated Activity
12 Plan/Environmental Impact Statement.

13 (2) The environmental protection standards
14 that governed the initial Coastal Plain seismic explo-
15 ration program under parts 37.31 to 37.33 of title
16 50, Code of Federal Regulations.

17 (3) The land use stipulations for exploratory
18 drilling on the KIC–ASRC private lands that are set
19 forth in Appendix 2 of the August 9, 1983, agree-
20 ment between Arctic Slope Regional Corporation and
21 the United States.

22 (f) FACILITY CONSOLIDATION PLANNING.—

23 (1) IN GENERAL.—The Secretary shall, after
24 providing for public notice and comment, prepare
25 and update periodically a plan to govern, guide, and

1 direct the siting and construction of facilities for the
2 exploration, development, production, and transpor-
3 tation of Coastal Plain oil and gas resources.

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

6 (A) Avoiding unnecessary duplication of fa-
7 cilities and activities.

8 (B) Encouraging consolidation of common
9 facilities and activities.

10 (C) Locating or confining facilities and ac-
11 tivities to areas that will minimize impact on
12 fish and wildlife, their habitat, and the environ-
13 ment.

14 (D) Utilizing existing facilities wherever
15 practicable.

16 (E) Enhancing compatibility between wild-
17 life values and development activities.

18 (g) ACCESS TO PUBLIC LANDS.—The Secretary
19 shall—

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

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

4 **SEC. 148. EXPEDITED JUDICIAL REVIEW.**

5 (a) FILING OF COMPLAINT.—

6 (1) DEADLINE.—Subject to paragraph (2), any
7 complaint seeking judicial review of any provision of
8 this subtitle or any action of the Secretary under
9 this subtitle shall be filed—

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

13 (B) in the case of a complaint based solely
14 on grounds arising after such period, within 60
15 days after the complainant knew or reasonably
16 should have known of the grounds for the com-
17 plaint.

18 (2) VENUE.—Any complaint seeking judicial re-
19 view of any provision of this subtitle or any action
20 of the Secretary under this subtitle may be filed only
21 in the United States District Court for the District
22 of Columbia.

23 (3) LIMITATION ON SCOPE OF CERTAIN RE-
24 VIEW.—Judicial review of a Secretarial decision to
25 conduct a lease sale under this subtitle, including

1 the environmental analysis thereof, shall be limited
2 to whether the Secretary has complied with the
3 terms of this subtitle and shall be based upon the
4 administrative record of that decision. The Sec-
5 retary's identification of a preferred course of action
6 to enable leasing to proceed and the Secretary's
7 analysis of environmental effects under this subtitle
8 shall be presumed to be correct unless shown other-
9 wise by clear and convincing evidence to the con-
10 trary.

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

15 **SEC. 149. FEDERAL AND STATE DISTRIBUTION OF REVE-**
16 **NUES.**

17 (a) **IN GENERAL.**—Notwithstanding any other provi-
18 sion of law, of the amount of adjusted bonus, rental, and
19 royalty revenues from Federal oil and gas leasing and op-
20 erations authorized under this subtitle—

21 (1) 50 percent shall be paid to the State of
22 Alaska; and

23 (2) except as provided in section 152(d), 90
24 percent of the balance shall be deposited into the

1 American Renewable and Alternative Energy Trust
2 Fund established by section 321.

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

5 **SEC. 150. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

9 (1) except as provided in paragraph (2), under
10 section 28 of the Mineral Leasing Act (30 U.S.C.
11 185), without regard to title XI of the Alaska Na-
12 tional Interest Lands Conservation Act (30 U.S.C.
13 3161 et seq.); and

14 (2) under title XI of the Alaska National Inter-
15 est Lands Conservation Act (30 U.S.C. 3161 et
16 seq.), for access authorized by sections 1110 and
17 1111 of that Act (16 U.S.C. 3170 and 3171).

18 (b) TERMS AND CONDITIONS.—The Secretary shall
19 include in any right-of-way or easement issued under sub-
20 section (a) such terms and conditions as may be necessary
21 to ensure that transportation of oil and gas does not result
22 in a significant adverse effect on the fish and wildlife, sub-
23 sistence resources, their habitat, and the environment of
24 the Coastal Plain, including requirements that facilities be

1 sited or designed so as to avoid unnecessary duplication
2 of roads and pipelines.

3 (c) REGULATIONS.—The Secretary shall include in
4 regulations under section 143(g) provisions granting
5 rights-of-way and easements described in subsection (a)
6 of this section.

7 **SEC. 151. CONVEYANCE.**

8 In order to maximize Federal revenues by removing
9 clouds on title to lands and clarifying land ownership pat-
10 terns within the Coastal Plain, the Secretary, notwith-
11 standing the provisions of section 1302(h)(2) of the Alas-
12 ka National Interest Lands Conservation Act (16 U.S.C.
13 3192(h)(2)), shall convey—

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

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

6 **SEC. 152. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
7 **NITY SERVICE ASSISTANCE.**

8 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

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

17 (2) ELIGIBLE ENTITIES.—The North Slope
18 Borough, the City of Kaktovik, and any other bor-
19 ough, municipal subdivision, village, or other com-
20 munity in the State of Alaska that is directly im-
21 pacted by exploration for, or the production of, oil
22 or gas on the Coastal Plain under this subtitle, as
23 determined by the Secretary, shall be eligible for fi-
24 nancial assistance under this section.

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

3 (1) planning for mitigation of the potential ef-
4 fects of oil and gas exploration and development on
5 environmental, social, cultural, recreational, and sub-
6 sistence values;

7 (2) implementing mitigation plans and main-
8 taining mitigation projects;

9 (3) developing, carrying out, and maintaining
10 projects and programs that provide new or expanded
11 public facilities and services to address needs and
12 problems associated with such effects, including fire-
13 fighting, police, water, waste treatment, medivac,
14 and medical services; and

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

18 (A) coordinate with and advise developers
19 on local conditions, impact, and history of the
20 areas utilized for development; and

21 (B) provide to the Committee on Natural
22 Resources of the House of Representatives and
23 the Committee on Energy and Natural Re-
24 sources of the Senate an annual report on the

1 status of coordination between developers and
2 the communities affected by development.

3 (c) APPLICATION.—

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

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

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

19 (d) ESTABLISHMENT OF FUND.—

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

23 (2) USE.—Amounts in the fund may be used
24 only for providing financial assistance under this
25 section.

1 (3) are one of the best resources available for
2 advancing American technology and creating Amer-
3 ican jobs; and

4 (4) will be a critically important component of
5 the Nation's transportation fuel sector in particular,
6 by providing a secure domestic source of aviation
7 fuel for both commercial and military uses.

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

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

22 (d) **REDUCED PAYMENTS TO ENSURE PRODUC-**
23 **TION.**—The Secretary of the Interior may temporarily re-
24 duce royalties, fees, rentals, bonus, or other payments for
25 leases of Federal lands for the development and produc-

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

6 **Subtitle D—Refinery Permit**
7 **Process Schedule**

8 **SEC. 171. SHORT TITLE.**

9 This subtitle may be cited as the “Refinery Permit
10 Process Schedule Act”.

11 **SEC. 172. DEFINITIONS.**

12 For purposes of this subtitle—

13 (1) the term “Administrator” means the Ad-
14 ministrator of the Environmental Protection Agency;

15 (2) the term “applicant” means a person who
16 (with the approval of the governor of the State, or
17 in the case of Native American tribes or tribal terri-
18 tories the designated leader of the tribe or tribal
19 community, where the proposed refinery would be lo-
20 cated) is seeking a Federal refinery authorization;

21 (3) the term “biomass” has the meaning given
22 that term in section 932(a)(1) of the Energy Policy
23 Act of 2005;

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

1 (A) means any authorization required
2 under Federal law, whether administered by a
3 Federal or State administrative agency or offi-
4 cial, with respect to siting, construction, expan-
5 sion, or operation of a refinery; and

6 (B) includes any permits, licenses, special
7 use authorizations, certifications, opinions, or
8 other approvals required under Federal law
9 with respect to siting, construction, expansion,
10 or operation of a refinery;

11 (5) the term “refinery” means—

12 (A) a facility designed and operated to re-
13 ceive, load, unload, store, transport, process,
14 and refine crude oil by any chemical or physical
15 process, including distillation, fluid catalytic
16 cracking, hydrocracking, coking, alkylation,
17 etherification, polymerization, catalytic reform-
18 ing, isomerization, hydrotreating, blending, and
19 any combination thereof, in order to produce
20 gasoline or distillate;

21 (B) a facility designed and operated to re-
22 ceive, load, unload, store, transport, process,
23 and refine coal by any chemical or physical
24 process, including liquefaction, in order to

1 produce gasoline or diesel as its primary out-
2 put; or

3 (C) a facility designed and operated to re-
4 ceive, load, unload, store, transport, process (in-
5 cluding biochemical, photochemical, and bio-
6 technology processes), and refine biomass in
7 order to produce biofuel; and

8 (6) the term “State” means a State, the Dis-
9 trict of Columbia, the Commonwealth of Puerto
10 Rico, and any other territory or possession of the
11 United States.

12 **SEC. 173. STATE ASSISTANCE.**

13 (a) STATE ASSISTANCE.—At the request of a gov-
14 ernor of a State, or in the case of Native American tribes
15 or tribal territories the designated leader of the tribe or
16 tribal community, the Administrator is authorized to pro-
17 vide financial assistance to that State or tribe or tribal
18 community to facilitate the hiring of additional personnel
19 to assist the State or tribe or tribal community with exper-
20 tise in fields relevant to consideration of Federal refinery
21 authorizations.

22 (b) OTHER ASSISTANCE.—At the request of a gov-
23 ernor of a State, or in the case of Native American tribes
24 or tribal territories the designated leader of the tribe or
25 tribal community, a Federal agency responsible for a Fed-

1 eral refinery authorization shall provide technical, legal,
2 or other nonfinancial assistance to that State or tribe or
3 tribal community to facilitate its consideration of Federal
4 refinery authorizations.

5 **SEC. 174. REFINERY PROCESS COORDINATION AND PROCE-**
6 **DURES.**

7 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

8 (1) IN GENERAL.—The President shall appoint
9 a Federal coordinator to perform the responsibilities
10 assigned to the Federal coordinator under this sub-
11 title.

12 (2) OTHER AGENCIES.—Each Federal and
13 State agency or official required to provide a Fed-
14 eral refinery authorization shall cooperate with the
15 Federal coordinator.

16 (b) FEDERAL REFINERY AUTHORIZATIONS.—

17 (1) MEETING PARTICIPANTS.—Not later than
18 30 days after receiving a notification from an appli-
19 cant that the applicant is seeking a Federal refinery
20 authorization pursuant to Federal law, the Federal
21 coordinator appointed under subsection (a) shall
22 convene a meeting of representatives from all Fed-
23 eral and State agencies responsible for a Federal re-
24 finery authorization with respect to the refinery. The
25 governor of a State shall identify each agency of

1 that State that is responsible for a Federal refinery
2 authorization with respect to that refinery.

3 (2) MEMORANDUM OF AGREEMENT.—(A) Not
4 later than 90 days after receipt of a notification de-
5 scribed in paragraph (1), the Federal coordinator
6 and the other participants at a meeting convened
7 under paragraph (1) shall establish a memorandum
8 of agreement setting forth the most expeditious co-
9 ordinated schedule possible for completion of all
10 Federal refinery authorizations with respect to the
11 refinery, consistent with the full substantive and
12 procedural review required by Federal law. If a Fed-
13 eral or State agency responsible for a Federal refin-
14 ery authorization with respect to the refinery is not
15 represented at such meeting, the Federal coordinator
16 shall ensure that the schedule accommodates those
17 Federal refinery authorizations, consistent with Fed-
18 eral law. In the event of conflict among Federal re-
19 finery authorization scheduling requirements, the re-
20 quirements of the Environmental Protection Agency
21 shall be given priority.

22 (B) Not later than 15 days after completing the
23 memorandum of agreement, the Federal coordinator
24 shall publish the memorandum of agreement in the
25 Federal Register.

1 (C) The Federal coordinator shall ensure that
2 all parties to the memorandum of agreement are
3 working in good faith to carry out the memorandum
4 of agreement, and shall facilitate the maintenance of
5 the schedule established therein.

6 (c) CONSOLIDATED RECORD.—The Federal coordi-
7 nator shall, with the cooperation of Federal and State ad-
8 ministrative agencies and officials, maintain a complete
9 consolidated record of all decisions made or actions taken
10 by the Federal coordinator or by a Federal administrative
11 agency or officer (or State administrative agency or officer
12 acting under delegated Federal authority) with respect to
13 any Federal refinery authorization. Such record shall be
14 the record for judicial review under subsection (d) of deci-
15 sions made or actions taken by Federal and State adminis-
16 trative agencies and officials, except that, if the Court de-
17 termines that the record does not contain sufficient infor-
18 mation, the Court may remand the proceeding to the Fed-
19 eral coordinator for further development of the consoli-
20 dated record.

21 (d) REMEDIES.—

22 (1) IN GENERAL.—The United States District
23 Court for the district in which the proposed refinery
24 is located shall have exclusive jurisdiction over any
25 civil action for the review of the failure of an agency

1 or official to act on a Federal refinery authorization
2 in accordance with the schedule established pursuant
3 to the memorandum of agreement.

4 (2) STANDING.—If an applicant or a party to
5 a memorandum of agreement alleges that a failure
6 to act described in paragraph (1) has occurred and
7 that such failure to act would jeopardize timely com-
8 pletion of the entire schedule as established in the
9 memorandum of agreement, such applicant or other
10 party may bring a cause of action under this sub-
11 section.

12 (3) COURT ACTION.—If an action is brought
13 under paragraph (2), the Court shall review whether
14 the parties to the memorandum of agreement have
15 been acting in good faith, whether the applicant has
16 been cooperating fully with the agencies that are re-
17 sponsible for issuing a Federal refinery authoriza-
18 tion, and any other relevant materials in the consoli-
19 dated record. Taking into consideration those fac-
20 tors, if the Court finds that a failure to act de-
21 scribed in paragraph (1) has occurred, and that such
22 failure to act would jeopardize timely completion of
23 the entire schedule as established in the memo-
24 randum of agreement, the Court shall establish a
25 new schedule that is the most expeditious coordi-

1 nated schedule possible for completion of pro-
2 ceedings, consistent with the full substantive and
3 procedural review required by Federal law. The
4 court may issue orders to enforce any schedule it es-
5 tablishes under this paragraph.

6 (4) FEDERAL COORDINATOR'S ACTION.—When
7 any civil action is brought under this subsection, the
8 Federal coordinator shall immediately file with the
9 Court the consolidated record compiled by the Fed-
10 eral coordinator pursuant to subsection (c).

11 (5) EXPEDITED REVIEW.—The Court shall set
12 any civil action brought under this subsection for ex-
13 pedited consideration.

14 **SEC. 175. DESIGNATION OF CLOSED MILITARY BASES.**

15 (a) DESIGNATION REQUIREMENT.—Not later than
16 90 days after the date of enactment of this Act, the Presi-
17 dent shall designate no less than 3 closed military installa-
18 tions, or portions thereof, as potentially suitable for the
19 construction of a refinery. At least 1 such site shall be
20 designated as potentially suitable for construction of a re-
21 finery to refine biomass in order to produce biofuel.

22 (b) REDEVELOPMENT AUTHORITY.—The redevelop-
23 ment authority for each installation designated under sub-
24 section (a), in preparing or revising the redevelopment

1 plan for the installation, shall consider the feasibility and
2 practicability of siting a refinery on the installation.

3 (c) MANAGEMENT AND DISPOSAL OF REAL PROP-
4 ERTY.—The Secretary of Defense, in managing and dis-
5 posing of real property at an installation designated under
6 subsection (a) pursuant to the base closure law applicable
7 to the installation, shall give substantial deference to the
8 recommendations of the redevelopment authority, as con-
9 tained in the redevelopment plan for the installation, re-
10 garding the siting of a refinery on the installation. The
11 management and disposal of real property at a closed mili-
12 tary installation or portion thereof found to be suitable
13 for the siting of a refinery under subsection (a) shall be
14 carried out in the manner provided by the base closure
15 law applicable to the installation.

16 (d) DEFINITIONS.—For purposes of this section—

17 (1) the term “base closure law” means the De-
18 fense Base Closure and Realignment Act of 1990
19 (part A of title XXIX of Public Law 101–510; 10
20 U.S.C. 2687 note) and title II of the Defense Au-
21 thorization Amendments and Base Closure and Re-
22 alignment Act (Public Law 100–526; 10 U.S.C.
23 2687 note); and

1 (2) the term “closed military installation”
2 means a military installation closed or approved for
3 closure pursuant to a base closure law.

4 **SEC. 176. SAVINGS CLAUSE.**

5 Nothing in this subtitle shall be construed to affect
6 the application of any environmental or other law, or to
7 prevent any party from bringing a cause of action under
8 any environmental or other law, including citizen suits.

9 **SEC. 177. REFINERY REVITALIZATION REPEAL.**

10 Subtitle H of title III of the Energy Policy Act of
11 2005 and the items relating thereto in the table of con-
12 tents of such Act are repealed.

13 **TITLE II—CONSERVATION AND**
14 **EFFICIENCY**

15 **Subtitle A—Tax Incentives for Fuel**
16 **Efficiency**

17 **SEC. 201. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL**
18 **VEHICLES.**

19 Paragraph (4) of section 30B(j) of the Internal Rev-
20 enue Code of 1986 is amended by striking “December 31,
21 2010” and inserting “December 31, 2020”.

22 **SEC. 202. EXTENSION OF ALTERNATIVE FUEL VEHICLE RE-**
23 **FUELING PROPERTY CREDIT.**

24 Paragraph (1) of section 30C(g) of the Internal Rev-
25 enue Code of 1986 is amended—

1 (1) by striking “hydrogen,” inserting “hydrogen
2 or alternative fuels (as defined in section
3 30B(e)(4)(B)),”, and

4 (2) by striking “December 31, 2014” and in-
5 serting “December 31, 2020”.

6 **SEC. 203. EXTENSION OF CREDIT FOR NEW QUALIFIED**
7 **PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.**

8 (a) IN GENERAL.—Section 30D of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new subsection:

11 “(g) TERMINATION.—This section shall not apply to
12 property placed in service after December 31, 2020.”.

13 (b) REPEAL OF LIMITATION ON NUMBER OF NEW
14 QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES
15 ELIGIBLE FOR CREDIT.—Section 30D of such Code, as
16 amended by subsection (a), is amended by striking sub-
17 section (e) and redesignating subsections (f) and (g) as
18 subsections (e) and (f), respectively.

19 (c) CONFORMING AMENDMENTS.—

20 (1) Section 1016(a)(37) of such Code is amend-
21 ed by striking “section 30D(f)(1)” and inserting
22 “section 30D(e)(1)”.

23 (2) Section 6501(m) of such Code is amended
24 by striking “section 30D(e)(4)” and inserting “sec-
25 tion 30D(e)(4)”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to vehicles acquired after Decem-
3 ber 31, 2009.

4 **Subtitle B—Tapping America’s** 5 **Ingenuity and Creativity**

6 **SEC. 211. DEFINITIONS.**

7 In this subtitle:

8 (1) ADMINISTERING ENTITY.—The term “ad-
9 ministering entity” means the entity with which the
10 Secretary enters into an agreement under section
11 214(c).

12 (2) DEPARTMENT.—The term “Department”
13 means the Department of Energy.

14 (3) SECRETARY.—The term “Secretary” means
15 the Secretary of Energy.

16 **SEC. 212. STATEMENT OF POLICY.**

17 It is the policy of the United States to provide incen-
18 tives to encourage the development and implementation of
19 innovative energy technologies and new energy sources
20 that will reduce our reliance on foreign energy.

21 **SEC. 213. PRIZE AUTHORITY.**

22 (a) IN GENERAL.—The Secretary shall carry out a
23 program to competitively award cash prizes in conformity
24 with this subtitle to advance the research, development,

1 demonstration, and commercial application of innovative
2 energy technologies and new energy sources.

3 (b) ADVERTISING AND SOLICITATION OF COMPETI-
4 TORS.—

5 (1) ADVERTISING.—The Secretary shall widely
6 advertise prize competitions to encourage broad par-
7 ticipation in the program carried out under sub-
8 section (a), including individuals, universities, com-
9 munities, and large and small businesses.

10 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
11 ISTER NOTICE.—The Secretary shall announce each
12 prize competition by publishing a notice in the Fed-
13 eral Register. This notice shall include essential ele-
14 ments of the competition such as the subject of the
15 competition, the duration of the competition, the eli-
16 gibility requirements for participation in the com-
17 petition, the process for participants to register for
18 the competition, the amount of the prize, and the
19 criteria for awarding the prize.

20 (c) ADMINISTERING THE COMPETITION.—The Sec-
21 retary may enter into an agreement with a private, non-
22 profit entity to administer the prize competitions, subject
23 to the provisions of this subtitle. The administering entity
24 shall perform the following functions:

25 (1) Advertise the competition and its results.

1 (2) Raise funds from private entities and indi-
2 viduals to pay for administrative costs and cash
3 prizes.

4 (3) Develop, in consultation with and subject to
5 the final approval of the Secretary, criteria to select
6 winners based upon the goal of safely and ade-
7 quately storing nuclear used fuel.

8 (4) Determine, in consultation with and subject
9 to the final approval of the Secretary, the appro-
10 priate amount of the awards.

11 (5) Protect against the administering entity's
12 unauthorized use or disclosure of a registered par-
13 ticipant's intellectual property, trade secrets, and
14 confidential business information. Any information
15 properly identified as trade secrets or confidential
16 business information that is submitted by a partici-
17 pant as part of a competitive program under this
18 subtitle may be withheld from public disclosure.

19 (6) Develop and promulgate sufficient rules to
20 define the parameters of designing and proposing in-
21 novative energy technologies and new energy sources
22 with input from industry, citizens, and corporations
23 familiar with such activities.

24 (d) FUNDING SOURCES.—Prizes under this subtitle
25 may consist of Federal appropriated funds, funds provided

1 by the administering entity, or funds raised through
2 grants or donations. The Secretary may accept funds from
3 other Federal agencies for such cash prizes and, notwith-
4 standing section 3302(b) of title 31, United States Code,
5 may use such funds for the cash prize program. Other
6 than publication of the names of prize sponsors, the Sec-
7 retary may not give any special consideration to any pri-
8 vate sector entity or individual in return for a donation
9 to the Secretary or administering entity.

10 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
11 may not publish a notice required by subsection (b)(2)
12 until all the funds needed to pay out the announced
13 amount of the prize have been appropriated to the Depart-
14 ment or the Department has received from the admin-
15 istering entity a written commitment to provide all nec-
16 essary funds.

17 **SEC. 214. ELIGIBILITY.**

18 To be eligible to win a prize under this subtitle, an
19 individual or entity—

20 (1) shall notify the administering entity of in-
21 tent to submit ideas and intent to collect the prize
22 upon selection;

23 (2) shall comply with all the requirements stat-
24 ed in the Federal Register notice required under sec-
25 tion 213(b)(2);

1 (3) in the case of a private entity, shall be in-
2 corporated in and maintain a primary place of busi-
3 ness in the United States, and in the case of an in-
4 dividual, whether participating singly or in a group,
5 shall be a citizen of the United States;

6 (4) shall not be a Federal entity, a Federal em-
7 ployee acting within the scope of his or her employ-
8 ment, or an employee of a national laboratory acting
9 within the scope of employment;

10 (5) shall not use Federal funding or other Fed-
11 eral resources to compete for the prize; and

12 (6) shall not be an entity acting on behalf of
13 any foreign government or agent.

14 **SEC. 215. INTELLECTUAL PROPERTY.**

15 The Federal Government shall not, by virtue of offer-
16 ing or awarding a prize under this subtitle, be entitled to
17 any intellectual property rights derived as a consequence
18 of, or in direct relation to, the participation by a registered
19 participant in a competition authorized by this subtitle.
20 This section shall not be construed to prevent the Federal
21 Government from negotiating a license for the use of intel-
22 lectual property developed for a prize competition under
23 this subtitle. The Federal Government may seek assur-
24 ances that technologies for which prizes are awarded
25 under this subtitle are offered for commercialization in the

1 event an award recipient does not take, or is not expected
2 to take within a reasonable time, effective steps to achieve
3 practical application of the technology.

4 **SEC. 216. WAIVER OF LIABILITY.**

5 The Secretary may require registered participants to
6 waive claims against the Federal Government and the ad-
7 ministering entity (except claims for willful misconduct)
8 for any injury, death, damage, or loss of property, revenue,
9 or profits arising from the registered participants' partici-
10 pation in a competition under this subtitle. The Secretary
11 shall give notice of any waiver required under this section
12 in the notice required by section 213(b)(2). The Secretary
13 may not require a registered participant to waive claims
14 against the administering entity arising out of the unau-
15 thorized use or disclosure by the administering entity of
16 the registered participant's intellectual property, trade se-
17 crets, or confidential business information.

18 **SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) AWARDS.—40 percent of amounts in the Amer-
20 ican Energy Trust Fund shall be available without further
21 appropriation to carry out specified provisions of this sec-
22 tion.

23 (b) TREATMENT OF AWARDS.—Amounts received
24 pursuant to an award under this subtitle may not be taxed
25 by any Federal, State, or local authority.

1 (c) ADMINISTRATION.—In addition to the amounts
2 authorized under subsection (a), there are authorized to
3 be appropriated to the Secretary for each of fiscal years
4 2009 through 2020 \$2,000,000 for the administrative
5 costs of carrying out this subtitle.

6 (d) CARRYOVER OF FUNDS.—Funds appropriated for
7 prize awards under this subtitle shall remain available
8 until expended and may be transferred, reprogrammed, or
9 expended for other purposes only after the expiration of
10 11 fiscal years after the fiscal year for which the funds
11 were originally appropriated. No provision in this subtitle
12 permits obligation or payment of funds in violation of sec-
13 tion 1341 of title 31, United States Code.

14 **SEC. 218. NEXT GENERATION AUTOMOBILE PRIZE PRO-**
15 **GRAM.**

16 The Secretary of Energy shall establish a program
17 to award a prize in the amount of \$500,000,000 to the
18 first automobile manufacturer incorporated in the United
19 States to manufacture and sell in the United States
20 50,000 midsized sedan automobiles which operate on gaso-
21 line and can travel 100 miles per gallon.

22 **SEC. 219. ADVANCED BATTERY MANUFACTURING INCEN-**
23 **TIVE PROGRAM.**

24 (a) DEFINITIONS.—In this section:

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

4 (2) ENGINEERING INTEGRATION COSTS.—The
5 term “engineering integration costs” includes the
6 cost of engineering tasks relating to—

7 (A) incorporation of qualifying components
8 into the design of advanced batteries; and

9 (B) design of tooling and equipment and
10 developing manufacturing processes and mate-
11 rial suppliers for production facilities that
12 produce qualifying components or advanced bat-
13 teries.

14 (b) ADVANCED BATTERY MANUFACTURING FACIL-
15 ITY.—The Secretary shall provide facility funding awards
16 under this section to advanced battery manufacturers to
17 pay not more than 30 percent of the cost of reequipping,
18 expanding, or establishing a manufacturing facility in the
19 United States to produce advanced batteries.

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

22 (1) facilities and equipment placed in service
23 before December 30, 2020; and

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

4 (d) DIRECT LOAN PROGRAM.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this subtitle, and subject to
7 the availability of appropriated funds, the Secretary
8 shall carry out a program to provide a total of not
9 more than \$100,000,000 in loans to eligible individ-
10 uals and entities (as determined by the Secretary)
11 for the costs of activities described in subsection (b).

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

16 (A) is financially viable without the receipt
17 of additional Federal funding associated with
18 the proposed project;

19 (B) will provide sufficient information to
20 the Secretary for the Secretary to ensure that
21 the qualified investment is expended efficiently
22 and effectively; and

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

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

3 (A) shall have an interest rate that, as of
4 the date on which the loan is made, is equal to
5 the cost of funds to the Department of the
6 Treasury for obligations of comparable matu-
7 rity;

8 (B) shall have a term equal to the lesser
9 of—

10 (i) the projected life, in years, of the
11 eligible project to be carried out using
12 funds from the loan, as determined by the
13 Secretary; and

14 (ii) 25 years;

15 (C) may be subject to a deferral in repay-
16 ment for not more than 5 years after the date
17 on which the eligible project carried out using
18 funds from the loan first begins operations, as
19 determined by the Secretary; and

20 (D) shall be made by the Federal Financ-
21 ing Bank.

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

24 (f) SET ASIDE FOR SMALL MANUFACTURERS.—

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

4 (A) employs fewer than 500 individuals;

5 and

6 (B) manufactures automobiles or compo-
7 nents of automobiles.

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

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated from the American En-
15 ergy Trust Fund such sums as are necessary to carry out
16 this section for each of fiscal years 2009 through 2013.

17 **Subtitle C—Home and Business**
18 **Tax Incentives**

19 **SEC. 221. EXTENSION OF CREDIT FOR ENERGY EFFICIENT**
20 **APPLIANCES.**

21 (a) IN GENERAL.—Subsection (b) of section 45M of
22 the Internal Revenue Code of 1986 (relating to applicable
23 amount) is amended—

24 (1) in paragraph (1)—

1 (A) by striking “2008 or 2009” in sub-
2 paragraph (A) and inserting “2008, 2009,
3 2010, 2011, or 2012”, and

4 (B) by striking “2008, 2009, or 2010” in
5 subparagraph (B) and inserting “2008, 2009,
6 2010, 2011, 2012, or 2013”,

7 (2) in paragraph (2)—

8 (A) by striking “2008 or 2009” in sub-
9 paragraph (B) and inserting “2008, 2009,
10 2010, 2011, or 2012”,

11 (B) by striking “2008, 2009, or 2010” in
12 subparagraph (C) and inserting “2008, 2009,
13 2010, 2011, 2012, or 2013”, and

14 (C) by striking “2008, 2009, or 2010” in
15 subparagraph (D) and inserting “2008, 2009,
16 2010, 2011, 2012, or 2013”, and

17 (3) in paragraph (3)—

18 (A) by striking “2008 or 2009” in sub-
19 paragraph (B) and inserting “2008, 2009,
20 2010, 2011, or 2012”,

21 (B) by striking “2008, 2009, or 2010” in
22 subparagraph (C) and inserting “2008, 2009,
23 2010, 2011, 2012, or 2013”, and

1 (C) by striking “2008, 2009, or 2010” in
2 subparagraph (D) and inserting “2008, 2009,
3 2010, 2011, 2012, or 2013”.

4 (b) INCREASE IN AGGREGATE CREDIT AMOUNT AL-
5 LOWED.—Paragraph (1) of section 45M(e) of such Code
6 (relating to aggregate credit amount allowed) is amended
7 by striking “\$75,000,000” and inserting “\$100,000,000”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to appliances produced after De-
10 cember 31, 2009.

11 **SEC. 222. EXTENSION OF CREDIT FOR NONBUSINESS EN-**
12 **ERGY PROPERTY.**

13 (a) IN GENERAL.—Section 25C(g) of the Internal
14 Revenue Code of 1986 (relating to termination) is amend-
15 ed by striking “December 31, 2010” and inserting “De-
16 cember 31, 2020”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to property placed in service after
19 December 31, 2007.

20 **SEC. 223. EXTENSION OF CREDIT FOR RESIDENTIAL EN-**
21 **ERGY EFFICIENT PROPERTY.**

22 Section 25D(g) of the Internal Revenue Code of 1986
23 (relating to termination) is amended by striking “Decem-
24 ber 31, 2016” and inserting “December 31, 2020”.

1 **SEC. 224. EXTENSION OF NEW ENERGY EFFICIENT HOME**
2 **CREDIT.**

3 Subsection (g) of section 45L of the Internal Revenue
4 Code of 1986 (relating to termination) is amended by
5 striking “December 31, 2009” and inserting “December
6 31, 2020”.

7 **SEC. 225. EXTENSION OF ENERGY EFFICIENT COMMERCIAL**
8 **BUILDINGS DEDUCTION.**

9 Section 179D(h) of the Internal Revenue Code of
10 1986 (relating to termination) is amended by striking
11 “December 31, 2013” and inserting “December 31,
12 2020”.

13 **SEC. 226. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
14 **FERC AND STATE ELECTRIC RESTRUC-**
15 **TURING POLICY.**

16 (a) **IN GENERAL.**—Paragraph (3) of section 451(i)
17 of the Internal Revenue Code of 1986 is amended by strik-
18 ing “January 1, 2008” and inserting “January 1, 2021”.

19 (b) **EFFECTIVE DATE.**—The amendment made by
20 subsection (a) shall apply to transactions after December
21 31, 2008.

22 **SEC. 227. HOME ENERGY AUDITS.**

23 (a) **IN GENERAL.**—Subpart A of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of
25 1986 is amended by inserting after section 25D the fol-
26 lowing new section:

1 **“SEC. 25E. HOME ENERGY AUDITS.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this chapter for the taxable year an amount equal to
5 50 percent of the amount of qualified energy audit paid
6 or incurred by the taxpayer during the taxable year.

7 “(b) LIMITATIONS.—

8 “(1) DOLLAR LIMITATION.—The amount al-
9 lowed as a credit under subsection (a) with respect
10 to a residence of the taxpayer for a taxable year
11 shall not exceed \$400.

12 “(2) LIMITATION BASED ON AMOUNT OF
13 TAX.—In the case of any taxable year to which sec-
14 tion 26(a)(2) does not apply, the credit allowed
15 under subsection (a) shall not exceed the excess of—

16 “(A) the sum of the regular tax liability
17 (as defined in section 26(b)) plus the tax im-
18 posed by section 55, over

19 “(B) the sum of the credits allowable
20 under this subpart (other than this section) and
21 section 27 for the taxable year.

22 “(c) QUALIFIED ENERGY AUDIT.—For purposes of
23 this section, the term ‘qualified energy audit’ means an
24 energy audit of the principal residence of the taxpayer per-
25 formed by a qualified energy auditor through a com-
26 prehensive site visit. Such audit may include a blower door

1 test, an infra-red camera test, and a furnace combustion
2 efficiency test. In addition, such audit shall include such
3 substitute tests for the tests specified in the preceding sen-
4 tence, and such additional tests, as the Secretary may by
5 regulation require. A principal residence shall not be taken
6 into consideration under this subparagraph unless such
7 residence is located in the United States.

8 “(d) PRINCIPAL RESIDENCE.—For purposes of this
9 section, the term ‘principal residence’ has the same mean-
10 ing as when used in section 121.

11 “(e) QUALIFIED ENERGY AUDITOR.—

12 “(1) IN GENERAL.—The Secretary shall specify
13 by regulations the qualifications required to be a
14 qualified energy auditor for purposes of this section.
15 Such regulations shall include rules prohibiting con-
16 flicts-of-interest, including the disallowance of com-
17 missions or other payments based on goods or non-
18 audit services purchased by the taxpayer from the
19 auditor.

20 “(2) CERTIFICATION.—The Secretary shall pre-
21 scribe the procedures and methods for certifying
22 that an auditor is a qualified energy auditor. To the
23 maximum extent practicable, such procedures and
24 methods shall provide for a variety of sources to ob-
25 tain certifications.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 23(b)(4)(B) of the Internal Revenue
3 Code of 1986 is amended by striking “section 25D”
4 and inserting “sections 25D and 25E”..

5 (2) Section 23(c)(1) of such Code is amended
6 by striking “25D and” and inserting “25D, 25E,
7 and”.

8 (3) Section 24(b)(3)(B) of such Code is amend-
9 ed by inserting “25E,” after “25D,”.

10 (4) Clauses (i) and (ii) of section 25(e)(1)(C) of
11 such Code are each amended by inserting “25E,”
12 after “25D,”.

13 (5) Section 25B(g)(2) of such Code is amended
14 by inserting “25E,” after “25D,”.

15 (6) Section 25D(c)(1)(B) of such Code is
16 amended by inserting “and section 25E” after “this
17 section”.

18 (7) Section 25D(c)(2)(A) of such Code is
19 amended by inserting “and section 25E” after “this
20 section”.

21 (8) The table of sections for subpart A of part
22 IV of subchapter A chapter 1 of such Code is
23 amended by inserting after the item relating to sec-
24 tion 25D the following new item:

“Sec. 25E. Home energy audits.”.

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to amounts paid or incurred
3 in taxable years beginning after the date of the en-
4 actment of this Act.

5 (2) APPLICATION OF EGTRRA SUNSET.—The
6 amendments made by paragraphs (1) and (3) of
7 subsection (b) shall be subject to title IX of the Eco-
8 nomic Growth and Tax Relief Reconciliation Act of
9 2001 in the same manner as the provisions of such
10 Act to which such amendments relate.

11 **SEC. 228. ACCELERATED RECOVERY PERIOD FOR DEPRE-**
12 **CIATION OF SMART METERS.**

13 (a) IN GENERAL.—Section 168(e)(3)(B) of the Inter-
14 nal Revenue Code of 1986 is amended by striking “and”
15 at the end of clause (vi), by striking the period at the end
16 of clause (vii) and inserting “, and”, and by inserting after
17 clause (vii) the following new clause:

18 “(viii) any qualified smart electric
19 meter.”.

20 (b) CONFORMING AMENDMENT.—Section
21 168(e)(3)(D) of such Code is amended by striking clause
22 (iii) and redesignating clause (iv) as clause (iii).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to property placed in service after
25 the date of the enactment of this Act.

1 **TITLE III—NEW AND EXPANDING**
2 **TECHNOLOGIES**

3 **Subtitle A—Alternative Fuels**

4 **SEC. 301. REPEAL.**

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

7 **SEC. 302. GOVERNMENT AUCTION OF LONG TERM PUT OP-**
8 **TION CONTRACTS ON COAL-TO-LIQUID FUEL**
9 **PRODUCED BY QUALIFIED COAL-TO-LIQUID**
10 **FACILITIES.**

11 (a) **IN GENERAL.**—The Secretary shall, from time to
12 time, auction to the public coal-to-liquid fuel put option
13 contracts having expiration dates of 5 years, 10 years, 15
14 years, or 20 years.

15 (b) **CONSULTATION WITH SECRETARY OF EN-**
16 **ERGY.**—The Secretary shall consult with the Secretary of
17 Energy regarding—

18 (1) the frequency of the auctions;

19 (2) the strike prices specified in the contracts;

20 (3) the number of contracts to be auctioned
21 with a given strike price and expiration date; and

22 (4) the capacity of existing or planned facilities
23 to produce coal-to-liquid fuel.

24 (c) **DEFINITIONS.**—In this section:

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

5 (2) COAL-TO-LIQUID PUT OPTION CONTRACT.—
6 The term “coal-to-liquid put option contract” means
7 a contract, written by the Secretary, which—

8 (A) gives the holder the right (but not the
9 obligation) to sell to the Government of the
10 United States a certain quantity of a specific
11 type of coal-to-liquid fuel produced by a quali-
12 fied coal-to-liquid facility specified in the con-
13 tract, at a strike price specified in the contract,
14 on or before an expiration date specified in the
15 contract; and

16 (B) is transferable by the holder to any
17 other entity.

18 (3) QUALIFIED COAL-TO-LIQUID FACILITY.—
19 The term “qualified coal-to-liquid facility” means a
20 manufacturing facility that has the capacity to
21 produce at least 10,000 barrels per day of transpor-
22 tation grade liquid fuels from a feedstock that is pri-
23 marily domestic coal (including peat and any prop-
24 erty which allows for the capture, transportation, or

1 loan agreement above which the project is re-
2 quired to make payments to the United States.

3 “(B) FULL TERM.—The term ‘full term’
4 means the full term of a standby loan agree-
5 ment, as specified in the agreement, which shall
6 not exceed the lesser of 30 years or 90 percent
7 of the projected useful life of the project (as de-
8 termined by the Secretary).

9 “(C) MARKET PRICE.—The term ‘market
10 price’ means the average quarterly price of a
11 petroleum price index specified in the standby
12 loan agreement.

13 “(D) MINIMUM PRICE.—The term ‘min-
14 imum price’ means a market price specified in
15 the standby loan agreement below which the
16 United States is obligated to make disburse-
17 ments to the project.

18 “(E) OUTPUT.—The term ‘output’ means
19 some or all of the liquid or gaseous transpor-
20 tation fuels produced from the project, as speci-
21 fied in the loan agreement.

22 “(F) PRIMARY TERM.—The term ‘primary
23 term’ means the initial term of a standby loan
24 agreement, as specified in the agreement, which
25 shall not exceed the lesser of 20 years or 75

1 percent of the projected useful life of the
2 project (as determined by the Secretary).

3 “(G) QUALIFYING CTL PROJECT.—The
4 term ‘qualifying CTL project’ means—

5 “(i) a commercial-scale project that
6 converts coal to one or more liquid or gas-
7 eous transportation fuels; or

8 “(ii) not more than one project at a
9 facility that converts petroleum refinery
10 waste products, including petroleum coke,
11 into one or more liquids or gaseous trans-
12 portation fuels,

13 that demonstrates the capture, and sequestra-
14 tion or disposal or use of, the carbon dioxide
15 produced in the conversion process, and that,
16 on the basis of a carbon dioxide sequestration
17 plan prepared by the applicant, is certified by
18 the Administrator of the Environmental Protec-
19 tion Agency, in consultation with the Secretary,
20 as producing fuel with life cycle carbon dioxide
21 emissions at or below the average life cycle car-
22 bon dioxide emissions for the same type of fuel
23 produced at traditional petroleum based facili-
24 ties with similar annual capacities.

1 “(H) STANDBY LOAN AGREEMENT.—The
2 term ‘standby loan agreement’ means a loan
3 agreement entered into under paragraph (2).

4 “(2) STANDBY LOANS.—

5 “(A) LOAN AUTHORITY.—The Secretary
6 may enter into standby loan agreements with
7 not more than six qualifying CTL projects, at
8 least one of which shall be a project jointly or
9 in part owned by two or more small coal pro-
10 ducers. Such an agreement—

11 “(i) shall provide that the Secretary
12 will make a direct loan (within the mean-
13 ing of section 502(1) of the Federal Credit
14 Reform Act of 1990) to the qualifying
15 CTL project; and

16 “(ii) shall set a cap price and a min-
17 imum price for the primary term of the
18 agreement.

19 “(B) LOAN DISBURSEMENTS.—Such a loan
20 shall be disbursed during the primary term of
21 such agreement whenever the market price falls
22 below the minimum price. The amount of such
23 disbursements in any calendar quarter shall be
24 equal to the excess of the minimum price over
25 the market price, times the output of the

1 project (but not more than a total level of dis-
2 bursements specified in the agreement).

3 “(C) LOAN REPAYMENTS.—The Secretary
4 shall establish terms and conditions, including
5 interest rates and amortization schedules, for
6 the repayment of such loan within the full term
7 of the agreement, subject to the following limi-
8 tations:

9 “(i) If in any calendar quarter during
10 the primary term of the agreement the
11 market price is less than the cap price, the
12 project may elect to defer some or all of its
13 repayment obligations due in that quarter.
14 Any unpaid obligations will continue to ac-
15 crue interest.

16 “(ii) If in any calendar quarter during
17 the primary term of the agreement the
18 market price is greater than the cap price,
19 the project shall meet its scheduled repay-
20 ment obligation plus deferred repayment
21 obligations, but shall not be required to
22 pay in that quarter an amount that is
23 more than the excess of the market price
24 over the cap price, times the output of the
25 project.

1 “(iii) At the end of the primary term
2 of the agreement, the cumulative amount
3 of any deferred repayment obligations, to-
4 gether with accrued interest, shall be am-
5 ortized (with interest) over the remainder
6 of the full term of the agreement.

7 “(3) PROFIT-SHARING.—The Secretary is au-
8 thorized to enter into a profit-sharing agreement
9 with the project at the time the standby loan agree-
10 ment is executed. Under such an agreement, if the
11 market price exceeds the cap price in a calendar
12 quarter, a profit-sharing payment shall be made for
13 that quarter, in an amount equal to—

14 “(A) the excess of the market price over
15 the cap price, times the output of the project;
16 less

17 “(B) any loan repayments made for the
18 calendar quarter.

19 “(4) COMPLIANCE WITH FEDERAL CREDIT RE-
20 FORM ACT.—

21 “(A) UPFRONT PAYMENT OF COST OF
22 LOAN.—No standby loan agreement may be en-
23 tered into under this subsection unless the
24 project makes a payment to the United States
25 that the Office of Management and Budget de-

1 termines is equal to the cost of such loan (de-
2 termined under 502(5)(B) of the Federal Credit
3 Reform Act of 1990). Such payment shall be
4 made at the time the standby loan agreement is
5 executed.

6 “(B) MINIMIZATION OF RISK TO THE GOV-
7 ERNMENT.—In making the determination of the
8 cost of the loan for purposes of setting the pay-
9 ment for a standby loan under subparagraph
10 (A), the Secretary and the Office of Manage-
11 ment and Budget shall take into consideration
12 the extent to which the minimum price and the
13 cap price reflect historical patterns of volatility
14 in actual oil prices relative to projections of fu-
15 ture oil prices, based upon publicly available
16 data from the Energy Information Administra-
17 tion, and employing statistical methods and
18 analyses that are appropriate for the analysis of
19 volatility in energy prices.

20 “(C) TREATMENT OF PAYMENTS.—The
21 value to the United States of a payment under
22 subparagraph (A) and any profit-sharing pay-
23 ments under paragraph (3) shall be taken into
24 account for purposes of section 502(5)(B)(iii) of
25 the Federal Credit Reform Act of 1990 in de-

1 termining the cost to the Federal Government
2 of a standby loan made under this subsection.
3 If a standby loan has no cost to the Federal
4 Government, the requirements of section 504(b)
5 of such Act shall be deemed to be satisfied.

6 “(5) OTHER PROVISIONS.—

7 “(A) NO DOUBLE BENEFIT.—A project re-
8 ceiving a loan under this subsection may not,
9 during the primary term of the loan agreement,
10 receive a Federal loan guarantee under sub-
11 section (a) of this section, or under other laws.

12 “(B) SUBROGATION, ETC.—Subsections
13 (g)(2) (relating to subrogation), (h) (relating to
14 fees), and (j) (relating to full faith and credit)
15 shall apply to standby loans under this sub-
16 section to the same extent they apply to loan
17 guarantees.”.

18 **Subtitle B—Tax Provisions**

19 **SEC. 311. EXTENSION OF RENEWABLE ELECTRICITY, RE-** 20 **FINED COAL, AND INDIAN COAL PRODUCTION** 21 **CREDIT.**

22 (a) CREDIT MADE PERMANENT.—

23 (1) IN GENERAL.—Subsection (d) of section 45
24 of the Internal Revenue Code of 1986 (relating to
25 qualified facilities) is amended—

1 (A) by striking “and before January 1,
2 2014” each place it occurs,

3 (B) by striking “, and before January 1,
4 2013” in paragraph (1) , and

5 (C) by striking “before January 1, 2009”
6 in paragraph (10).

7 (2) OPEN-LOOP BIOMASS FACILITIES.—Sub-
8 paragraph (A) of section 45(d)(3) of such Code is
9 amended to read as follows:

10 “(A) IN GENERAL.—In the case of a facil-
11 ity using open-loop biomass to produce elec-
12 tricity, the term ‘qualified facility’ means any
13 facility owned by the taxpayer which is origi-
14 nally placed in service after October 22, 2004.”.

15 (3) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to electricity produced
17 and sold after December 31, 2009, in taxable years
18 ending after such date.

19 (b) SALES OF NET ELECTRICITY TO REGULATED
20 PUBLIC UTILITIES TREATED AS SALES TO UNRELATED
21 PERSONS.—Paragraph (4) of section 45(e) of such Code
22 is amended by adding at the end the following new sen-
23 tence: “The net amount of electricity sold by any taxpayer
24 to a regulated public utility (as defined in section

1 7701(a)(33)) shall be treated as sold to an unrelated per-
2 son.”.

3 (c) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
4 TAX.—

5 (1) IN GENERAL.—Clause (iii) of section
6 38(c)(4)(B) of such Code (relating to specified cred-
7 its) is amended by striking “produced—” and all
8 that follows and inserting “produced at a facility
9 which is originally placed in service after the date of
10 the enactment of this paragraph.”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall apply to taxable years begin-
13 ning after the date of the enactment of this Act.

14 **SEC. 312. EXTENSION OF ENERGY CREDIT.**

15 (a) SOLAR ENERGY PROPERTY.—Paragraphs
16 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal
17 Revenue Code of 1986 (relating to energy credit) are each
18 amended by striking “but only with respect to periods end-
19 ing before January 1, 2017”.

20 (b) FUEL CELL PROPERTY.—Section 48(c)(1) of
21 such Code (relating to qualified fuel cell property) is
22 amended by striking subparagraph (D).

23 (c) MICROTURBINE PROPERTY.—Subparagraph (D)
24 of section 48(c)(2) of the Internal Revenue Code of 1986
25 (relating to qualified microturbine property) is amended

1 by striking “December 31, 2016” and inserting “Decem-
2 ber 31, 2020”.

3 **SEC. 313. EXTENSION AND MODIFICATION OF CREDIT FOR**
4 **CLEAN RENEWABLE ENERGY BONDS.**

5 (a) EXTENSION.—Section 54(m) of the Internal Rev-
6 enue Code of 1986 (relating to termination) is amended
7 by striking “December 31, 2009” and inserting “Decem-
8 ber 31, 2020”.

9 (b) INCREASE IN NATIONAL LIMITATION.—Section
10 54(f) of such Code (relating to limitation on amount of
11 bonds designated) is amended—

12 (1) by striking “\$1,200,000,000” in paragraph
13 (1) and inserting “\$1,600,000,000”, and

14 (2) by striking “\$750,000,000” in paragraph
15 (2) and inserting “\$1,000,000,000”.

16 (c) MODIFICATION OF RATABLE PRINCIPAL AMORTI-
17 ZATION REQUIREMENT.—

18 (1) IN GENERAL.—Paragraph (4) of section
19 54(l) of such Code is amended to read as follows:

20 “(4) RATABLE PRINCIPAL AMORTIZATION RE-
21 QUIRED.—A bond shall not be treated as a clean re-
22 newable energy bond unless it is part of an issue
23 which provides for an equal amount of principal to
24 be paid by the qualified issuer during each 12-month

1 period that the issue is outstanding (other than the
2 first 12-month period).”.

3 (2) TECHNICAL AMENDMENT.—The third sen-
4 tence of section 54(e)(2) of such Code is amended
5 by striking “subsection (1)(6)” and inserting “sub-
6 section (1)(4)”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to bonds issued after the date of
9 the enactment of this Act.

10 **SEC. 314. EXTENSION OF CREDITS FOR BIODIESEL AND RE-**
11 **NEWABLE DIESEL.**

12 (a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and
13 6427(e)(6)(B) of the Internal Revenue Code of 1986 are
14 each amended by striking “December 31, 2009” and in-
15 serting “December 31, 2020”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to fuel produced, and sold or used,
18 after December 31, 2009.

19 **Subtitle C—American Renewable**
20 **and Alternative Energy Trust Fund**

21 **SEC. 321. AMERICAN RENEWABLE AND ALTERNATIVE EN-**
22 **ERGY TRUST FUND.**

23 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
24 tablished in the Treasury of the United States a trust fund
25 to be known as the “American Renewable and Alternative

1 Energy Trust Fund”, consisting of such amounts as may
2 be transferred to the American Renewable and Alternative
3 Energy Trust Fund as provided in section 149 and the
4 amendments made by section 113 of this Act.

5 (b) EXPENDITURES FROM AMERICAN RENEWABLE
6 AND ALTERNATIVE ENERGY TRUST FUND.—

7 (1) IN GENERAL.—Amounts in the American
8 Renewable and Alternative Energy Trust Fund shall
9 be available without further appropriation to carry
10 out specified provisions of the Energy Policy Act of
11 2005 (Public Law 109–58; in this section referred to
12 as “EPAAct2005”) and the Energy Independence and
13 Security Act of 2007 (Public Law 110–140; in this
14 section referred to as “EISAct2007”), as follows:

15 (A) Grants to improve the commercial
16 value of forest biomass for electric energy, use-
17 ful heat, transportation fuels, and other com-
18 mercial purposes, section 210 of EPAAct2005, 3
19 percent

20 (B) Hydroelectric production incentives,
21 section 242 of EPAAct2005, 2 percent.

22 (C) Oil shale, tar sands, and other stra-
23 tegic unconventional fuels, section 369 of
24 EPAAct2005, 3 percent.

1 (D) Clean Coal Power Initiative, section
2 401 of EPAct2005, 7 percent.

3 (E) Solar and wind technologies, section
4 812 of EPAct2005, 7 percent.

5 (F) Renewable Energy, section 931 of
6 EPAct2005, 20 percent.

7 (G) Production incentives for cellulosic
8 biofuels, section 942 of EPAct2005, 2.5 per-
9 cent.

10 (H) Coal and related technologies pro-
11 gram, section 962 of EPAct2005, 4 percent.

12 (I) Methane hydrate research, section 968
13 of EPAct2005, 2.5 percent.

14 (J) Incentives for Innovative Technologies,
15 section 1704 of EPAct2005, 7 percent.

16 (K) Grants for production of advanced
17 biofuels, section 207 of EISAct2007, 16 per-
18 cent.

19 (L) Photovoltaic demonstration program,
20 section 607 EISAct2007, 2.5 percent.

21 (M) Geothermal Energy, title VI, subtitle
22 B of EISAct2007, 4 percent.

23 (N) Marine and Hydrokinetic Renewable
24 Energy Technologies, title VI, subtitle C of
25 EISAct2007, 2.5 percent.

1 (O) Energy storage competitiveness, sec-
2 tion 641 of EISAct2007, 10 percent.

3 (P) Smart grid technology research, devel-
4 opment, and demonstration, section 1304 of
5 EISAct2007, 7 percent.

6 (2) APPORTIONMENT OF EXCESS AMOUNT.—
7 Notwithstanding paragraph (1), any amounts allo-
8 cated under paragraph (1) that are in excess of the
9 amounts authorized in the applicable cited section or
10 subtitle of EPLAct2005 and EISAct2007 shall be re-
11 allocated to the remaining sections and subtitles
12 cited in paragraph (1), up to the amounts otherwise
13 authorized by law to carry out such sections and
14 subtitles, in proportion to the amounts authorized by
15 law to be appropriated for such other sections and
16 subtitles.

17 **TITLE IV—NUCLEAR**

18 **SEC. 401. STREAMLINE THE REGULATORY PROCESS.**

19 (a) FAST TRACK.—

20 (1) PUBLIC HEALTH AND SAFETY.—Nothing in
21 this subsection shall supersede, mitigate, detract
22 from, or in anyway decrease the Nuclear Regulatory
23 Commission's ability to maintain the highest possible
24 levels of public health and safety standards for nu-
25 clear facilities in the United States. No authority

1 granted by this subsection shall be executed in a
2 manner that jeopardizes, minimizes, reduces, or
3 lessens public health and safety standards.

4 (2) STREAMLINING COMBINED CONSTRUCTION
5 AND OPERATING LICENSE.—

6 (A) IN GENERAL.—The Nuclear Regu-
7 latory Commission shall establish and imple-
8 ment an expedited procedure for issuing a Com-
9 bined Construction and Operating License for
10 qualified new reactors.

11 (B) QUALIFICATIONS.—To qualify for the
12 expedited procedure under this paragraph, an
13 applicant shall—

14 (i) apply for construction of a reactor
15 based on a design approved by the Nuclear
16 Regulatory Commission;

17 (ii) construct the new reactor on a site
18 where an operating nuclear power plant al-
19 ready exists;

20 (iii) establish to the satisfaction of the
21 Nuclear Regulatory Commission that there
22 is broad local public support for the
23 project;

24 (iv) be an existing nuclear powerplant
25 owner or operator with a substantial

1 record of safe operations and be in good
2 standing with the Nuclear Regulatory
3 Commission;

4 (v) submit a complete Combined Con-
5 struction and Operating License applica-
6 tion; and

7 (vi) demonstrate sufficient financial
8 commitment to the project and prepared-
9 ness to proceed in earnest once the permit
10 is issued, as demonstrated by—

11 (I) the purchase of, or contract
12 to purchase, long-lead materials; or

13 (II) assured financing.

14 (C) EXPEDITED PROCEDURE.—With re-
15 spect to a license for which the applicant has
16 satisfied the requirements of subparagraph (B)
17 and seeks fast track consideration, the Nuclear
18 Regulatory Commission shall follow the fol-
19 lowing procedures:

20 (i) Undertake a one year expedited
21 environmental review process.

22 (ii) Commence a one year public com-
23 ment period for comments on the applica-
24 tion.

1 (iii) Expedite the technical review
2 process to that amount of time which is
3 necessary to efficiently issue Combined
4 Construction and Operating License per-
5 mits without sacrificing any aspect of pub-
6 lic health or safety.

7 (D) GOALS.—The Nuclear Regulatory
8 Commission shall present recommendations to
9 Congress within 90 days of the date of enact-
10 ment of this Act for procedures that would
11 allow the Commission to pursue a transparent,
12 fact-based process in a nonadversarial environ-
13 ment where it can make decisions based on
14 sound science and engineering as expeditiously
15 as practicable. These recommendations shall en-
16 compass an efficient process that allows those
17 parties that have standing to participate in the
18 proceedings to raise legitimate concerns to be
19 heard and resolved without undue delay.

20 (3) NUCLEAR STEAM SUPPLY SYSTEM DESIGN
21 CERTIFICATION.—The Nuclear Regulatory Commis-
22 sion shall establish a schedule for certification of a
23 Nuclear Steam Supply System reactor that main-
24 tains the highest levels of public health and safety.
25 Such schedule shall seek to reduce by one half the

1 time necessary to certify a reactor design. Such a
2 schedule shall be presented to Congress within one
3 year of date of enactment of this Act.

4 (4) TECHNOLOGY NEUTRAL PLANT DESIGN
5 SPECIFICATIONS.—Within one year of the date of
6 enactment of this Act, the Nuclear Regulatory Com-
7 mission shall outline to the Congress an approach
8 that will allow the Nuclear Regulatory Commission
9 to develop technology-neutral guidelines for nuclear
10 plant licensing in the future that would allow for the
11 more seamless entry of new technologies into the
12 marketplace.

13 (5) ADDITIONAL FUNDING AND PERSONNEL RE-
14 SOURCES.—Not later than 90 days after the date of
15 enactment of this Act, the Nuclear Regulatory Com-
16 mission shall transmit to the Congress a request for
17 such additional funding and personnel resources as
18 are necessary to carry out paragraphs (1) through
19 (4).

20 (6) NATIONAL LABORATORY SUPPORT.—Each
21 national laboratory with expertise in the nuclear
22 field shall, in coordination with the Nuclear Regu-
23 latory Commission, dedicate personnel to supporting
24 either or both of the expedited design certification

1 under paragraph (3) or the expedited licensing pro-
2 cedures under paragraph (2).

3 (7) EDUCATIONAL PROGRAM FUNDS.—To both
4 support the Nation’s effort to efficiently license new
5 nuclear power plants and build the expertise and
6 workforce necessary to regulate and operate those
7 plants, the Nuclear Regulatory Commission and the
8 Department of Energy shall direct educational fund-
9 ing to programs to enhance or directly support the
10 activities authorized by this subsection.

11 (b) NATIONAL POLICY GOAL.—It is the policy goal
12 of the United States to license 100 new nuclear reactors,
13 or the megawatt equivalent, by 2030, if there are a suffi-
14 cient number of applicants.

15 (c) MANDATORY HEARINGS FOR UNCONTESTED LI-
16 CENSE APPLICANTS.—

17 (1) Sections 189A(1)(A) of the Atomic Energy
18 Act of 1954 is modified thus:

19 “(A) In any proceeding under this Act, for
20 the granting, suspending, revoking, or amend-
21 ing of any license or construction permit, or ap-
22 plication to transfer control, and in any pro-
23 ceeding for the issuance or modification of rules
24 and regulations dealing with the activities of li-
25 censees, and in any proceeding for the payment

1 of compensation, an award, or royalties under
2 section 153, 157, 186c., or 188, the Commis-
3 sion shall grant a hearing upon the request of
4 any person whose interest may be affected by
5 the proceeding, and shall admit any such per-
6 son as a party to such proceeding. The Com-
7 mission may, in the absence of a request there-
8 for by any person whose interest may be af-
9 fected, issue a construction permit, an oper-
10 ating license or an amendment to a construc-
11 tion permit or an amendment to an operating
12 license without a hearing, but upon thirty days'
13 notice and publication once in the Federal Reg-
14 ister of its intent to do so. The Commission
15 may dispense with such thirty days' notice and
16 publication with respect to any application for
17 an amendment to a construction permit or an
18 amendment to an operating license upon a de-
19 termination by the Commission that the amend-
20 ment involves no significant hazards consider-
21 ation.”.

22 (2) Section 185b of the Atomic Energy Act of
23 1954 is modified thus:

24 “b. After any public hearing held under section
25 189a.(1)(A), the Commission shall issue to the applicant

1 a combined construction and operating license if the appli-
2 cation contains sufficient information to support the
3 issuance of a combined license and the Commission deter-
4 mines that there is reasonable assurance that the facility
5 will be constructed and will operate in conformity with the
6 license, the provisions of this Act, and the Commission's
7 rules and regulations. The Commission shall identify with-
8 in the combined license the inspections, tests, and anal-
9 yses, including those applicable to emergency planning,
10 that the licensee shall perform, and the acceptance criteria
11 that, if met, are necessary and sufficient to provide rea-
12 sonable assurance that the facility has been constructed
13 and will be operated in conformity with the license, the
14 provisions of this Act, and the Commission's rules and
15 regulations. Following issuance of the combined license,
16 the Commission shall ensure that the prescribed inspec-
17 tions, tests, and analyses are performed and, prior to oper-
18 ation of the facility, shall find that the prescribed accept-
19 ance criteria are met. Any finding made under this sub-
20 section shall not require a hearing except as provided in
21 section 189a.(1)(B).”.

22 **SEC. 402. INCREASE THE SUPPLY OF URANIUM.**

23 (a) **SUPPLY DISRUPTION MITIGATION RESERVE.—**
24 The Secretary of Energy shall create a uranium supply-
25 disruption mitigation reserve. The Energy Department

1 shall undergo an audit to account for all unused materials
2 in its system that could be used to power commercial nu-
3 clear reactors. Once accounted for, some portion, or all,
4 of this resource shall be allocated to be a temporary re-
5 serve of reactor fuel to protect against a foreign supplier
6 attempt to deny American energy producers access to ura-
7 nium fuel.

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

9 (1) It is necessary to preserve access to domes-
10 tic uranium reserves and resources in order to meet
11 the United States' demand for clean noncarbon
12 emitting energy. Doing so will contribute to the Na-
13 tion's effort to seek energy independence and en-
14 hance our national and economic security.

15 (2) United States utilities currently use ap-
16 proximately 56,000,000 pounds of uranium each
17 year. Meanwhile, total United States uranium pro-
18 duction is only approximately 3,000,000 to
19 4,000,000 pounds each year, or less than 10 percent
20 of the Nation's annual need.

21 (3) To meet the United States demand for ura-
22 nium, the United States imports uranium from Rus-
23 sia, Canada, Australia, and Kazakhstan. In 2004,
24 nearly 50 percent of imported uranium came from
25 Russia.

1 (4) American industry can easily produce
2 20,000,000 to 30,000,000 pounds of uranium each
3 year from domestic resources.

4 (5) To produce those resources we must pre-
5 serve access to the Nation's uranium reserves and
6 resources found within the northern Arizona strip,
7 Northwestern New Mexico, Wyoming, and other
8 parts of the United States.

9 (6) The Arizona strip region, located in the
10 Utah-Arizona border region, is estimated to contain
11 a resource endowment of 375,000,000 pounds of
12 uranium oxide (United States Geological Survey Cir-
13 cular 1051), making it the second most important
14 uranium region in the United States after to Wyo-
15 ming. The energy potential of this quantity of ura-
16 nium rivals the energy equivalence of the total recov-
17 erable oil discovered at Prudhoe Bay Alaska, the
18 largest oil field in North America. This quantity of
19 uranium comprises over 40 percent of the Nation's
20 estimated uranium resource endowment, and Ari-
21 zona Strip area uranium is by far the highest grade
22 uranium nationally. Development of these resources
23 would promote energy independence and protect our
24 national security

1 (7) Development of these resources would pre-
2 vent the United States from being over reliant on
3 less stable foreign sources of uranium.

4 (8) The importance of developing these re-
5 sources is crucial as the rest of the world is embrac-
6 ing nuclear power, including China, India, Russia,
7 Europe, the Middle East, Japan, and Korea, result-
8 ing in a exponential demand for known and undis-
9 covered uranium resources.

10 (c) URANIUM POLICY SUMMIT.—

11 (1) IN GENERAL.—The Secretary of the Inte-
12 rior, working with the Secretary of Energy, shall
13 convene a national summit on uranium by no later
14 than 180 days after the date of the enactment of
15 this Act, to produce a report for Congress by no
16 later than 1 year after the date of the enactment of
17 this Act that includes an assessment of the Nation's
18 uranium resources and provides policy recommenda-
19 tions to ensure access to these resources for private
20 sector development in an environmentally responsible
21 manner. A principle policy objective of the summit
22 and report shall be to domestically produce enough
23 uranium to meet 30 percent of our national uranium
24 demand by 2030.

1 (2) PARTICIPANTS.—The national summit on
2 uranium shall include—

3 (A) representatives from mining, enrich-
4 ment, utility, and disposal sectors of the ura-
5 nium industry; and

6 (B) experts in hydrology, geology, mine
7 reclamation, and safety.

8 **SEC. 403. RECYCLE AND SAFELY STORE SPENT NUCLEAR**
9 **FUEL.**

10 (a) HIGH-LEVEL NUCLEAR WASTE REPOSITORY.—

11 (1) The Federal Government remains obliged to
12 construct and operate at least one high-level nuclear
13 materials geologic repository for the disposal of
14 spent nuclear fuel and high-level radioactive waste.

15 (2) The high-level nuclear waste repository site
16 at Yucca Mountain shall remain the site for the Na-
17 tion's nuclear waste repository unless it is deemed
18 technologically or scientifically unsuitable by the Nu-
19 clear Regulatory Commission following full statutory
20 review of the Department of Energy's license appli-
21 cation to construct the Yucca Mountain repository .

22 (3) The Nuclear Regulatory Commission shall
23 continue to review the Department of Energy's
24 pending license application to construct the nuclear

1 waste repository at Yucca Mountain until a deter-
2 mination is made on the merits of the application.

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

6 (A) Seeking all other necessary regulatory
7 approvals and permits to construct and operate
8 the Yucca Mountain repository.

9 (B) Conducting all necessary design and
10 engineering work to support construction of the
11 repository.

12 (C) Undertaking all infrastructure activi-
13 ties necessary to support the construction or
14 operation of the repository or transportation to
15 the site of spent nuclear fuel and high-level ra-
16 dioactive waste. Infrastructure activities in-
17 clude, but are not limited to, safety upgrades;
18 site preparation; the construction of a rail line
19 to connect the Yucca Mountain site with the
20 national rail network, including any facilities to
21 facilitate rail operations; and construction, up-
22 grade, acquisition, or operation of electrical
23 grids or facilities, other utilities, communication
24 facilities, access roads, rail lines, and non-
25 nuclear support facilities.

1 (5) All statutory limitations on the amount of
2 spent fuel that can be placed in Yucca Mountain
3 shall be removed and replaced with new limits based
4 on scientific and technical analysis of the full capac-
5 ity of Yucca Mountain for the storage of spent nu-
6 clear fuel and high-level radioactive waste.

7 (b) TEMPORARY NUCLEAR FUEL STORAGE FACILI-
8 TIES.—The Secretary of the Interior shall grant all nec-
9 essary rights of way and land use authorizations needed
10 for a nuclear fuel storage facility if the State and locality
11 in which such facility is located reach an agreement with
12 a private entity. The Federal Government shall take title
13 of the contents of any such facility upon closure or decom-
14 missioning.

15 (c) RECYCLING.—

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

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

22 (B) by adding at the end the following new
23 subsection:

24 “(f) RECYCLING.—

1 “(1) IN GENERAL.—Amounts in the Waste
2 Fund shall be used by the Secretary of Energy to
3 make grants to or enter into long-term contracts
4 with private sector entities for the recycling of spent
5 nuclear fuel.

6 “(2) COMPETITIVE SELECTION.—Grants and
7 contracts authorized under paragraph (1) shall be
8 awarded on the basis a competitive bidding process
9 that—

10 “(A) maximizes the competitive efficiency
11 of the projects funded;

12 “(B) best serves the goal of reducing the
13 amount of waste requiring disposal under this
14 Act; and

15 “(C) ensures adequate protection against
16 the proliferation of nuclear materials that could
17 be used in the manufacture of nuclear weap-
18 ons.”.

19 “(2) PROHIBITION.—The Administration is pro-
20 hibited from blocking or hindering spent nuclear fuel
21 recycling activities.

22 “(3) RULEMAKING FOR LICENSING OF SPENT
23 NUCLEAR FUEL RECYCLING FACILITIES.—

24 “(A) REQUIREMENT.—The Nuclear Regu-
25 latory Commission shall, as expeditiously as

1 possible, but in no event later than 2 years
2 after the date of enactment of this Act, com-
3 plete a rulemaking establishing a process for
4 the licensing by the Nuclear Regulatory Com-
5 mission, under the Atomic Energy Act of 1954,
6 of facilities for the recycling of spent nuclear
7 fuel.

8 (B) FUNDING.—Amounts in the Nuclear
9 Waste Fund established under section 302 of
10 the Nuclear Waste Policy Act of 1982 (42
11 U.S.C. 10222) shall be made available to the
12 Nuclear Regulatory Commission to cover the
13 costs of carrying out subparagraph (A) of this
14 paragraph.

15 **SEC. 404. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**
16 **POSAL.**

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

1 **SEC. 405. PREFERENTIAL TREATMENT FOR CERTAIN NU-**
2 **CLEAR REACTORS AND RELATED ARTICLES.**

3 (a) IN GENERAL.—The President shall proclaim
4 duty-free treatment or other preferential treatment for
5 any article described in subsection (b) that is imported
6 directly into the customs territory of the United States
7 if the President determines, after obtaining advice from
8 the International Trade Commission, that there is no do-
9 mestic production of such article.

10 (b) ARTICLE DESCRIBED.—An article described in
11 this subsection is any article provided for in heading 8401
12 or 9902.84 of the Harmonized Tariff Schedule of the
13 United States (relating to nuclear reactors; fuel elements
14 (cartridges), non-irradiated, for nuclear reactors; machin-
15 ery and apparatus for isotopic separation; parts thereof).

16 (c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF
17 PREFERENTIAL TREATMENT.—The President may with-
18 draw, suspend, or limit the application of duty-free treat-
19 ment or other preferential treatment under this section for
20 any article described in subsection (b) with respect to
21 which duty-free treatment has been proclaimed under sub-
22 section (a).

23 (d) TERMINATION OF PREFERENTIAL TREAT-
24 MENT.—No duty-free treatment or other preferential
25 treatment extended under this section shall remain in ef-
26 fect after 5 years.

1 **SEC. 406. NATIONAL NUCLEAR ENERGY COUNCIL.**

2 (a) IN GENERAL.—

3 (1) The Secretary of Energy shall establish a
4 National Nuclear Energy Council (hereinafter the
5 “Council”).

6 (2) The National Nuclear Energy Council shall
7 be subject to the requirements of the Federal Advi-
8 sory Committee Act (5 U.S.C. appendix 2).

9 (b) PURPOSE.—The National Nuclear Energy Coun-
10 cil shall—

11 (1) serve in an advisory capacity to the Sec-
12 retary of Energy regarding nuclear energy on mat-
13 ters submitted to the Council by the Secretary of
14 Energy;

15 (2) advise, inform, and make recommendations
16 to the Secretary of Energy with respect to any mat-
17 ter relating to nuclear energy;

18 (3) help nuclear energy related investors to
19 navigate the Federal bureaucracy to efficiently bring
20 their products and services to the marketplace; and

21 (4) not participate in any research and develop-
22 ment or commercialization activities.

23 (c) MEMBERSHIP AND ORGANIZATION.—

24 (1) The members of the Council shall be ap-
25 pointed by the Secretary of Energy.

1 (2) The Council may establish such study and
2 administrative committees as it may deem appro-
3 priate. Study committees shall only assist the Coun-
4 cil in preparing its advice, information, or rec-
5 ommendations to the Secretary of Energy. Adminis-
6 trative committees shall be formed solely for the
7 purpose of assisting the Council or its Chairman in
8 the management of the internal affairs of the Coun-
9 cil.

10 (3) The officers of the Council shall consist of
11 a Chairman, a Vice Chairman, and such other offi-
12 cers as may be approved by the Council. The Chair-
13 man and Vice Chairman must be members of the
14 Council and shall receive no compensation for service
15 as officers of the Council.

16 (4) The Secretary of Energy shall be Cochair-
17 man of the Council. If the Secretary of Energy des-
18 ignates a full-time, salaried official of the Depart-
19 ment of Energy as his alternate, such alternate may
20 exercise any duties of the Secretary of Energy and
21 may perform any function on the Council otherwise
22 reserved for the Secretary of Energy.

23 (5) The Chairman and the Vice Chairman shall
24 be elected by the Council at its organizational meet-

1 ing to serve until their successors are elected at the
2 next organizational meeting of the Council.

3 (d) MEETINGS.—

4 (1) Regular meetings of the Council shall be
5 held at least twice each year at times determined by
6 the Chairman and approved by the Government Co-
7 chairman.

8 (2) No meeting of the Council shall be held un-
9 less the Government Cochairman approves the agen-
10 da thereof, approves the calling thereof, and is
11 present thereat.

12 (3) The time and place of all Council meetings
13 shall be given general publicity and such meetings
14 shall be open to the public.

15 (e) STUDIES BY THE COUNCIL.—

16 (1) The Council may establish study committees
17 to prepare reports for the consideration of the Coun-
18 cil pursuant to requests from the Secretary of En-
19 ergy for advice, information, and recommendations.

20 (2) The Secretary of Energy or a full-time em-
21 ployee of the Department of Energy designated by
22 the Secretary shall be the Cochairman of each study
23 committee.

24 (3) The members of study committees shall be
25 selected from the Council membership on the basis

1 of their training, experience, and general qualifica-
2 tions to deal with the matters assigned.

3 **SEC. 407. EXPANSION OF ENERGY INVESTMENT TAX CRED-**
4 **IT TO INCLUDE NUCLEAR AND CLEAN-COAL**
5 **EQUIPMENT.**

6 (a) IN GENERAL.—Clause (i) of section
7 48C(c)((1)(A) of the Internal Revenue Code of 1986 is
8 amended by striking “or” at the end of subclause (VI),
9 by striking “and” at the end of subclause (VII), by insert-
10 ing after subclause (VII) the following new subclauses:

11 “(VIII) property designed to be
12 used to produce energy from an ad-
13 vanced nuclear power facility (as de-
14 fined in section 45J(d)), or

15 “(II) property designed to be
16 used to produce energy from clean-
17 coal equipment, and”.

18 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (e)
19 of section 48C of such Code is amended by inserting
20 “45J,” before “48,”.

21 (c) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to property placed in service
23 after the date of the enactment of this Act.

1 **TITLE V—ENVIRONMENTAL**
2 **REVIEW; GREENHOUSE GASES**

3 **SEC. 501. ENVIRONMENTAL REVIEW FOR RENEWABLE EN-**
4 **ERGY PROJECTS.**

5 (a) COMPLIANCE WITH NEPA FOR RENEWABLE EN-
6 ERGY PROJECTS.—Notwithstanding any other law, in pre-
7 paring an environmental assessment or environmental im-
8 pact statement required under section 102 of the National
9 Environmental Policy Act of 1969 (42 U.S.C. 4332) with
10 respect to any action authorizing a renewable energy
11 project under the jurisdiction of a Federal agency—

12 (1) no Federal agency is required to identify al-
13 ternative project locations or actions other than the
14 proposed action and the no action alternative; and

15 (2) no Federal agency is required to analyze the
16 environmental effects of alternative locations or ac-
17 tions other than those submitted by the project pro-
18 ponent.

19 (b) CONSIDERATION OF ALTERNATIVES.—In any en-
20 vironmental assessment or environmental impact state-
21 ment referred to in subsection (a), the Federal agency
22 shall only identify and analyze the environmental effects
23 and potential mitigation measures of—

24 (1) the proposed action; and

25 (2) the no action alternative.

1 (c) PUBLIC COMMENT.—In preparing an environ-
2 mental assessment or environmental impact statement re-
3 ferred to in subsection (a), the Federal agency shall only
4 consider public comments that specifically address the pre-
5 ferred action and that are filed within 20 days after publi-
6 cation of a draft environmental assessment or draft envi-
7 ronmental impact statement. Notwithstanding any other
8 law, compliance with this subsection is deemed to satisfy
9 section 102(2) of the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4332(2)) and the applicable regula-
11 tions and administrative guidelines with respect to pro-
12 posed renewable energy projects.

13 (d) RENEWABLE ENERGY PROJECT DEFINED.—For
14 purposes of this section, the term “renewable energy
15 project”—

16 (1) means any proposal to utilize an energy
17 source other than coal, oil, or natural gas; and

18 (2) includes the use of nuclear, wind, solar, geo-
19 thermal, biomass, hydro (including large, small-
20 scale, and low head conventional hydro), or tidal
21 forces to generate energy.

22 **SEC. 502. GREENHOUSE GAS REGULATION UNDER CLEAN**
23 **AIR ACT.**

24 (a) IN GENERAL.—Section 302(g) of the Clean Air
25 Act (42 U.S.C. 7602(g)) is amended by adding the fol-

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

5 (b) CLIMATE CHANGE NOT REGULATED BY CLEAN
6 AIR ACT.—Nothing in the Clean Air Act shall be treated
7 as authorizing or requiring the regulation of climate
8 change or global warming.

9 **SEC. 503. PROHIBITION OF CONSIDERATION OF IMPACT OF**
10 **GREENHOUSE GAS.**

11 (a) IN GENERAL.—The Endangered Species Act of
12 1973 (16 U.S.C. 1531 et seq.) is amended by adding at
13 the end the following new section:

14 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**
15 **GREENHOUSE GAS.**

16 “(a) DEFINITION OF GREENHOUSE.—In this section,
17 the term ‘greenhouse gas’ means any of—

18 “(1) carbon dioxide;

19 “(2) methane;

20 “(3) nitrous oxide;

21 “(4) sulfur hexafluoride;

22 “(5) a hydrofluorocarbon;

23 “(6) a perfluorocarbon; or

24 “(7) any other anthropogenic gas designated by

25 the Secretary for purposes of this section.

1 “(b) IMPACT OF GREENHOUSE GAS.—The impact of
2 greenhouse gas on any species of fish or wildlife or plant
3 shall not be considered for any purpose in the implementa-
4 tion of this Act.”.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents in the first section of the Endangered Species Act
7 of 1973 (16 U.S.C. prec. 1531) is amended by adding at
8 the end the following new items:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

9 **TITLE VI—LEGAL REFORM**

10 **SEC. 601. FINDINGS.**

11 Congress finds that—

12 (1) the United States spends over \$1 billion per
13 day to import crude oil from foreign countries;

14 (2) such expenditure represents the largest
15 wealth transfer in history;

16 (3) the United States has at least 86 billion
17 barrels of oil and 420 trillion cubic feet of natural
18 gas in the Outer Continental Shelf;

19 (4) environmental groups have legally chal-
20 lenged every lease in the Alaskan Outer Continental
21 Shelf in the Chukchi and Beaufort Seas;

22 (5) environmental groups have legally chal-
23 lenged the entire 2007–2012 5-year national Outer
24 Continental Shelf leasing program;

1 (6) such legal challenges significantly delay or
2 ultimately prevent energy resources from reaching
3 the American public;

4 (7) these legal challenges come at a high cost
5 to the American public and the American economy;
6 and

7 (8) Congress finds that expedited judicial re-
8 view is necessary to prevent this gross abuse of the
9 United States judicial system.

10 **SEC. 602. EXCLUSIVE JURISDICTION OVER CAUSES AND**
11 **CLAIMS RELATING TO COVERED ENERGY**
12 **PROJECTS.**

13 Notwithstanding any other provision of law, the
14 United States District Court for the District of Columbia
15 shall have exclusive jurisdiction to hear all causes and
16 claims under this title or any other Act that arise from
17 any covered energy project.

18 **SEC. 603. TIME FOR FILING COMPLAINT.**

19 All causes and claims referred to in section 602 must
20 be filed not later than the end of the 60-day period begin-
21 ning on the date of the action or decision by a Federal
22 official that constitutes the covered energy project con-
23 cerned. Any cause or claim not filed within that time pe-
24 riod shall be barred.

1 **SEC. 604. DISTRICT COURT FOR THE DISTRICT OF COLUM-**
2 **BIA DEADLINE.**

3 (a) IN GENERAL.—All proceedings that are subject
4 to section 602—

5 (1) shall be resolved as expeditiously as pos-
6 sible, and in any event not more than 180 days after
7 such cause or claim is filed; and

8 (2) shall take precedence over all other pending
9 matters before the district court.

10 (b) FAILURE TO COMPLY WITH DEADLINE.—If an
11 interlocutory or final judgment, decree, or order has not
12 been issued by the district court by the deadline described
13 under this section, the cause or claim shall be dismissed
14 with prejudice and all rights relating to such cause or
15 claim shall be terminated.

16 **SEC. 605. ABILITY TO SEEK APPELLATE REVIEW.**

17 An interlocutory or final judgment, decree, or order
18 of the district court may be reviewed by no other court
19 except the Supreme Court.

20 **SEC. 606. DEADLINE FOR APPEAL TO THE SUPREME**
21 **COURT.**

22 If a writ of certiorari has been granted by the Su-
23 preme Court pursuant to section 605, then—

24 (1) the interlocutory or final judgment, decree,
25 or order of the district court shall be resolved as ex-
26 peditiously as possible and in any event not more

1 than 180 days after such interlocutory or final judg-
2 ment, decree, order of the district court is issued;
3 and

4 (2) all such proceedings shall take precedence
5 over all other matters then before the Supreme
6 Court.

7 **SEC. 607. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

8 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
9 SIONS.—In any judicial review of any Federal action under
10 this Act, any administrative findings and conclusions re-
11 lating to the challenged Federal action shall be presumed
12 to be correct unless shown otherwise by clear and con-
13 vincing evidence contained in the administrative record.

14 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
15 judicial review of any action, or failure to act, under this
16 Act, the Court shall not grant or approve any prospective
17 relief unless the Court finds that such relief is narrowly
18 drawn, extends no further than necessary to correct the
19 violation of a Federal law requirement, and is the least
20 intrusive means necessary to correct the violation con-
21 cerned.

22 **SEC. 608. LEGAL FEES.**

23 Any person filing a petition seeking judicial review
24 of any action, or failure to act, under this Act who is not
25 a prevailing party shall pay to the prevailing parties (in-

1 cluding intervening parties), other than the United States,
2 fees and other expenses incurred by that party in connec-
3 tion with the judicial review, unless the Court finds that
4 the position of the person was substantially justified or
5 that special circumstances make an award unjust.

6 **SEC. 609. EXCLUSION.**

7 This title shall not apply with respect to disputes be-
8 tween the parties to a lease issued pursuant to an author-
9 izing leasing statute regarding the obligations of such
10 lease or the alleged breach thereof.

11 **SEC. 610. COVERED ENERGY PROJECT DEFINED.**

12 In this title, the term “covered energy project” means
13 any action or decision by a Federal official regarding—

14 (1) the leasing of Federal lands (including sub-
15 merged lands) for the exploration, development, pro-
16 duction, processing, or transmission of oil, natural
17 gas, or any other source or form of energy, including
18 actions and decisions regarding the selection or of-
19 fering of Federal lands for such leasing; or

20 (2) any action under such a lease.