

[Discussion Draft]
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3534
OFFERED BY _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Consolidated Land,
3 Energy, and Aquatic Resources Act of 2010”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

**TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR
AGENCIES**

- Sec. 101. Bureau of Energy and Resource Management.
- Sec. 102. Bureau of Safety and Environmental Enforcement.
- Sec. 103. Office of Natural Resources Revenue.
- Sec. 104. Ethics.
- Sec. 105. Direct hiring authority for critical scientific and technical personnel.
- Sec. 106. References.
- Sec. 107. Abolishment of Minerals Management Service.
- Sec. 108. Conforming amendment.
- Sec. 109. OCS Safety and Environmental Advisory Board.

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

**Subtitle A—Safety, Environmental, and Financial Reform of the Outer
Continental Shelf Lands Act**

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. National policy for the Outer Continental Shelf.
- Sec. 204. Jurisdiction of laws on the Outer Continental Shelf.

- Sec. 205. OCS leasing standard.
- Sec. 206. Leases, easements, and rights-of-way.
- Sec. 207. Disposition of revenues.
- Sec. 208. Exploration plans.
- Sec. 209. OCS leasing program.
- Sec. 210. Environmental studies.
- Sec. 211. Safety regulations.
- Sec. 212. Enforcement of safety and environmental regulations.
- Sec. 213. Remedies and penalties.
- Sec. 214. Uniform planning for OCS.
- Sec. 215. Oil and gas information program.
- Sec. 216. Limitation on royalty-in-kind program.
- Sec. 217. Repeal of royalty relief provisions.
- Sec. 218. Registry requirements.
- Sec. 219. Developing innovations in oil spill containment and response technologies.

Subtitle B—Safety, Environmental, and Financial Reform of the Federal
Onshore Oil and Gas Leasing Program

- Sec. 221. Diligent development.
- Sec. 222. Reporting requirements.
- Sec. 223. Notice requirements.
- Sec. 224. Oil and gas leasing system.
- Sec. 225. Electronic reporting.
- Sec. 226. Best management practices.
- Sec. 227. Surface disturbance, reclamation.
- Sec. 228. Wildlife sustainability.
- Sec. 229. Online availability to the public of information relating to oil and gas chemical use.

TITLE III—OIL AND GAS ROYALTY REFORM

- Sec. 301. Amendments to definitions.
- Sec. 302. Compliance reviews.
- Sec. 303. Clarification of liability for royalty payments.
- Sec. 304. Required recordkeeping.
- Sec. 305. Fines and penalties.
- Sec. 306. Interest on overpayments.
- Sec. 307. Adjustments and refunds.
- Sec. 308. Conforming amendment.
- Sec. 309. Obligation period.
- Sec. 310. Notice regarding tolling agreements and subpoenas.
- Sec. 311. Appeals and final agency action.
- Sec. 312. Assessments.
- Sec. 313. Collection and production accountability.
- Sec. 314. Natural gas reporting.
- Sec. 315. Penalty for late or incorrect reporting of data.
- Sec. 316. Required recordkeeping.
- Sec. 317. Limitation on royalty in-kind program.
- Sec. 318. Shared civil penalties.
- Sec. 319. Applicability to other minerals.
- Sec. 320. Entitlements.

TITLE IV—FULL FUNDING FOR THE LAND AND WATER
CONSERVATION AND HISTORIC PRESERVATION FUNDS

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- Sec. 501. Commercial wind and solar leasing program.
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- Sec. 802. Gulf of Mexico long-term environmental monitoring and research program.
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1 **SEC. 3. DEFINITIONS.**

2 For the purposes of this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the National
5 Oceanic and Atmospheric Administration.

6 (2) AFFECTED INDIAN TRIBE.—The term “af-
7 fected Indian tribe” means an Indian tribe that has
8 federally reserved rights that are affirmed by treaty,
9 statute, Executive order, Federal court order, or
10 other Federal law in the area at issue.

11 (3) ALTERNATIVE ENERGY.—The term “alter-
12 native energy” means electricity generated by a re-
13 newable energy resource.

14 (4) COASTAL STATE.—The term “coastal
15 State” has the meaning given the term in section
16 304 of the Coastal Zone Management Act of 1972
17 (16 U.S.C. 1453).

18 (5) DEPARTMENT.—The term “Department”
19 means the Department of the Interior, except as the
20 context indicates otherwise.

21 (6) ECOSYSTEM-BASED MANAGEMENT.—The
22 term “ecosystem-based management” means an inte-
23 grated approach to management that—

24 (A) considers the entire ecosystem, includ-
25 ing humans, and accounts for interactions
26 among the ecosystem, the range of activities af-

1 fecting the ecosystem, and the management of
2 such activities;

3 (B) aims to maintain ecosystems in a
4 healthy, productive, sustainable, and resilient
5 condition so that they can provide the services
6 humans want and need;

7 (C) emphasizes the protection of ecosystem
8 structure, function, patterns, and important
9 processes;

10 (D) considers the impacts, including cumu-
11 lative impacts, of the range of activities affect-
12 ing an ecosystem that fall within geographical
13 boundaries of the ecosystem;

14 (E) explicitly accounts for the inter-
15 connectedness within an ecosystem, such as
16 food webs, and acknowledges the interconnect-
17 edness among systems, such as between air,
18 land, and sea; and

19 (F) integrates ecological, social, economic,
20 cultural, and institutional perspectives, recog-
21 nizing their strong interdependencies.

22 (7) FEDERAL LAND MANAGEMENT AGENCY.—
23 The term “Federal land management agency”
24 means—

25 (A) the Bureau of Land Management;

1 (B) the U.S. Forest Service;

2 (C) the United States Fish and Wildlife
3 Service; and

4 (D) the National Park Service.

5 (8) FUNCTION.—The term “function” includes
6 authorities, powers, rights, privileges, immunities,
7 programs, projects, activities, duties, and respon-
8 sibilities.

9 (9) IMPORTANT ECOLOGICAL AREA.—The term
10 “important ecological area” means an area that con-
11 tributes significantly to local or larger marine eco-
12 system health or is an especially unique or sensitive
13 marine ecosystem.

14 (10) INDIAN LAND.—The term “Indian land”
15 has the meaning given the term in section 502(a) of
16 title V of Public Law 109–58 (25 U.S.C. 3501(2)).

17 (11) MARINE ECOSYSTEM HEALTH.—The term
18 “marine ecosystem health” means the ability of an
19 ecosystem in ocean and coastal waters to support
20 and maintain patterns, important processes, and
21 productive, sustainable, and resilient communities of
22 organisms, having a species composition, diversity,
23 and functional organization resulting from the nat-
24 ural habitat of the region, such that it is capable of
25 supporting a variety of activities and providing a

1 complete range of ecological benefits. Such an eco-
2 system would be characterized by a variety of fac-
3 tors, including—

4 (A) a complete diversity of native species
5 and habitat wherein each native species is able
6 to maintain an abundance, population struc-
7 ture, and distribution supporting its ecological
8 and evolutionary functions, patterns, and proc-
9 esses; and

10 (B) a physical, chemical, geological, and
11 microbial environment that is necessary to
12 achieve such diversity.

13 (12) MINERAL.—The term “mineral” has the
14 same meaning that the term “minerals” has in sec-
15 tion 2(q) of the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1331(q)).

17 (13) NONRENEWABLE ENERGY RESOURCE.—
18 The term “nonrenewable energy resource” means oil
19 and natural gas.

20 (14) OUTER CONTINENTAL SHELF.—The term
21 “Outer Continental Shelf” has the meaning that the
22 term “outer Continental Shelf” has in the Outer
23 Continental Shelf Lands Act (43 U.S.C. 1331 et
24 seq.).

1 (15) PUBLIC LAND STATE.—The term “public
2 land State” means—

3 (A) each of the eleven contiguous Western
4 States (as that term is defined in section 103
5 of the Federal Land Policy and Management
6 Act of 1976 (43 U.S.C. 1702)); and

7 (B) Alaska.

8 (16) REGIONAL OCEAN PARTNERSHIP.—The
9 term “Regional Ocean Partnership” means vol-
10 untary, collaborative management initiatives devel-
11 oped and entered into by the Governors of two or
12 more coastal States or created by an interstate com-
13 pact to implement policies and activities identified
14 under special area management plans or other
15 agreements developed and approved by the Gov-
16 ernors through authority granted to them under the
17 Coastal Zone Management Act (16 U.S.C. 1451 et
18 seq.).

19 (17) RENEWABLE ENERGY RESOURCE.—The
20 term “renewable energy resource” means each of the
21 following:

22 (A) Wind energy.

23 (B) Solar energy.

24 (C) Geothermal energy.

25 (D) Biomass or landfill gas.

1 (E) A hydropower resource that is a quali-
2 fied energy resource (as that term is defined in
3 section 45(c)(1) of the Internal Revenue of
4 1986, as amended by section 1301(c) of the
5 Energy Policy Act of 2005 (119 Stat. 987)).

6 (F) Marine and hydrokinetic renewable en-
7 ergy, as that term is defined in section 632 of
8 the Energy Independence and Security Act of
9 2007 (42 U.S.C. 17211).

10 (18) SECRETARIES.—The term “Secretaries”
11 means the Secretary of the Interior and the Sec-
12 retary of Commerce.

13 (19) SECRETARY.—The term “Secretary”
14 means the Secretary of the Interior, except as other-
15 wise provided in this Act.

16 (20) SURFACE USE PLAN OF OPERATIONS.—
17 The term “surface use plan of operations” means a
18 plan for surface use, disturbance, and reclamation of
19 Federal lands for energy development that is sub-
20 mitted by a lessee and approved by the relevant land
21 management agency.

22 (21) TERMS DEFINED IN OTHER LAW.—Each
23 of the terms “Federal land”, “lease”, “lease site”,
24 and “mineral leasing law” has the meaning that
25 term has under the Federal Oil and Gas Royalty

1 Management Act of 1982 (30 U.S.C. 1701 et seq.),
2 except that such terms shall also apply to all min-
3 erals and renewable energy resources in addition to
4 oil and gas.

5 (22) TRIBE.—The term “tribe” has the same
6 meaning as that term has in section 4 of the Indian
7 Self-Determination and Education Assistance Act
8 (25 U.S.C. 450b(e)).

9 **TITLE I—CREATION OF NEW DE-**
10 **PARTMENT OF THE INTERIOR**
11 **AGENCIES**

12 **SEC. 101. BUREAU OF ENERGY AND RESOURCE MANAGE-**
13 **MENT.**

14 (a) ESTABLISHMENT.—There is established in the
15 Department of the Interior a Bureau of Energy and Re-
16 source Management (referred to in this section as the
17 “Bureau”) to be headed by a Director of Energy and Re-
18 source Management (referred to in this section as the “Di-
19 rector”).

20 (b) DIRECTOR.—

21 (1) APPOINTMENT.—The Director shall be ap-
22 pointed by the President, by and with the advice and
23 consent of the Senate, on the basis of—

24 (A) professional background, demonstrated
25 competence, and ability; and

1 (B) capacity to—

2 (i) administer the provisions of this
3 Act; and

4 (ii) ensure that the fiduciary duties of
5 the United States Government on behalf of
6 the people of the United States, as they re-
7 late to development of energy resources,
8 are duly met.

9 (2) COMPENSATION.—The Director shall be
10 compensated at the rate provided for Level V of the
11 Executive Schedule under section 5315 of title 5,
12 United States Code.

13 (c) DUTIES.—

14 (1) IN GENERAL.—The Secretary shall carry
15 out through the Bureau all functions, powers, and
16 duties vested in the Secretary relating to the admin-
17 istration of a comprehensive program of nonrenew-
18 able and renewable energy and mineral resources
19 management—

20 (A) on the Outer Continental Shelf, pursu-
21 ant to the Outer Continental Shelf Lands Act
22 as amended by this Act (43 U.S.C. 1331 et
23 seq.);

24 (B) on Federal public lands, pursuant to
25 the Mineral Leasing Act (30 U.S.C. 181 et

1 seq.) and the Geothermal Steam Act of 1970
2 (30 U.S.C. 1001 et seq.);

3 (C) on acquired Federal lands, pursuant to
4 the Mineral Leasing Act for Acquired Lands
5 (30 U.S.C. 351 et seq.) and the Geothermal
6 Steam Act of 1970 (30 U.S.C. 1001 et seq.);

7 (D) in the National Petroleum Reserve in
8 Alaska, pursuant to the Naval Petroleum Re-
9 serves Production Act of 1976 (42 U.S.C. 6501
10 et seq.);

11 (E) on any Federal land pursuant to any
12 mineral leasing law; and

13 (F) pursuant to this Act and all other ap-
14 plicable Federal laws,
15 including the administration and approval of all in-
16 struments and agreements required to ensure or-
17 derly, safe, and environmentally responsible energy
18 and mineral resources development activities.

19 (2) SPECIFIC AUTHORITIES.—The Director
20 shall promulgate and implement regulations for the
21 proper issuance of leases and permits for the subse-
22 quent exploration, development, and production of
23 nonrenewable energy resources, renewable energy re-
24 sources, or other minerals under such leases on the
25 Outer Continental Shelf and lands managed by the

1 Bureau of Land Management, the Forest Service, or
2 any other Federal land management agency, includ-
3 ing regulations relating to resource identification,
4 access, evaluation, and utilization.

5 (3) INDEPENDENT ENVIRONMENTAL
6 SCIENCE.—

7 (A) IN GENERAL.—The Secretary shall
8 create an independent office within the Bureau
9 that—

10 (i) shall report to the Director;

11 (ii) shall be programmatically separate
12 and distinct from the leasing and permit-
13 ting activities of the Bureau; and

14 (iii) shall—

15 (I) carry out the environmental
16 studies program under section 20 of
17 the Outer Continental Shelf Lands
18 Act (43 U.S.C. 1346);

19 (II) conduct any environmental
20 analyses necessary for the programs
21 administered by the Bureau; and

22 (III) carry out other functions as
23 deemed necessary by the Secretary.

24 (B) CONSULTATION.—Studies carried out
25 by the office created under subparagraph (A)

1 shall be conducted in appropriate and timely
2 consultation with other relevant Federal agen-
3 cies, including—

4 (i) the Bureau of Safety and Environ-
5 mental Enforcement;

6 (ii) the United States. Fish and Wild-
7 life Service;

8 (iii) the United States Geological Sur-
9 vey; and

10 (iv) the National Oceanic and Atmos-
11 pheric Administration.

12 (d) COMPREHENSIVE DATA AND ANALYSES ON
13 OUTER CONTINENTAL SHELF RESOURCES.—

14 (1) IN GENERAL.—

15 (A) PROGRAMS.—The Director shall de-
16 velop and carry out programs for the collection,
17 evaluation, assembly, analysis, and dissemina-
18 tion of data and information that is relevant to
19 carrying out the duties of the Bureau, including
20 studies under section 20 of the Outer Conti-
21 nental Shelf Lands Act (43 U.S.C. 1346).

22 (B) USE OF DATA AND INFORMATION.—
23 The Director shall, in carrying out functions
24 pursuant to the Outer Continental Lands Act
25 (43 U.S.C. 1331 et seq.), consider data and in-

1 formation referred to in subparagraph (A)
2 which shall inform the management functions
3 of the Bureau, and shall contribute to a broader
4 coordination of development activities within
5 the contexts of the best available science and
6 marine spatial planning.

7 (2) INTERAGENCY COOPERATION.—In carrying
8 out programs under this subsection, the Bureau
9 shall—

10 (A) utilize the authorities of subsection (g)
11 and (h) of section 18 of the Outer Continental
12 Shelf Lands Act (43 U.S.C. 1344);

13 (B) cooperate with appropriate offices in
14 the Department and in other Federal agencies;

15 (C) use existing inventories and mapping
16 of marine resources previously undertaken by
17 the Minerals Management Service, mapping un-
18 dertaken by the United States Geological Sur-
19 vey and the National Oceanographic and At-
20 mospheric Administration, and information pro-
21 vided by the Department of Defense and other
22 Federal and State agencies possessing relevant
23 data; and

24 (D) use any available data regarding re-
25 newable energy potential, navigation uses, fish-

1 eries, aquaculture uses, recreational uses, habi-
2 tat, conservation, and military uses of the
3 Outer Continental Shelf.

4 (e) LAND USE PLANNING.—Nothing in this section
5 affects the land use planning authorities of the Bureau
6 of Land Management under the Federal Land Policy and
7 Management Act of 1976 (43 U.S.C. 1701 et seq.) or of
8 the Forest Service under the National Forest Management
9 Act of 1976 (Public Law 94–588).

10 (f) RESPONSIBILITIES OF LAND MANAGEMENT
11 AGENCIES.—In addition to the land use planning respon-
12 sibilities authorized under the Federal Land Policy and
13 Management Act of 1976 (43 U.S.C. 1701 et seq.), the
14 National Forest Management Act of 1976 (Public Law
15 94–588), and the Forest and Rangeland Renewable Re-
16 sources Planning Act of 1974 (16 U.S.C. 1600 et seq.),
17 the Director of the Bureau of Land Management and the
18 Chief of the Forest Service shall be responsible for the
19 following activities related to energy leasing, exploration,
20 and development on land under each of their authority:

21 (1) Establishment of best management prac-
22 tices for environmentally sound energy production.

23 (2) Review and approval of general land use
24 plans that identify areas in which energy develop-
25 ment would not conflict with other land uses.

1 (3) Determination and enforcement of condi-
2 tions for surface occupancy.

3 (4) Authorization of any modification, waiver,
4 or exception to a stipulation or other condition to be
5 included in a lease issued by the Bureau.

6 (5) Establishment and enforcement of reclama-
7 tion requirements.

8 (6) Establishment and enforcement of financial
9 assurances that shall be sufficient to assure the com-
10 pletion of reclamation and restoration satisfying the
11 requirements of applicable law if the work were to
12 be performed by the Secretary concerned in the
13 event of forfeiture, including the construction and
14 maintenance costs for any treatment facilities nec-
15 essary to meet Federal and State environmental re-
16 quirements. The calculation of such amount shall
17 take into account the maximum level of financial ex-
18 posure that may arise during the leasing activity and
19 administrative costs associated with a Federal Gov-
20 ernment agency reclaiming the site.

21 (7) Inspection of areas of operation to ensure
22 that operations are in compliance with approved sur-
23 face use land plans.

1 Enforcement (referred to in this section as the “Direc-
2 tor”).

3 (b) DIRECTOR.—

4 (1) APPOINTMENT.—The Director shall be ap-
5 pointed by the President, by and with the advice and
6 consent of the Senate, on the basis of—

7 (A) professional background, demonstrated
8 competence, and ability; and

9 (B) capacity to administer the provisions
10 of this Act.

11 (2) COMPENSATION.—The Director shall be
12 compensated at the rate provided for Level V of the
13 Executive Schedule under section 5315 of title 5,
14 United States Code.

15 (c) DUTIES.—The Secretary shall carry out, through
16 the Bureau, all functions, powers, and duties vested in the
17 Secretary and relating to the administration of safety and
18 environmental enforcement activities on the Outer Conti-
19 nental Shelf pursuant to the Outer Continental Shelf
20 Lands Act (43 U.S.C. 1331 et seq.), the Mineral Leasing
21 Act (30 U.S.C. 181 et seq.), the Mineral Leasing Act for
22 Acquired Lands (30 U.S.C. 351 et seq.), the Federal Oil
23 and Gas Royalty Management Act of 1982 (30 U.S.C.
24 1701 et seq.), the Energy Policy Act of 2005 (Public Law
25 109–58), the Federal Oil and Gas Royalty Simplification

1 and Fairness Act of 1996 (Public Law 104–185), the For-
2 est and Rangeland Renewable Resources Planning Act of
3 1974 (16 U.S.C. 1600 et seq.), the Federal Land Policy
4 and Management Act of 1976 (43 U.S.C. 1701 et seq.),
5 and this Act and all other applicable Federal laws, includ-
6 ing the authority to develop, promulgate, and enforce reg-
7 ulations to ensure the safe and environmentally sound ex-
8 ploration, development, and production of energy and min-
9 eral resources on the Outer Continental Shelf and onshore
10 federally managed lands.

11 (d) **AUTHORITIES.**—In carrying out the duties under
12 this section, the Secretary’s authorities shall include—

13 (1) performing necessary oversight activities to
14 ensure the proper application of environmental re-
15 views, including those conducted pursuant to the
16 National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) by the Bureau of Energy and
18 Resource Management in the performance of its du-
19 ties under the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1331 et seq.);

21 (2) suspending or prohibiting, on a temporary
22 basis, any operation or activity, including produc-
23 tion—

24 (A) on leases held on the Outer Conti-
25 nental Shelf, in accordance with section 5(a)(1)

1 of the Outer Continental Shelf Lands Act (43
2 U.S.C. 1334(a)(1)); or

3 (B) on leases or rights-of-way held on Fed-
4 eral lands under any other minerals or energy
5 leasing statute, in accordance with section
6 302(c) of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1701 et seq.);

8 (3) cancelling any lease, permit, or right-of-
9 way—

10 (A) on the Outer Continental Shelf, in ac-
11 cordance with section 5(a)(2) of the Outer Con-
12 tinental Shelf Lands Act (43 U.S.C.
13 1334(a)(2)); or

14 (B) on onshore Federal lands, in accord-
15 ance with section 302(c) of the Federal Land
16 Policy and Management Act of 1976 (43 U.S.C.
17 1732(c));

18 (4) compelling compliance with applicable work-
19 er safety and environmental laws and regulations;

20 (5) requiring comprehensive safety and environ-
21 mental management programs for persons engaged
22 in activities connected with the exploration, develop-
23 ment, and production of energy or mineral re-
24 sources;

1 (6) developing and implementing regulations for
2 Federal employees to carry out any inspection or in-
3 vestigation to ascertain compliance with applicable
4 regulations, including health, safety, or environ-
5 mental regulations;

6 (7) collecting, evaluating, assembling, analyzing,
7 and publicly disseminating electronically data and
8 information that is relevant to inspections, failures,
9 or accidents involving equipment and systems used
10 for exploration and production of energy and min-
11 eral resources, including human factors associated
12 therewith;

13 (8) implementing the Offshore Technology Re-
14 search and Risk Assessment Program under section
15 21 of the Outer Continental Shelf Lands Act (43
16 U.S.C. 1347);

17 (9) summoning witnesses and directing the pro-
18 duction of evidence;

19 (10) levying fines and penalties and disqualify
20 operators; and

21 (11) carrying out any safety, response, and re-
22 moval preparedness functions.

23 (e) EMPLOYEES.—

24 (1) IN GENERAL.—The Secretary shall ensure
25 that the inspection force of the Bureau consists of

1 qualified, trained employees who meet qualification
2 requirements and adhere to the highest professional
3 and ethical standards.

4 (2) QUALIFICATIONS.—The qualification re-
5 quirements referred to in paragraph (1)—

6 (A) shall be determined by the Secretary,
7 subject to subparagraph (B); and

8 (B) shall include—

9 (i) three years of practical experience
10 in oil and gas exploration, development, or
11 production; or

12 (ii) a degree in an appropriate field of
13 engineering from an accredited institution
14 of higher learning.

15 (3) ASSIGNMENT.—In assigning oil and gas in-
16 spectors to the inspection and investigation of indi-
17 vidual operations, the Secretary shall give due con-
18 sideration to the extent possible to their previous ex-
19 perience in the particular type of oil and gas oper-
20 ation in which such inspections are to be made.

21 (4) TRAINING ACADEMY.—

22 (A) IN GENERAL.—The Secretary shall es-
23 tablish and maintain a National Oil and Gas
24 Health and Safety Academy (referred to in this

1 paragraph as the “Academy”) as an agency of
2 the Department of the Interior.

3 (B) FUNCTIONS OF ACADEMY.—The Sec-
4 retary, through the Academy, shall be respon-
5 sible for—

6 (i) the initial and continued training
7 of both newly hired and experienced oil
8 and gas inspectors in all aspects of health,
9 safety, environmental, and operational in-
10 spections;

11 (ii) the training of technical support
12 personnel of the Bureau; and

13 (iii) any other training programs for
14 oil and gas inspectors, Bureau personnel,
15 Department personnel, or other persons as
16 the Secretary shall designate.

17 (C) COOPERATIVE AGREEMENTS.—

18 (i) IN GENERAL.—In performing func-
19 tions under this paragraph, and subject to
20 clause (ii), the Secretary may enter into
21 cooperative educational and training agree-
22 ments with educational institutions, related
23 Federal academies, State governments,
24 labor organizations, and oil and gas opera-
25 tors and related industries.

1 (ii) TRAINING REQUIREMENT.—Such
2 training shall be conducted by the Acad-
3 emy in accordance with curriculum needs
4 and assignment of instructional personnel
5 established by the Secretary.

6 (D) USE OF DEPARTMENTAL PER-
7 SONNEL.—In performing functions under this
8 subsection, the Secretary shall use, to the ex-
9 tent practicable, the facilities and personnel of
10 the Department of the Interior. The Secretary
11 may appoint or assign to the Academy such of-
12 ficers and employees as the Secretary considers
13 necessary for the performance of the duties and
14 functions of the Academy.

15 (5) ADDITIONAL TRAINING PROGRAMS.—

16 (A) IN GENERAL.—The Secretary shall
17 work with appropriate educational institutions,
18 operators, and representatives of oil and gas
19 workers to develop and maintain adequate pro-
20 grams with educational institutions and oil and
21 gas operators, that are designed—

22 (i) to enable persons to qualify for po-
23 sitions in the administration of this Act;
24 and

1 (ii) to provide for the continuing edu-
2 cation of inspectors or other appropriate
3 Departmental personnel.

4 (B) FINANCIAL AND TECHNICAL ASSIST-
5 ANCE.—The Secretary may provide financial
6 and technical assistance to educational institu-
7 tions in carrying out this paragraph.

8 **SEC. 103. OFFICE OF NATURAL RESOURCES REVENUE.**

9 (a) ESTABLISHMENT.—There is established in the
10 Department an Office of Natural Resources Revenue (re-
11 ferred to in this section as the “Office”) to be headed by
12 a Deputy Assistant Secretary of Natural Resources Rev-
13 enue (referred to in this section as the “Deputy”).

14 (b) APPOINTMENT AND COMPENSATION.—

15 (1) IN GENERAL.—The Deputy shall be ap-
16 pointed by the President, by and with the advice and
17 consent of the Senate, on the basis of—

18 (A) professional competence; and

19 (B) capacity to—

20 (i) administer the provisions of this
21 Act; and

22 (ii) ensure that the fiduciary duties of
23 the United States Government on behalf of
24 the American people, as they relate to de-

1 velopment of energy resources, are duly
2 met.

3 (2) COMPENSATION.—The Director shall be
4 compensated at the rate provided for Level V of the
5 Executive Schedule under section 5315 of title 5,
6 United States Code.

7 (c) DUTIES.—The Secretary shall carry out through
8 the Office all functions, powers, and duties vested in him
9 and relating to the administration of the royalty and rev-
10 enue management functions pursuant to the Outer Conti-
11 nental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Min-
12 eral Leasing Act (30 U.S.C. 181 et seq.), the Mineral
13 Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.),
14 the Federal Oil and Gas Royalty Management Act of 1982
15 (30 U.S.C. 1701 et seq.), the Energy Policy Act of 2005
16 (Public Law 109–58), the Federal Oil and Gas Royalty
17 Simplification and Fairness Act of 1996 (Public Law 104–
18 185), the Forest and Rangeland Renewable Resources
19 Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Fed-
20 eral Land Policy and Management Act of 1976 (43 U.S.C.
21 1701 et seq.), and all other applicable Federal laws and
22 this Act, and those assigned to the Minerals Management
23 Service, including the authority to develop, promulgate,
24 and enforce regulations on—

25 (1) royalty and revenue collection;

1 Code, and subsection (e) of section 102 of this Act, the
2 Secretary may, upon a determination that there is a severe
3 shortage of candidates or a critical hiring need for par-
4 ticular positions, recruit and directly appoint highly quali-
5 fied accountants, scientists, engineers, or critical technical
6 personnel into the competitive service, as officers or em-
7 ployees of the Bureau of Energy and Resource Manage-
8 ment, the Bureau of Safety and Environmental Enforce-
9 ment, or the Office of Natural Resource Revenue.

10 (b) REQUIREMENTS.—In exercising the authority
11 granted under subsection (a), the Secretary shall ensure
12 that any action taken by the Secretary—

13 (1) is consistent with the merit principles of
14 chapter 23 of title 5, United States Code; and

15 (2) complies with the public notice requirements
16 of section 3327 of title 5, United States Code.

17 (c) CRITICAL PAY AUTHORITY.—

18 (1) IN GENERAL.—Notwithstanding section
19 5377 of title 5, United States Code, and without re-
20 gard to the provisions of that title governing ap-
21 pointments in the competitive service or the Senior
22 Executive Service and chapters 51 and 53 of that
23 title (relating to classification and pay rates), the
24 Secretary may establish, fix the compensation of,
25 and appoint individuals to critical positions needed

1 to carry out the functions of any of the organiza-
2 tional units established by this Act, if the Secretary
3 certifies that—

4 (A) the positions—

5 (i) require expertise of an extremely
6 high level in a scientific or technical field;
7 and

8 (ii) the organizational unit would not
9 successfully accomplish an important mis-
10 sion without such an individual; and

11 (B) exercise of that authority is necessary
12 to recruit an individual exceptionally well-quali-
13 fied for the position.

14 (2) LIMITATIONS.—The authority granted
15 under paragraph (1) shall be subject to the following
16 conditions:

17 (A) The number of critical positions au-
18 thorized by paragraph (1) may not exceed 40 at
19 any one time in either the Bureau of Energy
20 and Resource Management or the Bureau of
21 Safety and Environmental Enforcement.

22 (B) The term of an appointment under
23 paragraph (1) may not exceed 4 years.

24 (C) An individual appointed under para-
25 graph (1) may not have been a Department of

1 the Interior employee within the 2 years pre-
2 ceding the date of appointment.

3 (D) Total annual compensation for any in-
4 dividual appointed under paragraph (1) may
5 not exceed the highest total annual compensa-
6 tion payable at the rate determined under sec-
7 tion 104 of title 3, United States Code.

8 (E) An individual appointed under para-
9 graph (1) may not be considered to be an em-
10 ployee for purposes of subchapter II of chapter
11 75 of title 5, United States Code.

12 (3) NOTIFICATION.—Each year, the Secretary
13 shall submit to Congress a notification that lists
14 each individual appointed under this section.

15 (d) REEMPLOYMENT OF CIVILIAN RETIREES.—

16 (1) IN GENERAL.—Notwithstanding part 553 of
17 title 5, Code of Federal Regulations (relating to re-
18 employment of civilian retirees to meet exceptional
19 employment needs), or successor regulations, the
20 Secretary may approve the reemployment of an indi-
21 vidual to a particular position without reduction or
22 termination of annuity if the hiring of the individual
23 is necessary to carry out a critical function of any
24 of the organizational units established in this Act for
25 which suitably qualified candidates do not exist.

1 (2) LIMITATIONS.—An annuitant hired with full
2 salary and annuities under the authority granted by
3 paragraph (1)—

4 (A) shall not be considered an employee for
5 purposes of subchapter III of chapter 83 and
6 chapter 84 of title 5, United States Code;

7 (B) may not elect to have retirement con-
8 tributions withheld from the pay of the annu-
9 itant;

10 (C) may not use any employment under
11 this section as a basis for a supplemental or re-
12 computed annuity; and

13 (D) may not participate in the Thrift Sav-
14 ings Plan under subchapter III of chapter 84 of
15 title 5, United States Code.

16 (3) LIMITATION ON TERM.—The term of em-
17 ployment of any individual hired under paragraph
18 (1) may not exceed an initial term of 2 years, with
19 an additional 2-year appointment under exceptional
20 circumstances.

21 **SEC. 106. REFERENCES.**

22 (a) BUREAU OF ENERGY AND RESOURCE MANAGE-
23 MENT.—Any reference in any law, rule, regulation, direc-
24 tive, instruction, certificate, or other official document, in
25 force immediately before the enactment of this Act—

1 (1) to the Minerals Management Service that
2 pertains to any of the duties and authorities referred
3 to in section 101 is deemed to refer and apply to the
4 Bureau of Energy and Resource Management estab-
5 lished by section 101;

6 (2) to the Director of the Minerals Management
7 Service that pertains to any of the duties and au-
8 thorities referred to in section 101 is deemed to
9 refer and apply to the Director of the Bureau of En-
10 ergy and Resource Management;

11 (3) to any other position in the Minerals Man-
12 agement Service that pertains to any of the duties
13 and authorities referred to in section 101 is deemed
14 to refer and apply to that same or equivalent posi-
15 tion in the Bureau of Energy and Resource Manage-
16 ment;

17 (4) to the Bureau of Land Management that
18 pertains to any of the duties and authorities referred
19 to in section 101 is deemed to refer and apply to the
20 Bureau of Energy and Resource Management;

21 (5) to the Director of the Bureau of Land Man-
22 agement that pertains to any of the duties and au-
23 thorities referred to in section 101 is deemed to
24 refer and apply to the Director of the Bureau of En-
25 ergy and Resource Management; and

1 (6) to any other position in the Bureau of Land
2 Management that pertains to any of the duties and
3 authorities referred to in section 101 is deemed to
4 refer and apply to that same or equivalent position
5 in the Bureau of Energy and Resource Management.

6 (b) BUREAU OF SAFETY AND ENVIRONMENTAL EN-
7 FORCEMENT.—Any reference in any law, rule, regulation,
8 directive, instruction, certificate or other official document
9 in force immediately before the enactment of this Act—

10 (1) to the Minerals Management Service that
11 pertains to any of the duties and authorities referred
12 to in section 102 is deemed to refer and apply to the
13 Bureau of Safety and Environmental Enforcement
14 established by section 102;

15 (2) to the Director of the Minerals Management
16 Service that pertains to any of the duties and au-
17 thorities referred to in section 102 is deemed to
18 refer and apply to the Director of the Bureau of
19 Safety and Environmental Enforcement; and

20 (3) to any other position in the Minerals Man-
21 agement Service that pertains to any of the duties
22 and authorities referred to in section 102 is deemed
23 to refer and apply to that same or equivalent posi-
24 tion in the Bureau of Safety and Environmental En-
25 forcement;

1 (4) to the Bureau of Land Management that
2 pertains to any of the duties and authorities referred
3 to in section 102 is deemed to refer and apply to the
4 Bureau of Safety and Environmental Enforcement;

5 (5) to the Director of the Bureau of Land Man-
6 agement that pertains to any of the duties and au-
7 thorities referred to in section 102 is deemed to
8 refer and apply to the Director of the Bureau of
9 Safety and Environmental Enforcement; and

10 (6) to any other position in the Bureau of Land
11 Management that pertains to any of the duties and
12 authorities referred to in section 102 is deemed to
13 refer and apply to that same or equivalent position
14 in the Bureau of Safety and Environmental Enforce-
15 ment.

16 (c) OFFICE OF NATURAL RESOURCES REVENUE.—
17 Any reference in any law, rule, regulation, directive, or in-
18 struction, or certificate or other official document, in force
19 immediately prior to enactment—

20 (1) to the Minerals Management Service that
21 pertains to any of the duties and authorities referred
22 to in section 103 is deemed to refer and apply to the
23 Office of Natural Resources Revenue established by
24 section 103;

1 (2) COMPLETED ADMINISTRATIVE ACTION DE-
2 FINED.—For purposes of paragraph (1), the term
3 “completed administrative action” includes orders,
4 determinations, rules, regulations, personnel actions,
5 permits, agreements, grants, contracts, certificates,
6 licenses, registrations, and privileges.

7 (c) PENDING PROCEEDINGS.—Subject to the author-
8 ity of the Secretary of the Interior and the officers of the
9 Department of the Interior under this Act—

10 (1) pending proceedings in the Service, includ-
11 ing notices of proposed rulemaking, and applications
12 for licenses, permits, certificates, grants, and finan-
13 cial assistance, shall continue, notwithstanding the
14 enactment of this Act or the vesting of functions of
15 the Service in another agency, unless discontinued or
16 modified under the same terms and conditions and
17 to the same extent that such discontinuance or
18 modification could have occurred if this Act had not
19 been enacted; and

20 (2) orders issued in such proceedings, and ap-
21 peals therefrom, and payments made pursuant to
22 such orders, shall issue in the same manner and on
23 the same terms as if this Act had not been enacted,
24 and any such orders shall continue in effect until
25 amended, modified, superseded, terminated, set

1 aside, or revoked by an officer of the United States
2 or a court of competent jurisdiction, or by operation
3 of law.

4 (d) **PENDING CIVIL ACTIONS.**—Subject to the au-
5 thority of the Secretary of the Interior or any officer of
6 the Department of the Interior under this Act, pending
7 civil actions shall continue notwithstanding the enactment
8 of this Act, and in such civil actions, proceedings shall be
9 had, appeals taken, and judgments rendered and enforced
10 in the same manner and with the same effect as if such
11 enactment had not occurred.

12 (e) **REFERENCES.**—References relating to the Service
13 in statutes, Executive orders, rules, regulations, directives,
14 or delegations of authority that precede the effective date
15 of this Act are deemed to refer, as appropriate, to the De-
16 partment, to its officers, employees, or agents, or to its
17 corresponding organizational units or functions. Statutory
18 reporting requirements that applied in relation to the
19 Service immediately before the effective date of this Act
20 shall continue to apply.

21 **SEC. 108. CONFORMING AMENDMENT.**

22 Section 5316 of title 5, United States Code, is
23 amended by striking “Director, Bureau of Mines, Depart-
24 ment of the Interior.” and inserting the following new
25 items:

1 “Director, Bureau of Energy and Resource Manage-
2 ment, Department of the Interior.

3 “Director, Bureau of Safety and Environmental En-
4 forcement, Department of the Interior.

5 “Deputy Assistant Secretary, Office of Natural Re-
6 sources Revenue, Department of the Interior.”.

7 **SEC. 109. OCS SAFETY AND ENVIRONMENTAL ADVISORY**
8 **BOARD.**

9 (a) ESTABLISHMENT.—The Secretary shall establish,
10 under the Federal Advisory Committee Act, an Outer Con-
11 tinental Shelf Safety and Environmental Advisory Board
12 (referred to in this section as the “Board”), to provide
13 the Secretary and the Directors of the bureaus established
14 by this title with independent scientific and technical ad-
15 vice on safe and environmentally compliant energy and
16 mineral resource exploration, development, and production
17 activities.

18 (b) MEMBERSHIP.—

19 (1) SIZE.—The Board shall consist of not more
20 than 12 members, chosen to reflect a range of exper-
21 tise in scientific, engineering, management, and
22 other disciplines related to safe and environmentally
23 compliant energy and mineral resource exploration,
24 development, and production activities. The Sec-
25 retary shall consult with the National Academy of

1 Sciences and the National Academy of Engineering
2 to identify potential candidates for the Board.

3 (2) TERM.—The Secretary shall appoint Board
4 members to staggered terms of not more than 4
5 years, and shall not appoint a member for more
6 than 2 consecutive terms.

7 (c) CHAIR.—The Secretary shall appoint the Chair
8 for the Board.

9 (d) MEETINGS.—The Board shall meet not less than
10 3 times per year and, at least once per year, shall host
11 a public forum to review and assess the overall safety and
12 environmental performance of Outer Continental Shelf en-
13 ergy and mineral resource activities.

14 (e) REPORTS.—Reports of the Board shall be sub-
15 mitted to the Congress and made available to the public
16 in electronically accessible form.

17 (f) TRAVEL EXPENSES.—Members of the Board,
18 other than full-time employees of the Federal Government,
19 while attending meeting of the Board or while otherwise
20 serving at the request of the Secretary or the Director
21 while serving away from their homes or regular places of
22 business, may be allowed travel expenses, including per
23 diem in lieu of subsistence, as authorized by section 5703
24 of title 5, United States Code, for individuals in the Gov-
25 ernment serving without pay.

1 **TITLE II—FEDERAL OIL AND GAS**
2 **DEVELOPMENT**
3 **Subtitle A—Safety, Environmental,**
4 **and Financial Reform of the**
5 **Outer Continental Shelf Lands**
6 **Act**

7 **SEC. 201. SHORT TITLE.**

8 This subtitle may be cited as the “Outer Continental
9 Shelf Lands Act Amendments of 2010”.

10 **SEC. 202. DEFINITIONS.**

11 Section 2 of the Outer Continental Shelf Lands Act
12 (43 U.S.C. 1331) is amended by adding at the end the
13 following:

14 “(r) The term ‘safety case’ means a body of evidence
15 that provides a basis for determining whether a system
16 is adequately safe for a given application in a given envi-
17 ronment.”.

18 **SEC. 203. NATIONAL POLICY FOR THE OUTER CONTI-**
19 **NENTAL SHELF.**

20 Section 3 of the Outer Continental Shelf Lands Act
21 (43 U.S.C. 1332) is amended—

22 (1) by striking paragraph (3) and inserting the
23 following:

24 “(3) the outer Continental Shelf is a vital na-
25 tional resource reserve held by the Federal Govern-

1 ment for the public, that should be managed in a
2 manner that recognizes—

3 “(A) the need of the United States for do-
4 mestic sources of energy, food, minerals, and
5 other resources;

6 “(B) the potential impacts of development
7 of those resources on the marine and coastal
8 environment and on human health and safety;
9 and

10 “(C) the long-term economic value to the
11 United States of the balanced and orderly man-
12 agement of those resources that safeguards the
13 environment and respects the multiple values
14 and uses of the outer Continental Shelf;”;

15 (2) in paragraph (4), by striking the period at
16 the end and inserting a semicolon;

17 (3) in paragraph (5), by striking “should be”
18 and inserting “shall be”, and striking “; and” and
19 inserting a semicolon;

20 (4) by redesignating paragraph (6) as para-
21 graph (7);

22 (5) by inserting after paragraph (5) the fol-
23 lowing:

24 “(6) exploration, development, and production
25 of energy and minerals on the outer Continental

1 Shelf should be allowed only when those activities
2 can be accomplished in a manner that does not en-
3 danger life (including fish and other aquatic life), or
4 health, cause damage to the marine, coastal, or
5 human environment or to property, or harm other
6 users of the waters, seabed, or subsoil; and”;

7 (6) in paragraph (7) (as so redesignated), by—

8 (A) striking “should be” and inserting
9 “shall be”;

10 (B) inserting “best available” after
11 “using”; and

12 (C) striking “or minimize”.

13 **SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTI-**
14 **NENTAL SHELF.**

15 Section 4(a)(1) of the Outer Continental Shelf Lands
16 Act (43 U.S.C. 1333(a)(1)) is amended by—

17 (1) inserting “or producing or supporting pro-
18 duction of energy from sources other than oil and
19 gas” after “therefrom”;

20 (2) inserting “or transmitting such energy”
21 after “transporting such resources”; and

22 (3) inserting “and other energy” after “That
23 mineral”.

1 **SEC. 205. OCS LEASING STANDARD.**

2 (a) IN GENERAL.—Section 5 of the Outer Conti-
3 nental Shelf Lands Act (43 U.S.C. 1334) is amended—

4 (1) in subsection (a), by striking “The Sec-
5 retary may at any time” and inserting “The Sec-
6 retary shall”;

7 (2) in the second sentence of subsection (a), by
8 adding after “provide for” the following: “oper-
9 ational safety, the protection of the marine and
10 coastal environment, and”;

11 (3) in subsection (a), by inserting “and the Sec-
12 retary of Commerce with respect to matters that
13 may affect the marine and coastal environment”
14 after “which may affect competition”;

15 (4) in clause (ii) of subsection (a)(2)(A), by
16 striking “a reasonable period of time” and inserting
17 “30 days”;

18 (5) in subsection (a)(7), by inserting “in a
19 manner that prevents harm to the marine and coast-
20 al environment” after “lease area”;

21 (6) in subsection (a), by striking “and” after
22 the semicolon at the end of paragraph (7), redesign-
23 ating paragraph (8) as paragraph (12), and insert-
24 ing after paragraph (7) the following:

1 “(8) for independent third-party certification
2 requirements of safety systems related to well con-
3 trol, such as blowout preventers;

4 “(9) for performance requirements for blowout
5 preventers, including subsea testing and secondary
6 activation methods;

7 “(10) for independent third-party certification
8 requirements of well casing and cementing programs
9 and procedures;

10 “(11) for the establishment of mandatory safety
11 and environmental management systems by opera-
12 tors on the Outer Continental Shelf;”;

13 (7) in subsection (a), by striking the period at
14 the end of paragraph (12), as so redesignated, and
15 inserting “; and”, and by adding at the end the fol-
16 lowing:

17 “(13) ensuring compliance with other applicable
18 environmental and natural resource conservation
19 laws”; and

20 (8) by adding at the end the following new sub-
21 section:

22 “(k) DOCUMENTS INCORPORATED BY REFERENCE.—
23 Any documents incorporated by reference in regulations
24 promulgated by the Secretary pursuant to this Act shall

1 be made available to the public, free of charge, on a
2 website maintained by the Secretary.”.

3 (b) CONFORMING AMENDMENT.—Subsection (g) of
4 Section 25 of the Outer Continental Shelf Lands Act (43
5 U.S.C. 1351), as redesignated by section 214(4) of this
6 Act, is further amended by striking “paragraph (8) of sec-
7 tion 5(a) of this Act” each place it appears and inserting
8 “paragraph (12) of section 5(a) of this Act”.

9 **SEC. 206. LEASES, EASEMENTS, AND RIGHTS-OF-WAY.**

10 (a) FINANCIAL ASSURANCE AND FISCAL RESPONSI-
11 BILITY.—Section 8 of the Outer Continental Shelf Lands
12 Act (43 U.S.C. 1337) is amended by adding at the end
13 the following:

14 “(q) REVIEW OF BOND AND SURETY AMOUNTS.—
15 Not later than May 1, 2011, and every 5 years thereafter,
16 the Secretary shall review the minimum bond amounts for
17 leases issued under this section and shall ensure that any
18 bonds or surety required are adequate to comply with the
19 requirements of this Act or the Oil Pollution Act of 1990
20 (33 U.S.C. 2701 et seq.).

21 “(r) PERIODIC FISCAL REVIEW AND REPORT.—

22 “(1) IN GENERAL.—Not later than 1 year after
23 the date of enactment of this subsection and every
24 3 years thereafter, the Secretary shall carry out a
25 review and prepare a report setting forth—

1 “(A)(i) the royalty and rental rates in-
2 cluded in new offshore oil and gas leases; and

3 “(ii) the rationale for the rates;

4 “(B) whether, in the view of the Secretary,
5 the royalty and rental rates described in sub-
6 paragraph (A) will yield a fair return to the
7 public while promoting the production of oil and
8 gas resources in a timely manner;

9 “(C)(i) the minimum bond or surety
10 amounts required pursuant to offshore oil and
11 gas leases; and

12 “(ii) the rationale for the minimum
13 amounts;

14 “(D) whether the bond or surety amounts
15 described in subparagraph (C) are adequate to
16 comply with subsection (q); and

17 “(E) whether the Secretary intends to
18 modify the royalty or rental rates, or bond or
19 surety amounts, based on the review.

20 “(2) PUBLIC PARTICIPATION.—In carrying out
21 a review and preparing a report under paragraph
22 (1), the Secretary shall provide to the public an op-
23 portunity to participate.

24 “(3) REPORT DEADLINE.—Not later than 30
25 days after the date on which the Secretary completes

1 a report under paragraph (1), the Secretary shall
2 transmit copies of the report to—

3 “(A) the Committee on Energy and Nat-
4 ural Resources of the Senate; and

5 “(B) the Committee on Natural Resources
6 of the House of Representatives.

7 “(s) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

8 “(1) IN GENERAL.—Not later than 2 years
9 after the date of enactment of this subsection and
10 every 5 years thereafter, the Secretary, in consulta-
11 tion with the Secretary of the Treasury, shall carry
12 out a comprehensive review of all components of the
13 Federal offshore oil and gas fiscal system, including
14 requirements for—

15 “(A) bonus bids;

16 “(B) rental rates;

17 “(C) royalties; and

18 “(D) oil and gas taxes.

19 “(2) REQUIREMENTS.—

20 “(A) CONTENTS; SCOPE.—A review under
21 paragraph (1) shall include—

22 “(i) the information and analyses nec-
23 essary to compare the offshore bonus bids,
24 rents, royalties, and taxes of the Federal
25 Government to the offshore bonus bids,

1 rents, royalties, and taxes of other resource
2 owners, including States and foreign coun-
3 tries; and

4 “(ii) an assessment of the overall off-
5 shore oil and gas fiscal system in the
6 United States, as compared to foreign
7 countries.

8 “(B) INDEPENDENT ADVISORY COM-
9 MITTEE.—In carrying out a review under para-
10 graph (1), the Secretary shall convene and seek
11 the advice of an independent advisory com-
12 mittee comprised of oil and gas and fiscal ex-
13 perts from States, Indian tribes, academia, the
14 energy industry, and appropriate non-govern-
15 mental organizations.

16 “(3) REPORT.—

17 “(A) IN GENERAL.—The Secretary shall
18 prepare a report that contains—

19 “(i) the contents and results of the re-
20 view carried out under paragraph (1) for
21 the period covered by the report; and

22 “(ii) any recommendations of the Sec-
23 retary and the Secretary of the Treasury
24 based on the contents and results of the
25 review.

1 “(B) REPORT DEADLINE.—Not later than
2 30 days after the date on which the Secretary
3 completes a report under paragraph (1), the
4 Secretary shall transmit copies of the report
5 to—

6 “(i) the Committee on Energy and
7 Natural Resources of the Senate;

8 “(ii) the Committee on Finance of the
9 Senate;

10 “(iii) the Committee on Natural Re-
11 sources of the House of Representatives;
12 and

13 “(iv) the Committee on Ways and
14 Means of the House of Representatives.”.

15 (b) ENVIRONMENTAL DILIGENCE.—Section 8 of the
16 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is
17 amended by striking subsection (d) and inserting the fol-
18 lowing:

19 “(d) DISQUALIFICATION FROM BIDDING.—No bid
20 for a lease may be submitted by any person that the Sec-
21 retary finds, after notice and hearing—

22 “(1) is not meeting due diligence, safety, or en-
23 vironmental requirements on other leases; or

24 “(2) is a responsible party for a vessel or a fa-
25 cility from which oil is discharged, for purposes of

1 section 1002 of the Oil Pollution Act of 1990 (33
2 U.S.C. 2702), and has not met all of its obligations
3 under that Act to provide compensation for covered
4 removal costs and damages.”.

5 (c) ALTERNATIVE ENERGY DEVELOPMENT.—

6 (1) CLARIFICATION RELATING TO ALTERNATIVE
7 ENERGY DEVELOPMENT.—Section 8(p) of the Outer
8 Continental Shelf Lands Act (43 U.S.C. 1337(p)) is
9 amended—

10 (A) in paragraph (1)—

11 (i) in the matter preceding subpara-
12 graph (A), by inserting “or” after “1501
13 et seq.),”, and by striking “or other appli-
14 cable law,”; and

15 (ii) by amending subparagraph (D) to
16 read as follows:

17 “(D) use, for energy-related purposes, fa-
18 cilities currently or previously used for activities
19 authorized under this Act, except that any oil
20 and gas energy-related uses shall not be author-
21 ized in areas in which oil and gas preleasing,
22 leasing, and related activities are prohibited by
23 a moratorium.”;

24 (B) in paragraph (4)—

1 (i) in subparagraph (E), by striking
2 “coordination” and inserting “in consulta-
3 tion”; and

4 (ii) in subparagraph (J)(ii), by insert-
5 ing “a potential site for an alternative en-
6 ergy facility,” after “deepwater port,”.

7 (2) NONCOMPETITIVE ALTERNATIVE ENERGY
8 LEASE OPTIONS.—Section 8(p)(3) of such Act (43
9 U.S.C. 1337(p)(3)) is amended to read as follows:

10 “(3) COMPETITIVE OR NONCOMPETITIVE
11 BASIS.—Any lease, easement, right-of-way, or other
12 authorization granted under paragraph (1) shall be
13 issued on a competitive basis, unless—

14 “(A) the lease, easement, right-of-way, or
15 other authorization relates to a project that
16 meets the criteria established under section
17 388(d) of the Energy Policy Act of 2005 (43
18 U.S.C. 1337 note; Public Law 109–58);

19 “(B) the lease, easement, right-of-way, or
20 other authorization—

21 “(i) is for the placement and oper-
22 ation of a meteorological or marine data
23 collection facility; and

24 “(ii) has a term of not more than 5
25 years; or

1 “(C) the Secretary determines, after pro-
2 viding public notice of a proposed lease, ease-
3 ment, right-of-way, or other authorization, that
4 no competitive interest exists.”.

5 (d) REVIEW OF IMPACTS OF LEASE SALES ON THE
6 MARINE AND COASTAL ENVIRONMENT BY SECRETARY.—
7 Section 8 of the Outer Continental Shelf Lands Act (43
8 U.S.C. 1337) by adding at the end of subsection (a) the
9 following:

10 “(9) At least 30 days prior to any lease sale, the Sec-
11 retary shall request a review by the Secretary of Com-
12 merce of the proposed sale with respect to impacts on the
13 marine and coastal environment.”.

14 (e) LIMITATION ON LEASE TRACT SIZE.—Section
15 8(b)(1) of the Outer Continental Shelf Lands Act (43
16 U.S.C. 1337(b)(1)) is amended by striking “, unless the
17 Secretary finds that a larger area is necessary to comprise
18 a reasonable economic production unit”.

19 (f) SULPHUR LEASES.—Section 8(i) of the Outer
20 Continental Shelf Lands Act (43 U.S.C. 1337(i)) is
21 amended by striking “meet the urgent need” and inserting
22 “allow”.

23 **SEC. 207. DISPOSITION OF REVENUES.**

24 Section 9 of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1338), is amended to read as follows:

1 **“SEC. 9. DISPOSITION OF REVENUES.**

2 “(a) GENERAL.—Except as provided in subsections
3 (b), (c), and (d), all rentals, royalties, and other sums paid
4 to the Secretary or the Secretary of the Navy under any
5 lease on the outer Continental Shelf for the period from
6 June 5, 1950, to date, and thereafter shall be deposited
7 in the Treasury of the United States and credited to mis-
8 cellaneous receipts.

9 “(b) LAND AND WATER CONSERVATION FUND.—
10 Effective for fiscal year 2011 and each fiscal year there-
11 after, \$900,000,000 of the amounts referred to in sub-
12 section (a) shall be deposited in the Treasury of the
13 United States and credited to the Land and Water Con-
14 servation Fund. These sums shall be available to the Sec-
15 retary, without further appropriation or fiscal year limita-
16 tion, for carrying out the purposes of the Land and Water
17 Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et
18 seq.).

19 “(c) HISTORIC PRESERVATION FUND.—Effective for
20 fiscal year 2011 and each fiscal year thereafter,
21 \$150,000,000 of the amounts referred to in subsection (a)
22 shall be deposited in the Treasury of the United States
23 and credited to the Historic Preservation Fund. These
24 sums shall be available to the Secretary, without further
25 appropriation or fiscal year limitation, for carrying out the

1 purposes of the National Historic Preservation Fund Act
2 of 1966 (16 U.S.C. 470 et seq.).

3 “(d) OCEAN RESOURCES CONSERVATION AND AS-
4 SISTANCE FUND.—Effective for each fiscal year 2011 and
5 thereafter, 10 percent of the amounts referred to in sub-
6 section (a) shall be deposited in the Treasury of the
7 United States and credited to the Ocean Resources Con-
8 servation and Assistance Fund established by the Consoli-
9 dated Land, Energy, and Aquatic Resources Act of 2010.
10 These sums shall be available to the Secretary, without
11 further appropriation or fiscal year limitation, for carrying
12 out the purposes of section 605 of the Consolidated Land,
13 Energy, and Aquatic Resources Act of 2010.

14 “(e) SAVINGS PROVISION.—Nothing in this section
15 shall decrease the amount any State shall receive pursuant
16 to section 8(g) of this Act or section 105 of the Gulf of
17 Mexico Energy Security Act (43 U.S.C. 1331 note).”.

18 **SEC. 208. EXPLORATION PLANS.**

19 (a) LIMITATION ON HARM FROM AGENCY EXPLO-
20 RATION.—Section 11(a)(1) of the Outer Continental Shelf
21 Lands Act (43 U.S.C. 1340(a)(1)) is amended by striking
22 “unduly harmful to” and inserting “likely to harm”.

23 (b) EXPLORATION PLAN REVIEW.—Section 11(c) of
24 the Outer Continental Shelf Lands Act (43 U.S.C.
25 1340(c)), is amended—

1 (1) by inserting “(A)” before the first sentence;

2 (2) in paragraph (1)(A), as designated by the
3 amendment made by paragraph (1) of this sub-
4 section—

5 (A) by striking “and the provisions of such
6 lease” and inserting “the provisions of such
7 lease, and other applicable environmental and
8 natural resource conservation laws”; and

9 (B) by striking the fourth sentence and in-
10 serting the following:

11 “(B) The Secretary shall approve such plan, as sub-
12 mitted or modified, within 90 days after its submission
13 or within such additional time as the Secretary determines
14 is necessary to complete any environmental, safety, or
15 other reviews, if the Secretary determines that—

16 “(i) any proposed activity under such plan is
17 not likely to result in any condition described in sec-
18 tion 5(a)(2)(A)(i);

19 “(ii) the plan complies with other applicable en-
20 vironmental or natural resource conservation laws;
21 and

22 “(iii) the applicant has demonstrated the capa-
23 bility and technology to respond immediately and ef-
24 fectively to a worst-case oil spill in real-world condi-
25 tions in the area of the proposed activity.”; and

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

2 “(5) If the Secretary requires greater than 90
3 days to review an exploration plan submitted pursu-
4 ant to any oil and gas lease issued or maintained
5 under this Act, then the Secretary may provide for
6 a suspension of that lease pursuant to section 5
7 until the review of the exploration plan is com-
8 pleted.”.

9 (c) REQUIREMENTS.—Section 11(c) of the Outer
10 Continental Shelf Lands Act (43 U.S.C. 1340(c), is
11 amended—

12 (1) by amending paragraph (3) to read as fol-
13 lows:

14 “(3) An exploration plan submitted under this
15 subsection shall include, in the degree of detail that
16 the Secretary may by regulation require—

17 “(A) a schedule of anticipated exploration
18 activities to be undertaken;

19 “(B) a detailed and accurate description of
20 equipment to be used for such activities, includ-
21 ing—

22 “(i) a description of the drilling unit;

23 “(ii) a statement of the design and
24 condition of major safety-related pieces of

1 equipment, including independent third-
2 party certification of such equipment; and

3 “(iii) a description of any new tech-
4 nology to be used;

5 “(C) a map showing the location of each
6 well to be drilled;

7 “(D) a scenario for the potential blowout
8 of the well involving the highest potential vol-
9 ume of liquid hydrocarbons, along with a com-
10 plete description of a response plan to both con-
11 trol the blowout and manage the accompanying
12 discharge of hydrocarbons, including the likeli-
13 hood for surface intervention to stop the blow-
14 out, the availability of a rig to drill a relief well,
15 an estimate of the time it would take to drill a
16 relief well, a description of other technology
17 that may be used to regain control of the well
18 or capture escaping hydrocarbons and the po-
19 tential timeline for using that technology for its
20 intended purpose, and the strategy, organiza-
21 tion, and resources necessary to avoid harm to
22 the environment and human health from hydro-
23 carbons;

24 “(E) an analysis of the potential impacts
25 of the worst-case-scenario discharge of hydro-

1 carbons on the marine, coastal, and human en-
2 vironments for activities conducted pursuant to
3 the proposed exploration plan; and

4 “(F) such other information deemed perti-
5 nent by the Secretary.”.

6 (d) DRILLING PERMITS.—Section 11(d) of the Outer
7 Continental Shelf Lands Act (43 U.S.C. 1340(d)) is
8 amended by to read as follows:

9 “(d) DRILLING PERMITS.—

10 “(1) IN GENERAL.—The Secretary shall, by
11 regulation, require that any lessee operating under
12 an approved exploration plan obtain a permit prior
13 to drilling any well in accordance with such plan,
14 and prior to any significant modification of the well
15 design as originally approved by the Secretary.

16 “(2) ENGINEERING REVIEW REQUIRED.—The
17 Secretary may not grant any drilling permit or
18 modification of the permit prior to completion of a
19 full engineering review of the well system, including
20 a determination that critical safety systems, includ-
21 ing blowout prevention, will utilize best available
22 technology and that blowout prevention systems will
23 include redundancy and remote triggering capability.

24 “(3) OPERATOR SAFETY AND ENVIRONMENTAL
25 MANAGEMENT REQUIRED.—The Secretary may not

1 grant any drilling permit or modification of the per-
2 mit prior to completion of a safety and environ-
3 mental management plan to be utilized by the oper-
4 ator during all well operations, and which includes
5 designation of environmental and safety managers
6 who will be present on the rig at all times and have
7 overall responsibility for the safety and environ-
8 mental management of the well system and spill re-
9 sponse plan.”.

10 (e) EXPLORATION PERMIT REQUIREMENTS.—Sec-
11 tion 11(g) of the Outer Continental Shelf Lands Act (43
12 U.S.C. 1340(g)) is amended by—

13 (1) striking “shall be issued” and inserting
14 “may be issued”;

15 (2) inserting “and after consultation with the
16 Secretary of Commerce,” after “in accordance with
17 regulations issued by the Secretary”;

18 (3) striking the “and” at the end of paragraph
19 (2);

20 (4) in paragraph (3) striking “will not be un-
21 duly harmful to” and inserting “is not likely to
22 harm”;

23 (5) striking the period at the end of paragraph
24 (3) and inserting a semicolon; and

25 (6) adding at the end the following:

1 “(4) the exploration will be conducted in ac-
2 cordance with other applicable environmental and
3 natural resource conservation laws; and

4 “(5) in the case of drilling operations, the appli-
5 cant has available oil spill response and clean-up
6 equipment and technology that has been dem-
7 onstrated to be capable of effectively remediating a
8 worst-case release of oil.”.

9 (f) ENVIRONMENTAL REVIEW OF PLANS; DEEP
10 WATER PLAN; PLAN DISAPPROVAL.—Section 11 of the
11 Outer Continental Shelf Lands Act (43 U.S.C. 1340) is
12 amended by adding at the end the following:

13 “(i) ENVIRONMENTAL REVIEW OF PLANS.—The Sec-
14 retary shall treat the approval of an exploration plan, or
15 a significant revision of said plans, as an agency action
16 requiring preparation of an environmental assessment or
17 environmental impact statement, in accordance with the
18 National Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).

20 “(j) DEEPWATER WELLS.—For an exploration plan
21 that contains a proposal to drill a well in water depths
22 greater than 500 feet, the Secretary shall require that
23 such plan—

1 “(1) be based on the best available technology
2 to ensure safety in carrying out both the drilling of
3 the well and any oil spill response; and

4 “(2) contain a technical systems analysis of the
5 safety of the proposed activity, the blowout preven-
6 tion technology, and the blowout and spill response
7 plans.

8 “(k) DISAPPROVAL OF PLAN.—

9 “(1) IN GENERAL.—The Secretary shall dis-
10 approve the plan if the Secretary determines, be-
11 cause of exceptional geological conditions in the
12 lease areas, exceptional resource values in the ma-
13 rine or coastal environment, or other exceptional cir-
14 cumstances, that—

15 “(A) implementation of the plan would
16 probably cause serious harm or damage to life
17 (including fish and other aquatic life), to prop-
18 erty, to any mineral deposits (in areas leased or
19 not leased), to the national security or defense,
20 or to the marine, coastal, or human environ-
21 ments;

22 “(B) the threat of harm or damage will
23 not disappear or decrease to an acceptable ex-
24 tent within a reasonable period of time; and

1 “(C) the advantages of disapproving the
2 plan outweigh the advantages of exploration.

3 “(2) CANCELLATION OF LEASE FOR DIS-
4 APPROVAL OF PLAN.—If a plan is disapproved under
5 this subsection, the Secretary may cancel such lease
6 in accordance with subsection (c)(1) of this sec-
7 tion.”.

8 **SEC. 209. OCS LEASING PROGRAM.**

9 Section 18 of the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1344) is amended—

11 (1) in subsection (a) in the second sentence by
12 striking “meet national energy needs” and inserting
13 “balance national energy needs and the protection of
14 the marine and coastal environment and all the re-
15 sources in that environment,”;

16 (2) in subsection (a)(1), by striking “considers”
17 and inserting “gives equal consideration to”;

18 (3) in subsection (a)(2)(A)—

19 (A) by striking “existing” and inserting
20 “the best available scientific”; and

21 (B) by inserting “, including at least three
22 consecutive years of data” after “information”;

23 (4) in subsection (a)(2)(D), by inserting “, po-
24 tential and existing sites of renewable energy instal-
25 lations,” after “deepwater ports”;

1 (5) in subsection (a)(3), by—

2 (A) striking “to the maximum extent prac-
3 ticable,”;

4 (B) striking “obtain a proper balance be-
5 tween” and inserting “minimize”; and

6 (C) striking “damage,” and all that follows
7 through the period and inserting “damage and
8 adverse impacts on the marine, coastal, and
9 human environments, and enhancing the poten-
10 tial for the discovery of oil and gas.”;

11 (6) in subsection (b)(1), by inserting “environ-
12 mental, marine, and energy” after “obtain”;

13 (7) in subsection (b)(2), by inserting “environ-
14 mental, marine, and” after “interpret the”;

15 (8) in subsection (b)(3), by striking “and” after
16 the semicolon at the end; and

17 (9) by striking the period at the end of sub-
18 section (b)(4) and inserting a semicolon; and

19 (10) by adding at the end of subsection (b) the
20 following:

21 “(5) provide technical review and oversight of
22 exploration plans and a systems review of the safety
23 of well designs and other operational decisions;

24 “(6) conduct regular and thorough safety re-
25 views and inspections; and

1 “(7) enforce all applicable laws and regula-
2 tions.”;

3 (11) in the first sentence of subsection (c)(1),
4 by inserting “the National Oceanic and Atmospheric
5 Administration and” after “including”;

6 (12) in subsection (c)(2)—

7 (A) by inserting after the first sentence the
8 following: “The Secretary shall also submit a
9 copy of such proposed program to the head of
10 each Federal agency referred to in, or that oth-
11 erwise provided suggestions under, paragraph
12 (1).”;

13 (B) in the third sentence, by inserting “or
14 head of a Federal agency” after “such Gov-
15 ernor”; and

16 (C) in the fourth sentence, by inserting “or
17 between the Secretary and the head of a Fed-
18 eral agency,” after “affected State,” ;

19 (13) in the second sentence of subsection
20 (d)(2), by inserting “, the head of a Federal agen-
21 cy,” after “Attorney General” ;

22 (14) in subsection (g), by inserting after the
23 first sentence the following: “Such information may
24 include existing inventories and mapping of marine
25 resources previously undertaken by the Department

1 of the Interior and the National Oceanic and Atmos-
2 pheric Administration, information provided by the
3 Department of Defense, and other available data re-
4 garding energy or mineral resource potential, navi-
5 gation uses, fisheries, aquaculture uses, recreational
6 uses, habitat, conservation, and military uses on the
7 outer Continental Shelf.”; and

8 (15) by adding at the end the following new
9 subsection:

10 “(i) RESEARCH AND DEVELOPMENT.—The Secretary
11 shall carry out a program of research and development
12 to ensure the continued improvement of methodologies for
13 characterizing resources of the outer Continental Shelf
14 and conditions that may affect the ability to develop and
15 use those resources in a safe, sound, and environmentally
16 responsible manner. Such research and development ac-
17 tivities may include activities to provide accurate estimates
18 of energy and mineral reserves and potential on the Outer
19 Continental Shelf and any activities that may assist in fill-
20 ing gaps in environmental data needed to develop each
21 leasing program under this section. Such activities shall
22 not be considered to be leasing or pre-leasing activities.”.

23 **SEC. 210. ENVIRONMENTAL STUDIES.**

24 (a) INFORMATION NEEDED FOR ASSESSMENT AND
25 MANAGEMENT OF ENVIRONMENTAL IMPACTS.—Section

1 20 of the Outer Continental Shelf Lands Act (43 U.S.C.
2 1346) is amended by striking so much as precedes sub-
3 section (a)(2) and inserting the following:

4 **“SEC. 20. ENVIRONMENTAL STUDIES.**

5 “(a)(1) The Secretary, in cooperation with the Sec-
6 retary of Commerce, shall conduct a study no less than
7 once every three years of any area or region included in
8 any oil and gas lease sale or other lease in order to estab-
9 lish information needed for assessment and management
10 of environmental impacts on the human, marine, and
11 coastal environments of the outer Continental Shelf and
12 the coastal areas which may be affected by oil and gas
13 or other mineral development in such area or region.”.

14 (b) **IMPACTS OF DEEP WATER SPILLS.**—Section 20
15 of the Outer Continental Shelf Lands Act (43 U.S.C.
16 1346) is amended by—

17 (1) redesignating subsections (e) through (f) as
18 (d) through (g); and

19 (2) inserting after subsection (b) the following
20 new subsection:

21 “(c) The Secretary shall conduct research to identify
22 and reduce data gaps related to impacts of deep water
23 hydrocarbon spills, including—

24 “(1) effects to benthic substrate communities
25 and species;

1 “(2) water column habitats and species;

2 “(3) surface and coastal impacts from spills
3 originating in deep waters; and

4 “(4) the use of dispersants.”.

5 **SEC. 211. SAFETY REGULATIONS.**

6 Section 21 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1347) is amended—

8 (1) in subsection (a), by striking “Upon the
9 date of enactment of this section,” and inserting
10 “Within 6 months after the date of enactment of the
11 Outer Continental Shelf Lands Act Amendments of
12 2010 and every three years thereafter,”;

13 (2) in subsection (b) by—

14 (A) striking “for the artificial islands, in-
15 stallations, and other devices referred to in sec-
16 tion 4(a)(1) of” and inserting “under”;

17 (B) striking “which the Secretary deter-
18 mines to be economically feasible”; and

19 (C) adding at the end “Not later than 6
20 months after the date of enactment of the
21 Outer Continental Shelf Lands Act Amend-
22 ments of 2010 and every 3 years thereafter, the
23 Secretary shall identify and publish an updated
24 list of best available technologies for key areas
25 of well design and operation, including blowout

1 prevention and blowout and oil spill response.”;

2 and

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

4 “(g) SAFETY CASE.—Not later than 6 months after
5 the date of enactment of the Outer Continental Shelf
6 Lands Act Amendments of 2010, the Secretary shall pro-
7 mulgate regulations requiring a safety case be submitted
8 along with each new application for a permit to drill on
9 the outer Continental Shelf.

10 “(h) OFFSHORE TECHNOLOGY RESEARCH AND RISK
11 ASSESSMENT PROGRAM.—

12 “(1) IN GENERAL.—The Secretary shall carry
13 out a program of research, development, and risk as-
14 sessment to address technology and development
15 issues associated with exploration for, and develop-
16 ment and production of, energy and mineral re-
17 sources on the outer Continental Shelf, with the pri-
18 mary purpose of informing its role relating to safety,
19 environmental protection, and spill response.

20 “(2) SPECIFIC FOCUS AREAS.—The program
21 under this subsection shall include research and de-
22 velopment related to—

23 “(A) risk assessment, using all available
24 data from safety and compliance records both
25 within the United States and internationally;

1 “(B) analysis of industry trends in tech-
2 nology, investment, and frontier areas;

3 “(C) reviews of best available technologies,
4 including those associated with pipelines, blow-
5 out preventer mechanisms, casing, well design,
6 and other associated infrastructure related to
7 offshore energy development;

8 “(D) oil spill response and mitigation;

9 “(E) risk associated with human factors;
10 and

11 “(F) renewable energy operations.”.

12 **SEC. 212. ENFORCEMENT OF SAFETY AND ENVIRON-**
13 **MENTAL REGULATIONS.**

14 Section 22 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1348) is amended—

16 (1) by amending subsection (c) to read as fol-
17 lows:

18 “(c) ONSITE INSPECTION OF FACILITIES.—The Sec-
19 retary and the Secretary of the department in which the
20 Coast Guard is operating shall individually, or jointly if
21 they so agree, promulgate regulations to provide for—

22 “(1) scheduled onsite inspection, at least once a
23 year, of each facility on the outer Continental Shelf
24 which is subject to any environmental or safety regu-
25 lation promulgated pursuant to this Act, which in-

1 specification shall include all safety equipment designed
2 to prevent or ameliorate blowouts, fires, spillages, or
3 other major accidents;

4 “(2) scheduled onsite inspection, at least once a
5 month, of each facility on the outer Continental
6 Shelf engaged in drilling operations and which is
7 subject to any environmental or safety regulation
8 promulgated pursuant to this Act, which inspection
9 shall include all safety equipment designed to pre-
10 vent or ameliorate blowouts, fires, spillages, or other
11 major accidents; and

12 “(3) periodic onsite inspection without advance
13 notice to the operator of such facility to assure com-
14 pliance with such environmental or safety regula-
15 tions.”;

16 (2) in subsection (d)(1)—

17 (A) by striking “each major fire and each
18 major oil spillage” and inserting “each major
19 fire, each major oil spillage, each loss of well
20 control, each blowout, and any other accident
21 that presented a serious risk to human or envi-
22 ronmental safety”; and

23 (B) by inserting before the period at the
24 end the following: “, as a condition of the lease
25 or permit”;

1 (3) in subsection (d)(2), by inserting before the
2 period at the end the following: “as a condition of
3 the lease or permit”;

4 (4) in subsection (e), by adding at the end the
5 following: “Any such allegation from any employee
6 of the lessee or any subcontractor of the lessee shall
7 be investigated by the Secretary.”; and

8 (5) by adding at the end the following:

9 “(g) INFORMATION ON CAUSES AND CORRECTIVE
10 ACTIONS.—For any incident investigated under this sec-
11 tion, the Secretary shall promptly make available to all
12 lessees and the public technical information about the
13 causes and corrective actions taken. All data and reports
14 related to any such incident shall be maintained in a data
15 base available to the public.

16 “(h) OPERATOR’S ANNUAL CERTIFICATION.—

17 “(1) The Secretary, in cooperation with the
18 Secretary of the department in which the Coast
19 Guard is operating, shall require all operators of all
20 new and existing drilling and production operations
21 to annually certify that their operations are being
22 conducted in accordance with applicable law and reg-
23 ulations.

24 “(2) Each certification shall include, but, not be
25 limited to, statements that verify the operator has—

1 “(A) examined all well control system
2 equipment (both surface and subsea) being used
3 to ensure that it has been properly maintained
4 and is capable of shutting in the well during
5 emergency operations;

6 “(B) examined and conducted tests to en-
7 sure that the emergency equipment has been
8 function-tested and is capable of addressing
9 emergency situations;

10 “(C) reviewed all rig drilling, casing, ce-
11 menting, well abandonment (temporary and
12 permanent), completion, and workover practices
13 to ensure that well control is not compromised
14 at any point while emergency equipment is in-
15 stalled on the wellhead;

16 “(D) reviewed all emergency shutdown and
17 dynamic positioning procedures that interface
18 with emergency well control operations; and

19 “(E) taken the necessary steps to ensure
20 that all personnel involved in well operations
21 are properly trained and capable of performing
22 their tasks under both normal drilling and
23 emergency well control operations.

24 “(i) CEO ANNUAL CERTIFICATION.—Operators of all
25 drilling and production operations shall annually submit

1 to the Secretary a general statement by the operator's
2 chief executive officer that certifies to the operators' com-
3 pliance with all applicable laws and operating regulations.

4 “(j) THIRD PARTY CERTIFICATION.—All operators
5 that modify or upgrade any emergency equipment placed
6 on any operation to prevent blow-outs or other well control
7 events, shall have an independent third party conduct a
8 detailed physical inspection and design review of such
9 equipment within 30-days of its installation. The inde-
10 pendent third party shall certify that the equipment will
11 operate as originally designed and any modifications or
12 upgrades conducted after delivery have not compromised
13 the design, performance or functionality of the equipment.
14 Failure to comply with this subsection shall result in sus-
15 pension of the lease.”.

16 **SEC. 213. REMEDIES AND PENALTIES.**

17 (a) CIVIL PENALTY, GENERALLY.—Section 24(b) of
18 the Outer Continental Shelf Lands Act (43 U.S.C.
19 1350(b)) is amended to read as follows:

20 “(b)(1) Except as provided in paragraph (2), any per-
21 son who fails to comply with any provision of this Act,
22 or any term of a lease, license, or permit issued pursuant
23 to this Act, or any regulation or order issued under this
24 Act, shall be liable for a civil administrative penalty of not
25 more than \$75,000 for each day of the continuance of

1 such failure. The Secretary may assess, collect, and com-
2 promise any such penalty. No penalty shall be assessed
3 until the person charged with a violation has been given
4 an opportunity for a hearing. The Secretary shall, by regu-
5 lation at least every 3 years, adjust the penalty specified
6 in this paragraph to reflect any increases in the Consumer
7 Price Index (all items, United States city average) as pre-
8 pared by the Department of Labor.

9 “(2) If a failure described in paragraph (1) con-
10 stitutes or constituted a threat of harm or damage to life
11 (including fish and other aquatic life), property, any min-
12 eral deposit, or the marine, coastal, or human environ-
13 ment, a civil penalty of not more than \$150,000 shall be
14 assessed for each day of the continuance of the failure.”.

15 (b) KNOWING AND WILLFUL VIOLATIONS.—Section
16 24(c) of the Outer Continental Shelf Lands Act (43
17 U.S.C. 1350(c)) is amended in paragraph (4) by striking
18 “\$100,000” and inserting “\$10,000,000”.

19 (c) OFFICERS AND AGENTS OF CORPORATIONS.—
20 Section 24(d) of the Outer Continental Shelf Lands Act
21 (43 U.S.C. 1350(d)) is amended by inserting “, or with
22 willful disregard,” after “knowingly and willfully”.

23 **SEC. 214. UNIFORM PLANNING FOR OCS.**

24 Section 25 of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1351) is amended—

1 (1) by striking “other than the Gulf of Mexico,”
2 in each place it appears;

3 (2) in subsection (c), by striking “and” after
4 the semicolon at the end of paragraph (5), redesignig-
5 nating paragraph (6) as paragraph (11), and insert-
6 ing after paragraph (5) the following new para-
7 graphs:

8 “(6) a detailed and accurate description of
9 equipment to be used for the drilling of wells pursu-
10 ant to activities included in the development and
11 production plan, including—

12 “(A) a description of the drilling unit or
13 units;

14 “(B) a statement of the design and condi-
15 tion of major safety-related pieces of equip-
16 ment, including independent third-party certifi-
17 cation of such equipment; and

18 “(C) a description of any new technology
19 to be used;

20 “(7) a scenario for the potential blowout of
21 each well to be drilled as part of the plan involving
22 the highest potential volume of liquid hydrocarbons,
23 along with a complete description of a response plan
24 to both control the blowout and manage the accom-
25 panying discharge of hydrocarbons, including the

1 likelihood for surface intervention to stop the blow-
2 out, the availability of a rig to drill a relief well, an
3 estimate of the time it would take to drill a relief
4 well, a description of other technology that may be
5 used to regain control of the well or capture escap-
6 ing hydrocarbons and the potential timeline for
7 using that technology for its intended purpose, and
8 the strategy, organization, and resources necessary
9 to avoid harm to the environment and human health
10 from hydrocarbons;

11 “(8) an analysis of the potential impacts of the
12 worst-case-scenario discharge on the marine, coastal,
13 and human environments for activities conducted
14 pursuant to the proposed development and produc-
15 tion plan;

16 “(9) a comprehensive survey and characteriza-
17 tion of the coastal or marine environment within the
18 area of operation, including bathymetry, currents
19 and circulation patterns within the water column,
20 and descriptions of benthic and pelagic environ-
21 ments;

22 “(10) a description of the technologies to be de-
23 ployed on the facilities to routinely observe and mon-
24 itor in real time the marine environment throughout
25 the duration of operations, and a description of the

1 process by which such observation data and informa-
2 tion will be made available to Federal regulators and
3 to the System established under section 12304 of
4 Public Law 111–11 (33 U.S.C. 3603); and”;

5 (3) in subsection (e), by striking so much as
6 precedes paragraph (2) and inserting the following:

7 “(e)(1) The Secretary shall treat the approval of a
8 development and production plan, or a significant revision
9 of a development and production plan, as an agency action
10 requiring preparation of an environmental assessment or
11 environmental impact statement, in accordance with the
12 National Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.).”;

14 (4) by striking subsections (g) and (l), and re-
15 designating subsections (h) through (k) as sub-
16 sections (g) through and (j); and

17 (5) in subsection (g), as so redesignated, by re-
18 designating paragraphs (2) and (3) as paragraphs
19 (3) and (4), respectively, and inserting after para-
20 graph (1) the following:

21 “(2) The Secretary shall not approve a development
22 and production plan, or a significant revision to such a
23 plan, unless–

1 “(A) the plan is in compliance with all other
2 applicable environmental and natural resource con-
3 servation laws; and

4 “(B) the applicant has available oil spill re-
5 sponse and clean-up equipment and technology that
6 has been demonstrated to be capable of effectively
7 remediating the projected worst-case release of oil
8 from activities conducted pursuant to the develop-
9 ment and production plan.”.

10 **SEC. 215. OIL AND GAS INFORMATION PROGRAM.**

11 Section 26(a)(1) of the Outer Continental Shelf
12 Lands Act (43 U.S.C. 1352(a)(1)) is amended by—

13 (1) striking the period at the end of subpara-
14 graph (A) and inserting, “, provided that such data
15 shall be transmitted in electronic format either in
16 real-time or as quickly as practicable following the
17 generation of such data.”; and

18 (2) striking subparagraph (C) and inserting the
19 following:

20 “(C) Lessees engaged in drilling operations
21 shall provide to the Secretary all daily reports
22 generated by the lessee, or any daily reports
23 generated by contractors or subcontractors en-
24 gaged in or supporting drilling operations on
25 the lessee’s lease, no more than 24 hours after

1 the end of the day for which they should have
2 been generated.”.

3 **SEC. 216. LIMITATION ON ROYALTY-IN-KIND PROGRAM.**

4 Section 27(a) of the Outer Continental Shelf Lands
5 Act (43 U.S.C. 1353(a)) is amended by striking the period
6 at the end of paragraph (1) and inserting “, except that
7 the Secretary shall not conduct a regular program to take
8 oil and gas lease royalties in oil or gas.”.

9 **SEC. 217. REPEAL OF ROYALTY RELIEF PROVISIONS.**

10 (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT
11 OF 2005.—The following provisions of the Energy Policy
12 Act of 2005 (Public Law 109–58) are repealed:

13 (1) Section 344 (42 U.S.C. 15904; relating to
14 incentives for natural gas production from deep wells
15 in shallow waters of the Gulf of Mexico).

16 (2) Section 345 (42 U.S.C. 15905; relating to
17 royalty relief for deep water production in the Gulf
18 of Mexico).

19 (b) REPEAL OF PROVISIONS RELATING TO PLAN-
20 NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of
21 the Outer Continental Shelf Lands Act (43 U.S.C.
22 1337(a)(3)(B)) is amended by striking “and in the Plan-
23 ning Areas offshore Alaska”.

1 **SEC. 218. REGISTRY REQUIREMENTS.**

2 Section 30 of the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1356) is amended—

4 (1) in subsection (a), by striking “shall issue
5 regulations which” and inserting “shall issue regula-
6 tions that shall be supplemental and complimentary
7 with and under no circumstances a substitution for
8 the provisions of the Constitution and laws of the
9 United States extended to the subsoil and seabed of
10 the outer Continental Shelf pursuant to section
11 4(a)(1) of this Act, except insofar as such laws
12 would otherwise apply to individuals who have ex-
13 traordinary ability in the sciences, arts, education,
14 or business, which has been demonstrated by sus-
15 tained national or international acclaim, and that”;
16 and

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

18 “(d) REGISTRY REQUIREMENTS.—Within six months
19 after the date of enactment of the Outer Continental Shelf
20 Lands Act Amendments of 2010, the Secretary of the de-
21 partment in which the Coast Guard is operating shall
22 issue regulations that require that any vessel, rig, plat-
23 form, or other vehicle or structure which is used at any
24 time after the one-year period beginning on the effective
25 date of such regulations for activities pursuant to this Act

1 be documented under section 12111 of title 46, United
2 States Code.

3 “(e) BUY AND BUILD AMERICAN.—It is the intention
4 of the Congress that this Act, among other things, result
5 in a healthy and growing American industrial, manufac-
6 turing, transportation, and service sector employing the
7 vast talents of America’s workforce to assist in the devel-
8 opment of energy from the outer Continental Shelf. More-
9 over, the Congress intends to monitor the deployment of
10 personnel and material on the outer Continental Shelf to
11 encourage the development of American technology and
12 manufacturing to enable United States workers to benefit
13 from this Act by good jobs and careers, as well as the
14 establishment of important industrial facilities to support
15 expanded access to American resources.”.

16 **SEC. 219. DEVELOPING INNOVATIONS IN OIL SPILL CON-**
17 **TAINMENT AND RESPONSE TECHNOLOGIES.**

18 The Outer Continental Shelf Lands Act (43 U.S.C.
19 1331 et seq.) is amended by adding at the end the fol-
20 lowing:

21 **“SEC. 32. DEVELOPING INNOVATIONS IN OIL SPILL CON-**
22 **TAINMENT AND RESPONSE TECHNOLOGIES.**

23 “(a) ESTABLISHMENT.—The Secretary shall estab-
24 lish a competitive grants program to be known as the ‘New

1 Horizon Oil Spill Containment and Response Technologies
2 Grant Program’.

3 “(b) PURPOSES.—The purposes of the program are
4 the following:

5 “(1) To stimulate and promote new initiatives
6 to research, develop, test, and convert to operational
7 use new generations of innovative technologies, ma-
8 terials, and systems to avoid future catastrophic oil
9 spills from development and production of oil and
10 gas resources of the outer Continental Shelf to—

11 “(A) enhance the capabilities of govern-
12 mental and non-governmental organizations to
13 prevent, detect, contain, and respond to oil
14 spills in all areas of the marine and coastal en-
15 vironment, especially deep or extreme environ-
16 ments, where energy activities occur;

17 “(B) advance the global economic competi-
18 tiveness of the United States through the devel-
19 opment of new ocean engineering technologies
20 to prevent or address oil spill events;

21 “(C) strengthen education and training in
22 oceanography, ocean engineering, and oil spill
23 containment and response technology; and

24 “(D) protect the quality of life and envi-
25 ronmental health of the coastal and marine en-

1 vironment and coastal communities and resi-
2 dents in proximity to energy activities on the
3 outer Continental Shelf.

4 “(2) To implement a public awards program to
5 recognize outstanding achievement in developing in-
6 novative technologies that enhance our national ca-
7 pabilities to prevent, detect, contain, and respond to
8 oil spills in the coastal and marine environment.

9 “(c) OIL SPILL CONTAINMENT AND RESPONSE
10 TECHNOLOGY GRANTS.—

11 “(1) GUIDELINES.—No later than 6 months
12 after the date of enactment of this section, the Sec-
13 retary shall publish guidelines in the Federal Reg-
14 ister to administer the grant program established
15 under subsection (a).

16 “(2) CONSULTATION.—In developing the guide-
17 lines required under paragraph (1), the Secretary
18 shall consult with the National Academy of Engi-
19 neering and the National Research Council Division
20 on Engineering and Physical Sciences.

21 “(3) ELIGIBLE ACTIVITIES.—Grants awarded
22 under the program shall be awarded to support
23 projects to research, investigate, design, develop,
24 test, or field trial for operational use new genera-

1 tions of innovative technologies, materials, or sys-
2 tems in the following areas:

3 “(A) Enhanced models and imaging tech-
4 nologies to provide 3-dimensional projections
5 and trajectories of oil spill events, especially
6 spills occurring in deep or extreme ocean envi-
7 ronments.

8 “(B) New generations of advanced re-
9 motely operated or autonomously operated un-
10 derwater vehicles necessary to support oil spill
11 response activities.

12 “(C) New operational in situ and remote
13 monitoring and sensor equipment to detect, lo-
14 cate, and map the extent, density, composition,
15 and movement of an oil spill throughout the
16 water column, including at depth and in ex-
17 treme conditions, to enable 3-dimensional pro-
18 jections.

19 “(D) Mechanical technologies, systems,
20 and methods to better contain, skim, collect,
21 burn, or separate oil or oil emulsion from the
22 water column, on the surface, and at depth.

23 “(E) Creation of new testing systems to
24 test and evaluate prototype designs for secure
25 blowout prevention devices and other tech-

1 nologies to address mechanical failures, includ-
2 ing measurements of flow rates and other phys-
3 ical and chemical characteristics of oil spills.

4 “(F) Development of new materials, in-
5 cluding sorbent materials and chemical
6 dispersants to increase efficiency in oil recovery,
7 removal, or dispersion with less impact to the
8 marine environment.

9 “(G) New technologies and methods to
10 clean fish and wildlife habitats and to rehabili-
11 tate wildlife injured by oil.

12 “(H) Other technologies with a high poten-
13 tial to increase the safe conduct of energy ac-
14 tivities in extreme environments and depths of
15 the outer Continental Shelf.

16 “(d) RECOGNIZING INNOVATION IN OIL SPILL RE-
17 SPONSE TECHNOLOGIES.—

18 “(1) ESTABLISHMENT.—The Secretary shall es-
19 tablish and implement an awards program to pro-
20 mote excellence in the development and transfer of
21 new, innovative technologies, materials, and systems
22 by identifying and acknowledging outstanding ac-
23 complishments in the field.

24 “(2) NOMINATIONS.—In making selections
25 under paragraph (1), the Secretary shall consider re-

1 recipients of grants awarded under this section. The
2 Secretary may solicit nominations from Federal
3 agencies, States, industry, academic institutions, and
4 non-governmental research and engineering institu-
5 tions, and consult with other experts in oceanog-
6 raphy, ocean engineering, and oil and gas develop-
7 ment technologies.

8 “(3) ANNUAL AWARDS.—Beginning the first
9 year after the date of enactment of this section, the
10 Secretary shall execute appropriate awards to be
11 awarded annually thereafter including—

12 “(A) cash awards;

13 “(B) research grants; and

14 “(C) public ceremonies to acknowledge
15 such awards.

16 “(4) AUTHORITY TO ACCEPT AND USE DONA-
17 TIONS.—The Secretary may seek, accept, and use
18 gifts of money from private sources for the purpose
19 of making cash prize awards under this subsection.
20 Such donations may be used only for that purpose.

21 “(5) LIMIT ON AWARDS.—No person may re-
22 ceive an award under this subsection more than once
23 every 5 years.”.

1 **Subtitle B—Safety, Environmental,**
2 **and Financial Reform of the**
3 **Federal Onshore Oil and Gas**
4 **Leasing Program**

5 **SEC. 221. DILIGENT DEVELOPMENT.**

6 (a) REGULATIONS.—The Secretary shall issue regula-
7 tions within one year after the date of enactment of this
8 Act that define “diligent development” for purposes of all
9 new leases issued under the Mineral Leasing Act (30
10 U.S.C. 181 et seq.) and all new leases issued under the
11 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
12 seq.). Such regulations shall—

13 (1) include benchmarks for oil and gas develop-
14 ment that will ensure that leaseholders take all ap-
15 propriate measures necessary to produce oil and gas
16 from each lease that contains commercial quantities
17 of oil and gas within the original term of the lease;

18 (2) require each leaseholder to submit to the
19 Secretary a diligent development plan showing how
20 the lessee will meet the benchmarks;

21 (3) provide accommodation for development
22 delays, including lease suspensions, directed by the
23 Secretary that restrict diligent development in order
24 to meet environmental stipulations and consider-
25 ations; and

1 (4) require submission of diligent development
2 plans in an electronic format proscribed by the Sec-
3 retary, which the Secretary shall make available for
4 public review.

5 (b) FAILURE TO COMPLY WITH REQUIREMENTS.—
6 If any person fails to comply with the requirements of any
7 regulation issued under this section, or any order issued
8 to implement such a regulation, with respect to a lease,
9 such lease may be terminated by the Secretary.

10 **SEC. 222. REPORTING REQUIREMENTS.**

11 (a) BIENNIAL REPORTS.—The Secretary shall re-
12 quire biannual reports from each Federal oil and gas les-
13 see that holds a nonproducing lease on the actions the les-
14 see has taken to diligently develop each Federal lease the
15 lessee holds.

16 (b) ELECTRONIC DATABASE.—The Secretary shall
17 establish and maintain an electronic database that is avail-
18 able to the public that identifies each Federal oil and gas
19 lease, each lessee under such lease, the acreage held by
20 each such lessee, and the progress made toward produc-
21 tion under each such lease.

22 **SEC. 223. NOTICE REQUIREMENTS.**

23 Section 17(f) of the Mineral Leasing Act (30 U.S.C.
24 226(f)) is amended—

1 (1) by striking all through the first 2 sentences
2 and inserting the following:

3 “(f)(1) At least 45 days before offering lands for
4 lease under this section, and at least 30 days before ap-
5 proving applications for permits to drill under the provi-
6 sions of a lease or substantially modifying the terms of
7 any lease issued under this section, the Secretary shall
8 provide notice of the proposed action to—

9 “(A) the general public by posting such no-
10 tice in the appropriate local office and on the
11 electronic website of the leasing and land man-
12 agement agencies offering the lands for lease;

13 “(B) all surface land owners in the area of
14 the lands being offered for lease; and

15 “(C) the holders of special recreation per-
16 mits for commercial use, competitive events,
17 and other organized activities on the lands
18 being offered for lease.

19 “(2)”; and

20 (2) by designating the last sentence as para-
21 graph (3).

22 **SEC. 224. OIL AND GAS LEASING SYSTEM.**

23 (a) ONSHORE OIL AND GAS LEASING.—Section 17(a)
24 of the Mineral Leasing Act (30 U.S.C. 226(a)) is amended
25 to read as follows:

1 “(a)(1) All lands subject to disposition under this Act
2 that are known or believed to contain oil or gas deposits
3 may be leased by the Secretary.

4 “(2) Leasing activities under this Act shall be con-
5 ducted to assure receipt of fair market value for the lands
6 and resources leased and the rights conveyed by the Fed-
7 eral Government.”.

8 (b) COMPETITIVE BIDDING.—Section 17(b) of the
9 Mineral Leasing Act (30 U.S.C. 226(b)), is amended by
10 striking so much as precedes paragraph (2) and inserting
11 the following:

12 “(b)(1)(A) All lands to be leased shall be leased as
13 provided in this paragraph to the highest responsible
14 qualified bidder by competitive bidding under general reg-
15 ulations in units of not more than 2,560 acres, except in
16 Alaska, where units shall be not more than 5,760 acres.
17 Such units shall be as nearly compact as possible. Lease
18 sales shall be conducted by sealed bid. Lease sales shall
19 be held for a State on a statewide basis where eligible
20 lands in such States are available no more than 3 times
21 per year per State, unless the Secretary of the Interior
22 determines additional sales are necessary. A lease shall be
23 conditioned upon the payment of a royalty at a rate of
24 not less than 12.5 percent in amount or value of the pro-
25 duction removed or sold from the lease. The Secretary

1 may issue a lease to the responsible qualified bidder with
2 the highest bid that is equal to or greater than the na-
3 tional minimum acceptable bid, with evaluation of the
4 value of the lands proposed for lease. The Secretary shall
5 decide whether to accept a bid and issue a lease within
6 90 days following payment by the successful bidder of the
7 remainder of the bonus bid, if any, and the annual rental
8 for the first lease year. All bids for less than the national
9 minimum acceptable bid shall be rejected.

10 “(B)(i) The national minimum acceptable bid shall
11 be \$2.50 per acre, except that the Secretary may establish
12 a higher minimum acceptable bid for leases of areas in
13 a State for all leases awarded after the 2-year period be-
14 ginning on the date of enactment of the Consolidated
15 Land, Energy, and Aquatic Resources Act of 2010, if the
16 Secretary finds that such a higher amount is necessary—

17 “(I) to enhance financial returns to the United
18 States; and

19 “(II) to promote more efficient management of
20 oil and gas resources on Federal lands.

21 “(ii) The proposal or promulgation of any regulation
22 to establish a higher minimum acceptable bid for a State
23 shall not be considered a major Federal action that is sub-
24 ject to the requirements of section 102(2)(C) of the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.
2 4332(2)(c)).”.

3 (c) RENTALS.—Section 17(d) of the Mineral Leasing
4 (30 U.S.C. 226(d)) is amended to read as follows:

5 “(d)(1) During the 2-year period beginning on the
6 date of enactment of the Consolidated Land, Energy, and
7 Aquatic Resources Act of 2010, all leases issued under
8 this section shall be conditioned upon payment by the les-
9 see of a rental of not less than \$2.50 per acre per year
10 for the first through fifth years of the lease and not less
11 than \$3 per acre per year for each year thereafter. After
12 the end of such 2-year period, the Secretary may establish
13 higher rental rates for all subsequent years, if the Sec-
14 retary finds that such action is necessary—

15 “(A) to enhance financial returns to the United
16 States; and

17 “(B) to promote more efficient management of
18 oil and gas and alternative energy resources on Fed-
19 eral lands.

20 “(2) A minimum royalty in lieu of rental of not less
21 than the rental that otherwise would be required for that
22 lease year shall be payable at the expiration of each lease
23 year beginning on or after a discovery of oil or gas in pay-
24 ing quantities on the land leased.”.

1 (d) ELIMINATION OF NONCOMPETITIVE LEASING.—

2 The Mineral Leasing Act is amended—

3 (1) in section 17(b) (30 U.S.C. 226(b)), by
4 striking paragraph (3);

5 (2) in section 17 (30 U.S.C. 226) by striking
6 subsection (c);

7 (3) in section 17(e) (30 U.S.C. 226(e))—

8 (A) by striking “Competitive and non-
9 competitive leases” and inserting “Leases”; and

10 (B) by striking “competitive”;

11 (4) in section 31(d)(1) (30 U.S.C. 188(d)(1) by
12 striking “or section 17(e)”;

13 (5) in section 31(e) (30 U.S.C. 188(e))—

14 (A) in paragraph (2) by striking “, or the
15 inclusion” and all that follows and inserting a
16 semicolon; and

17 (B) in paragraph (3) by striking “(A)”
18 and by striking subparagraph (B);

19 (6) by striking section 31(f) (30 U.S.C. 188(f));

20 and

21 (7) in section 31(g) (30 U.S.C. 188(g))—

22 (A) in paragraph (1) by striking “a com-
23 petitive” and all that follows through the semi-
24 colon and inserting “in the same manner as the
25 original lease issued pursuant to section 17;”;

1 (B) by striking paragraph (2); and
2 (C) in paragraph (3) by striking “, appli-
3 cable to leases issued under subsection 17(c) of
4 this Act (30 U.S.C. 226(c)) except,” and insert-
5 ing “, except”.

6 **SEC. 225. ELECTRONIC REPORTING.**

7 (a) RIGHTS-OF-WAY.—Section 28(w) of the Mineral
8 Leasing Act (30 U.S.C. 185(w)) is amended by adding
9 at the end the following:

10 “(4) Upon request of a Committee listed under
11 paragraph (1), that Committee may receive notifica-
12 tions under this subsection in electronic format in
13 addition to in writing, or in electronic format alone.
14 The Committee shall designate to the Secretary the
15 appropriate individual or individuals on the Com-
16 mittee to receive such electronic notices.”.

17 (b) LEASE REINSTATEMENT.—Section 31(e) of the
18 Mineral Leasing Act (30 U.S.C. 188(e)) is amended by
19 adding at the end the following: “Upon request of such
20 a Committee, that Committee may receive notifications
21 under this subsection in electronic format in addition to
22 in writing, or in electronic format alone. The Committee
23 shall designate to the Secretary the appropriate individual
24 or individuals on the Committee to receive such electronic
25 notices.”.

1 **SEC. 226. BEST MANAGEMENT PRACTICES.**

2 Not later than one year after the date of enactment
3 of this Act, the Secretary of the Interior shall promulgate
4 final regulations that require oil and gas operators to use
5 best management practices that ensure the sound, effi-
6 cient, and environmentally responsible development of oil
7 and gas on Federal lands in a manner that avoids where
8 practical, minimizes, and mitigates actual and anticipated
9 impacts to environmental habitat functions resulting from
10 oil and gas development. Such regulations may allow the
11 Secretary to approve site-specific adjustments to address
12 unique issues and circumstances, on a case-by-case basis.
13 All such regulations shall be consistent with the United
14 States trust responsibility to Indian tribes.

15 **SEC. 227. SURFACE DISTURBANCE, RECLAMATION.**

16 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
17 226(g)) is amended to read as follows:

18 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-
19 TIES; APPROVAL OF PLAN OF OPERATIONS; BOND OR
20 SURETY; FAILURE TO COMPLY WITH RECLAMATION RE-
21 QUIREMENTS AS BARRING LEASE; OPPORTUNITY TO
22 COMPLY WITH REQUIREMENTS; STANDARDS; MONI-
23 TORING.—

24 “(1) DEFINITIONS.—In this subsection:

25 “(A) INTERIM RECLAMATION PLAN.—The
26 term ‘Interim Reclamation Plan’ means an on-

1 going plan specifying reclamation steps to be
2 taken on all disturbed areas covered by any
3 lease issued under this Act which are not need-
4 ed for active operations. Such Interim Reclama-
5 tion Plans shall be reviewed by the relevant
6 Secretary at regular intervals and shall be
7 amended as warranted, subject to the approval
8 of the relevant Secretary.

9 “(B) FINAL RECLAMATION PLAN.—The
10 term ‘Final Reclamation Plan’ includes a de-
11 tailed description of all reclamation activity to
12 be conducted for all disturbed areas covered by
13 a lease issued under this Act prior to final
14 abandonment. Final Reclamation Plans shall in-
15 clude reclamation of all locations, facilities,
16 trenches, rights-of-way, roads and any other
17 surface disturbance on lands covered by the
18 lease.

19 “(2) IN GENERAL.—The Secretary of the Inte-
20 rior, or for National Forest lands, the Secretary of
21 Agriculture, shall regulate all surface-disturbing ac-
22 tivities conducted pursuant to any lease issued under
23 this Act, and shall determine reclamation and other
24 actions as required in the interest of conservation of
25 surface resources.

1 “(3) RECLAMATION PLANS REQUIRED.—

2 “(A) APPLICATIONS FOR PERMITS TO
3 DRILL.—Each application for a permit to drill
4 submitted to the Secretary pursuant to this Act
5 shall include both an Interim Reclamation Plan
6 and a Final Reclamation Plan.

7 “(B) ANALYSIS AND APPROVAL RE-
8 QUIRED.—No permit to drill on an oil and gas
9 lease issued under this Act may be granted
10 without the analysis and approval by the Sec-
11 retary concerned of both an interim reclamation
12 plan and a final reclamation plan covering pro-
13 posed surface-disturbing activities within the
14 lease area.

15 “(C) PLANS OF OPERATIONS.—All Plans
16 of Operations submitted and approved pursuant
17 to this Act shall include an Interim Reclama-
18 tion Plan.

19 “(4) BONDING.—The Secretary concerned shall,
20 by regulation, require that an adequate bond, surety,
21 or other financial arrangement will be established
22 prior to the commencement of surface-disturbing ac-
23 tivities on any lease, to ensure the complete and
24 timely reclamation of the lease tract, and the res-
25 toration of any lands or surface waters adversely af-

1 fected by lease operations after the abandonment or
2 cessation of oil and gas operations on the lease. The
3 Secretary shall not issue a lease or leases or approve
4 the assignment of any lease or leases under the
5 terms of this section to any person, association, cor-
6 poration, or any subsidiary, affiliate, or person con-
7 trolled by or under common control with such per-
8 son, association, or corporation, during any period in
9 which, as determined by the Secretary of the Inte-
10 rior or Secretary of Agriculture, such entity has
11 failed or refused to comply in any material respect
12 with the reclamation requirements and other stand-
13 ards established under this section for any prior
14 lease to which such requirements and standards ap-
15 plied. Prior to making such determination with re-
16 spect to any such entity the concerned Secretary
17 shall provide such entity with adequate notification
18 and an opportunity to comply with such reclamation
19 requirements and other standards and shall consider
20 whether any administrative or judicial appeal is
21 pending. Once the entity has complied with the rec-
22 lamation requirement or other standard concerned
23 an oil or gas lease may be issued to such entity
24 under this Act.

1 “(5) STANDARDS.—The Secretary of the Inte-
2 rior and the Secretary of Agriculture shall, by regu-
3 lation, establish uniform standards for all Interim
4 and Final Reclamation Plans. The goal of such
5 plans shall be the restoration of the affected eco-
6 system to a condition approximating or equal to that
7 which existed prior to the surface disturbance. Such
8 standards shall include, but are not limited to, res-
9 toration of natural vegetation and hydrology, habitat
10 restoration, salvage, storage and reuse of topsoils,
11 erosion control, control of invasive species and nox-
12 ious weeds and natural contouring.

13 “(6) MONITORING.—The Secretary concerned
14 shall not approve final abandonment and shall not
15 release any bond required by this Act until the
16 standards and requirement for final reclamation es-
17 tablished pursuant to this Act have been met.”.

18 **SEC. 228. WILDLIFE SUSTAINABILITY.**

19 (a) DEFINITIONS.—In this section:

20 (1) DESIRED NON-NATIVE SPECIES.—The term
21 “desired non-native species” means those wild spe-
22 cies of plants or animals that are not indigenous to
23 a planning area but are valued for their contribution
24 to species diversity or their social, cultural, or eco-
25 nomic value.

1 (2) FOCAL SPECIES.—The term “focal species”
2 means species selected, based on best available
3 science, for monitoring because their population sta-
4 tus and trends are believed to provide useful infor-
5 mation regarding the effects of management activi-
6 ties, or other factors, on the diversity of ecological
7 systems to which they belong, and to validate the
8 monitoring of habitats and ecological conditions.

9 (3) NATIVE SPECIES.—The term “native spe-
10 cies” means species of plants and animals indige-
11 nous to a planning area.

12 (4) PLANNING AREA.—The term “planning
13 area” means any geographic unit of National Forest
14 System lands or Bureau of Land Management lands
15 covered by an individual management plan.

16 (5) SECRETARY.—The term “Secretary”
17 means—

18 (A) the Secretary of the Interior, with re-
19 spect to land under such Secretary’s jurisdic-
20 tion; and

21 (B) the Secretary of Agriculture, with re-
22 spect to land under such Secretary’s jurisdic-
23 tion.

24 (6) SUSTAINABLE POPULATION.—The term
25 “sustainable population” means a population of a

1 species that has a high likelihood of persisting well-
2 distributed throughout its range within a planning
3 area based on the best available scientific informa-
4 tion, including information obtained through the
5 monitoring program under subsection (c), regarding
6 its habitat and ecological conditions, abundance and
7 distribution.

8 (b) PLANNING FOR AND MANAGEMENT OF SUSTAIN-
9 ABLE POPULATIONS.—

10 (1) MANAGEMENT DIRECTION.—Each Sec-
11 retary, in cooperation with the appropriate State fish
12 and wildlife agency, shall plan for and manage plan-
13 ning areas under the Secretary's respective jurisdic-
14 tion in order to maintain sustainable populations of
15 native species and desired non-native species within
16 each planning area consistent with—

17 (A) the Federal Land Policy and Manage-
18 ment Act of 1976 (43 U.S.C. 1701 et seq);

19 (B) the National Forest Management Act
20 (16 U.S.C. 1600); and

21 (C) all other applicable laws.

22 (2) MANAGEMENT COORDINATION.—If a popu-
23 lation of a species extends across more than one
24 planning area, each Secretary shall coordinate the
25 management of lands in the planning areas con-

1 taining such population in order to maintain a sus-
2 tainable population of such species.

3 (3) **EXTRINSIC CONDITIONS.**—If a Secretary,
4 using the best available science and after providing
5 notice to the public by publication in the Federal
6 Register and opportunity for public comment for a
7 period of at least 60 days, determines that condi-
8 tions beyond such Secretary’s authority make it im-
9 possible for the Secretary to maintain a sustainable
10 population of a native species or desired non-native
11 species within a planning area, or, under the cir-
12 cumstances identified in paragraph (2), within two
13 or more planning areas, such Secretary shall—

14 (A) manage lands within the planning area
15 or areas in order to achieve, to the maximum
16 extent possible, the survival and health of that
17 population; and

18 (B) certify that, to the maximum extent
19 practicable, any activity authorized, funded, or
20 carried out within the planning area or areas
21 does not increase the likelihood of extirpation of
22 the population in such planning area or areas.

23 (4) **COMPLIANCE.**—Each Secretary shall certify
24 that land management plans for a planning area
25 under the Secretary’s respective jurisdiction and ac-

1 tions implementing or authorized under such plans
2 comply with this section.

3 (c) MONITORING AND EVALUATION.—

4 (1) ESTABLISHMENT OF MONITORING PRO-
5 GRAMS.—To provide a basis for determining the sus-
6 tainability of native species and desired non-native
7 species populations for purposes of subsection (b),
8 each Secretary shall adopt and implement, as part
9 of the land management planning for a planning
10 area, a strategically targeted monitoring program for
11 identified focal species to determine the status and
12 trends of such species populations in such planning
13 area.

14 (2) MONITORING PROGRAM REQUIREMENTS.—
15 The monitoring programs established under para-
16 graph (1) shall designate focal species representing
17 the diversity of ecological systems in the planning
18 area and provide for—

19 (A) monitoring of the status and trends of
20 the habitats and ecological conditions that sup-
21 port focal species; and

22 (B) population surveys of focal species
23 identified in the monitoring program to estab-
24 lish that monitoring of habitats and ecological
25 conditions is providing accurate information re-

1 guarding the status and trends of species' popu-
2 lations in the planning area.

3 (3) CONSULTATION AND COOPERATION WITH
4 STATES.—Each Secretary shall develop and imple-
5 ment, to the maximum extent practicable, the moni-
6 toring program established under this section, in-
7 cluding the selection of native species and desired
8 non-native species, focal species, habitat, and eco-
9 logical conditions to be monitored and methodologies
10 for conducting such monitoring, in consultation with
11 the U.S. Fish and Wildlife Service, State fish and
12 wildlife agencies and in coordination with other
13 State agencies with responsibility for management of
14 natural resources. Each Secretary shall consider and
15 utilize relevant population data maintained by other
16 Federal agencies, State agencies, tribes, or other rel-
17 evant entities.

18 (d) COORDINATION.—

19 (1) MANAGEMENT COORDINATION.—To the
20 maximum extent practicable and consistent with ap-
21 plicable law, each Secretary shall coordinate the
22 management of planning areas with the management
23 of the National Wildlife Refuge System and the Na-
24 tional Park System, other Federal agencies, State
25 fish and wildlife agencies, other State agencies with

1 responsibility for management of natural resources,
2 tribes, local governments, and non-governmental or-
3 ganizations engaged in species conservation in order
4 to—

5 (A) maintain sustainable populations of
6 native species and desired non-native species;

7 (B) develop strategies to address the im-
8 pacts of climate change on native species and
9 desired non-native species;

10 (C) establish linkages between habitats and
11 discrete populations;

12 (D) reintroduce extirpated species, where
13 appropriate, when a species population is no
14 longer present; and

15 (E) conduct other joint efforts in support
16 of sustainable plant and animal communities
17 across jurisdictional boundaries.

18 (2) COORDINATION WITH CONSERVATION AC-
19 TIVITIES.—In planning for the management of lands
20 for the purpose of maintaining sustainable popu-
21 lations of native species and desired non-native spe-
22 cies in a planning area, each Secretary shall, to the
23 maximum extent practicable and consistent with
24 Federal law—

1 (A) consult with and offer opportunities
2 for participation to adjoining Federal, State,
3 tribal, local, and private landowners, State and
4 tribal fish and wildlife agencies, and other State
5 and tribal agencies with responsibility for man-
6 agement of natural resources; and

7 (B) coordinate such management planning
8 with relevant conservation plans for fish, plants,
9 and wildlife and their habitats, including State
10 comprehensive wildlife strategies and other
11 State conservation strategies for species, Na-
12 tional Fish Habitat partnerships, North Amer-
13 ican Wetland Conservation Joint Ventures, and
14 the Federal-State-private partnership known as
15 Partners in Flight.

16 (3) NO EFFECT ON NATIONAL WILDLIFE REF-
17 UGE OR NATIONAL PARK SYSTEMS.—Nothing in this
18 section affects the laws or management standards
19 applicable to lands or species populations within the
20 National Wildlife Refuge System or National Park
21 System.

22 (d) IMPLEMENTING REGULATIONS.—

23 (1) REGULATIONS.—Not later than one year
24 following the date of enactment of this Act, each

1 Secretary shall issue regulations implementing all
2 provisions of this section.

3 (2) REGULATIONS UNDER THE NATIONAL FOR-
4 EST MANAGEMENT ACT.—Issuance of regulations
5 consistent with the requirements of this section shall
6 be deemed consistent with the Secretary's obligation
7 to promulgate regulations to specify guidelines for
8 land management plans for the National Forest Sys-
9 tem which provide for diversity of plant and animal
10 communities pursuant to the National Forest Man-
11 agement Act (16 U.S.C. sec. 1604(g)(3)(B)).

12 (e) CONSTRUCTION.—Nothing in this section shall be
13 construed to—

14 (1) affect the authority, jurisdiction, or respon-
15 sibility of each of the several States to manage, con-
16 trol, or regulate fish, plants, and wildlife under the
17 laws and regulations of each of the States; or

18 (2) authorize a Secretary to control or regulate
19 within a State the fishing or hunting of fish and
20 wildlife within the State except insofar as the Sec-
21 retary may exercise authority granted to him or her
22 under other laws.

1 **SEC. 229. ONLINE AVAILABILITY TO THE PUBLIC OF INFOR-**
2 **MATION RELATING TO OIL AND GAS CHEM-**
3 **ICAL USE.**

4 (a) IN GENERAL.—The lessee, permit holder, oper-
5 ator, or any other person directly involved in developing
6 and producing oil and gas under a lease authorized under
7 any Federal mineral leasing law shall, within 30 days after
8 completion of drilling a well under the lease, make the list
9 of chemicals used in drilling or completing the well, includ-
10 ing the chemical constituents of mixtures, Chemical Ab-
11 stracts Service numbers, and material safety data sheets,
12 available to the public on an Internet website created and
13 maintained by the Bureau of Land Management.

14 (b) RULEMAKING AUTHORITY.—Not later than 1
15 year after the date of enactment of this Act, the Secretary,
16 after providing notice and an opportunity for public com-
17 ment, shall promulgate regulations to implement this sec-
18 tion.

19 **TITLE III—OIL AND GAS**
20 **ROYALTY REFORM**

21 **SEC. 301. AMENDMENTS TO DEFINITIONS.**

22 Section 3 of the Federal Oil and Gas Royalty Man-
23 agement Act of 1982 (30 U.S.C. 1702) is amended—

24 (1) in paragraph (8), by striking the semicolon
25 and inserting “including but not limited to the Act
26 of October 20, 1914 (38 Stat. 741); the Act of Feb-

1 ruary 25, 1920 (41 Stat. 437); the Act of April 17,
2 1926 (44 Stat. 301); the Act of February 7, 1927
3 (44 Stat. 1057); and all Acts heretofore or hereafter
4 enacted that are amendatory of or supplementary to
5 any of the foregoing Acts;”

6 (2) in paragraph (20)(A), by striking “: *Pro-*
7 *vided, That*” and all that follows through “subject of
8 the judicial proceeding”;

9 (3) in paragraph (20)(B), by striking “(with
10 written notice to the lessee who designated the des-
11 ignee)”;

12 (4) in paragraph (23)(A), by striking “(with
13 written notice to the lessee who designated the des-
14 ignee)”;

15 (5) by striking paragraph (24) and inserting
16 the following:

17 “(24) ‘designee’ means a person who pays, off-
18 sets, or credits monies, makes adjustments, requests
19 and receives refunds, or submits reports with respect
20 to payments a lessee must make pursuant to section
21 102(a);”;

22 (6) in paragraph (25)(B)—

23 (A) by striking “(subject to the provisions
24 of section 102(a) of this Act)”; and

1 (B) in clause (ii) by striking the matter
2 after subclause (IV) and inserting the following:

3 “that arises from or relates to any lease,
4 easement, right-of-way, permit, or other
5 agreement regardless of form administered
6 by the Secretary for, or any mineral leas-
7 ing law related to, the exploration, produc-
8 tion, and development of oil and gas or
9 other energy resource on Federal lands or
10 the Outer Continental Shelf;”;

11 (7) in paragraph (29), by inserting “or permit”
12 after “lease”; and

13 (8) by striking “and” after the semicolon at the
14 end of paragraph (32), by striking the period at the
15 end of paragraph (33) and inserting a semicolon,
16 and by adding at the end the following new para-
17 graphs:

18 “(34) ‘compliance review’ means a full-scope or
19 a limited-scope examination of a lessee’s lease ac-
20 counts to compare one or all elements of the royalty
21 equation (volume, value, royalty rate, and allow-
22 ances) against anticipated elements of the royalty
23 equation to test for variances; and

1 “(35) ‘marketing affiliate’ means an affiliate of
2 a lessee whose function is to acquire the lessee’s pro-
3 duction and to market that production.”.

4 **SEC. 302. COMPLIANCE REVIEWS.**

5 Section 101 of the Federal Oil and Gas Royalty Man-
6 agement Act of 1982 (30 U.S.C. 1711) is amended by
7 adding at the end the following new subsection:

8 “(d) The Secretary may, as an adjunct to audits of
9 accounts for leases, utilize compliance reviews of accounts.
10 Such reviews shall not constitute nor substitute for audits
11 of lease accounts. Any disparity uncovered in such a com-
12 pliance review shall be immediately referred to a program
13 auditor. The Secretary shall, before completion of a com-
14 pliance review, provide notice of the review to designees
15 whose obligations are the subject of the review.”.

16 **SEC. 303. CLARIFICATION OF LIABILITY FOR ROYALTY PAY-**
17 **MENTS.**

18 Section 102(a) of the Federal Oil and Gas Royalty
19 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
20 to read as follows:

21 “(a) In order to increase receipts and achieve effec-
22 tive collections of royalty and other payments, a lessee who
23 is required to make any royalty or other payment under
24 a lease, easement, right-of-way, permit, or other agree-
25 ment, regardless of form, or under the mineral leasing

1 laws, shall make such payment in the time and manner
2 as may be specified by the Secretary or the applicable dele-
3 gated State. Any person who pays, offsets, or credits mon-
4 ies, makes adjustments, requests and receives refunds, or
5 submits reports with respect to payments the lessee must
6 make is the lessee's designee under this Act. Notwith-
7 standing any other provision of this Act to the contrary,
8 a designee shall be liable for any payment obligation of
9 any lessee on whose behalf the designee pays royalty under
10 the lease. The person owning operating rights in a lease
11 and a person owning legal record title in a lease shall be
12 liable for that person's pro rata share of payment obliga-
13 tions under the lease."

14 **SEC. 304. REQUIRED RECORDKEEPING.**

15 Section 103(b) of the Federal Oil and Gas Royalty
16 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
17 by striking "6" and inserting "7".

18 **SEC. 305. FINES AND PENALTIES.**

19 Section 109 of the Federal Oil and Gas Royalty Man-
20 agement Act of 1982 (30 U.S.C. 1719) is amended—

21 (1) in subsection (a) in the matter following
22 paragraph (2), by striking "\$500" and inserting
23 "\$1,000";

24 (2) in subsection (a)(2)(B), by inserting "(i)"
25 after "such person", and by striking the period at

1 the end and inserting “; and (ii) has not received no-
2 tice, pursuant to paragraph (1), of more than two
3 prior violations in the current calendar year.”;

4 (3) in subsection (b), by striking “\$5,000” and
5 inserting “\$10,000”;

6 (4) in subsection (c)—

7 (A) in paragraph (2), by striking “; or”
8 and inserting “, including any failure or refusal
9 to promptly tender requested documents;”;

10 (B) in paragraph (3)—

11 (i) by striking “\$10,000” and insert-
12 ing “\$20,000”; and

13 (ii) by striking the period at the end
14 and inserting a semicolon; and

15 (C) by adding at the end the following new
16 paragraphs:

17 “(4) knowingly or willfully fails to make any
18 royalty payment in the amount or value as specified
19 by statute, regulation, order, or terms of the lease;
20 or

21 “(5) fails to correctly report and timely provide
22 operations or financial records necessary for the Sec-
23 retary or any authorized designee of the Secretary to
24 accomplish lease management responsibilities,”;

1 (5) in subsection (d), by striking “\$25,000”
2 and inserting “\$50,000”;

3 (6) in subsection (h), by striking “by registered
4 mail” and inserting “a common carrier that provides
5 proof of delivery”; and

6 (7) by adding at the end the following sub-
7 section:

8 “(1)(1) Any determination by the Secretary or a des-
9 ignee of the Secretary that a person has committed a vio-
10 lation under subsection (a), (c), or (d)(1) shall toll any
11 applicable statute of limitations for all oil and gas leases
12 held or operated by such person, until the later of—

13 “(A) the date on which the person corrects the
14 violation and certifies that all violations of a like na-
15 ture have been corrected for all of the oil and gas
16 leases held or operated by such person; or

17 “(B) the date a final, nonappealable order has
18 been issued by the Secretary or a court of competent
19 jurisdiction.

20 “(2) A person determined by the Secretary or a des-
21 ignee of the Secretary to have violated subsection (a), (c),
22 or (d)(1) shall maintain all records with respect to the per-
23 son’s oil and gas leases until the later of—

24 “(A) the date the Secretary releases the person
25 from the obligation to maintain such records; and

1 “(B) the expiration of the period during which
2 the records must be maintained under section
3 103(b).”.

4 **SEC. 306. INTEREST ON OVERPAYMENTS.**

5 Section 111 of the Federal Oil and Gas Royalty Man-
6 agement Act of 1982 (30 U.S.C. 1721) is amended—

7 (1) by amending subsections (h) and (i) to read
8 as follows:

9 “(h) Interest shall not be allowed nor paid nor cred-
10 ited on any overpayment, and no interest shall accrue from
11 the date such overpayment was made.

12 “(i) A lessee or its designee may make a payment
13 for the approximate amount of royalties (hereinafter in
14 this subsection referred to as the ‘estimated payment’)
15 that would otherwise be due for such lease by the date
16 royalties are due for that lease. When an estimated pay-
17 ment is made, actual royalties are payable at the end of
18 the month following the month in which the estimated
19 payment is made. If the estimated payment was less than
20 the amount of actual royalties due, interest is owed on
21 the underpaid amount. If the lessee or its designee makes
22 a payment for such actual royalties, the lessee or its des-
23 ignee may apply the estimated payment to future royal-
24 ties. Any estimated payment may be adjusted, recouped,
25 or reinstated by the lessee or its designee provided such

1 adjustment, recoupment or reinstatement is made within the
2 limitation period for which the date royalties were due for
3 that lease.”;

4 (2) by striking subsection (j); and

5 (3) in subsection (k)(4)—

6 (A) by striking “or overpaid royalties and
7 associated interest”; and

8 (B) by striking “, refunded, or credited”.

9 **SEC. 307. ADJUSTMENTS AND REFUNDS.**

10 Section 111A of the Federal Oil and Gas Royalty
11 Management Act of 1982 (30 U.S.C. 1721a) is amend-
12 ed—

13 (1) in subsection (a)(3), by inserting “(A)”
14 after “(3)”, and by striking the last sentence and in-
15 serting the following:

16 “(B) Except as provided in subparagraph
17 (C), no adjustment may be made with respect
18 to an obligation that is the subject of an audit
19 or compliance review after completion of the
20 audit or compliance review, respectively, unless
21 such adjustment is approved by the Secretary
22 or the applicable delegated State, as appro-
23 priate.

1 “(C) If an overpayment is identified during
2 an audit, the Secretary shall allow a credit in
3 the amount of the overpayment.”;

4 (2) in subsection (a)(4)—

5 (A) by striking “six” and inserting “four”;
6 and

7 (B) by striking “shall” and inserting
8 “may”; and

9 (3) in subsection (b)(1) by striking “and” after
10 the semicolon at the end of subparagraph (C), by
11 striking the period at the end of subparagraph (D)
12 and inserting “; and”, and by adding at the end the
13 following:

14 “(E) is made within the adjustment period
15 for that obligation.”.

16 **SEC. 308. CONFORMING AMENDMENT.**

17 Section 114 of the Federal Oil and Gas Royalty Man-
18 agement Act of 1982 is repealed.

19 **SEC. 309. OBLIGATION PERIOD.**

20 Section 115(c) of the Federal Oil and Gas Royalty
21 Management Act of 1982 (30 U.S.C. 1724(c)) is amended
22 by adding at the end the following new paragraph:

23 “(3) ADJUSTMENTS.—In the case of an adjust-
24 ment under section 111A(a) in which a recoupment
25 by the lessee results in an underpayment of an obli-

1 **SEC. 313. COLLECTION AND PRODUCTION ACCOUNT-**
2 **ABILITY.**

3 (a) PILOT PROJECT.—Within two years after the
4 date of enactment of this Act, the Secretary shall complete
5 a pilot project with willing operators of oil and gas leases
6 on the Outer Continental Shelf that assesses the costs and
7 benefits of automatic transmission of oil and gas volume
8 and quality data produced under Federal leases on the
9 Outer Continental Shelf in order to improve the produc-
10 tion verification systems used to ensure accurate royalty
11 collection and audit.

12 (b) REPORT.—The Secretary shall submit to Con-
13 gress a report on findings and recommendations of the
14 pilot project within 3 years after the date of enactment
15 of this Act.

16 **SEC. 314. NATURAL GAS REPORTING.**

17 The Secretary shall, within 180 days after the date
18 of enactment of this Act, implement the steps necessary
19 to ensure accurate determination and reporting of BTU
20 values of natural gas from all Federal oil and gas leases
21 to ensure accurate royalty payments to the United States.
22 Such steps shall include, but not be limited to—

23 (1) establishment of consistent guidelines for
24 onshore and offshore BTU information from gas
25 producers;

1 (2) development of a procedure to determine
2 the potential BTU variability of produced natural
3 gas on a by-reservoir or by-lease basis;

4 (3) development of a procedure to adjust BTU
5 frequency requirements for sampling and reporting
6 on a case-by-case basis;

7 (4) systematic and regular verification of BTU
8 information; and

9 (5) revision of the “MMS–2014” reporting
10 form to record, in addition to other information al-
11 ready required, the natural gas BTU values that
12 form the basis for the required royalty payments.

13 **SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING**
14 **OF DATA.**

15 (a) IN GENERAL.—The Secretary shall issue regula-
16 tions by not later than 1 year after the date of enactment
17 of this Act that establish a civil penalty for late or incor-
18 rect reporting of data under the Federal Oil and Gas Roy-
19 alty Management Act of 1982 (30 U.S.C. 1701 et seq.).

20 (b) AMOUNT.—The amount of the civil penalty shall
21 be—

22 (1) an amount (subject to paragraph (2)) that
23 the Secretary determines is sufficient to ensure filing
24 of data in accordance with that Act; and

1 (2) not less than \$10 for each failure to file
2 correct data in accordance with that Act.

3 (c) **CONTENT OF REGULATIONS.**—Except as provided
4 in subsection (b), the regulations issued under this section
5 shall be substantially similar to part 216.40 of title 30,
6 Code of Federal Regulations, as most recently in effect
7 before the date of enactment of this Act.

8 **SEC. 316. REQUIRED RECORDKEEPING.**

9 Within 1 year after the date of enactment of this Act,
10 the Secretary shall publish final regulations concerning re-
11 quired recordkeeping of natural gas measurement data as
12 set forth in part 250.1203 of title 30, Code of Federal
13 Regulations (as in effect on the date of enactment of this
14 Act), to include operators and other persons involved in
15 the transporting, purchasing, or selling of gas under the
16 requirements of that rule, under the authority provided
17 in section 103 of the Federal Oil and Gas Royalty Man-
18 agement Act of 1982 (30 U.S.C. 1713).

19 **SEC. 317. LIMITATION ON ROYALTY IN-KIND PROGRAM.**

20 (a) **MINERAL LEASING ACT.**—Section 36 of the Min-
21 eral Leasing Act (30 U.S.C. 192) is amended by inserting
22 before the period at the end of the first paragraph the
23 following: “, except that the Secretary shall not conduct
24 a regular program to take oil and gas lease royalties in
25 oil or gas”.

1 (b) OUTER CONTINENTAL SHELF LANDS ACT.—Sec-
2 tion 27(a) of the Outer Continental Shelf Lands Act (43
3 U.S.C. 1353(a)) is amended by striking so much as pre-
4 cedes paragraph (2) and inserting the following:

5 **“SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL**
6 **AND GAS.**

7 “Except as may be necessary to comply with sections
8 6 and 7 of this Act, all royalties or net profit shares, or
9 both, accruing to the United States under any oil and gas
10 lease issued or maintained in accordance with this Act,
11 shall, on demand of the Secretary, be paid in oil or gas,
12 except that the Secretary shall not conduct a regular pro-
13 gram to take oil and gas lease royalties in oil or gas.”.

14 **SEC. 318. SHARED CIVIL PENALTIES.**

15 Section 206 of the Federal Oil and Gas Royalty Man-
16 agement Act of 1982 (30 U.S.C. 1724) is amended by
17 striking “Such amount shall be deleted from any com-
18 pensation due such State or Indian Tribe under section
19 202 or section 205 or such State under section 205.”.

20 **SEC. 319. APPLICABILITY TO OTHER MINERALS.**

21 Section 304 of the Federal Oil and Gas Royalty Man-
22 agement Act of 1982 (30 U.S.C. 1753) is amended by
23 adding at the end the following new subsection:

24 “(e) APPLICABILITY TO OTHER MINERALS.—

1 “(1) Notwithstanding any other provision of
2 law, sections 107, 109, and 110 of this Act and the
3 regulations duly promulgated with respect thereto
4 shall apply to any lease authorizing the development
5 of coal or any other solid mineral on any Federal
6 lands or Indian lands, to the same extent as if such
7 lease were an oil and gas lease, on the same terms
8 and conditions as those authorized for oil and gas
9 leases.

10 “(2) Notwithstanding any other provision of
11 law, sections 107, 109, and 110 of this Act and the
12 regulations duly promulgated with respect thereto
13 shall apply with respect to any lease, easement,
14 right-of-way, or other agreement, regardless of form
15 (including any royalty, rent, or other payment due
16 thereunder)—

17 “(A) under section 8(k) or 8(p) of the
18 Outer Continental Shelf Lands Act (43 U.S.C.
19 1337(k) and 1337(p)); or

20 “(B) under the Geothermal Steam Act (30
21 U.S.C. 1001 et seq.), to the same extent as if
22 such lease, easement, right-of-way, or other
23 agreement were an oil and gas lease on the
24 same terms and conditions as those authorized
25 for oil and gas leases.

1 “(3) For the purposes of this subsection, the
2 term ‘solid mineral’ means any mineral other than
3 oil, gas, and geo-pressured-geothermal resources,
4 that is authorized by an Act of Congress to be pro-
5 duced from public lands (as that term is defined in
6 section 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702)).”.

8 **SEC. 320. ENTITLEMENTS.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Secretary shall publish final regulations
11 prescribing when a Federal lessee or designee must report
12 and pay royalties on the volume of oil and gas it takes
13 under either a Federal or Indian lease or on the volume
14 to which it is entitled to based upon its ownership interest
15 in the Federal or Indian lease. The Secretary shall give
16 consideration to requiring 100 percent entitlement report-
17 ing and paying based upon the lease ownership.

1 **TITLE IV—FULL FUNDING FOR**
2 **THE LAND AND WATER CON-**
3 **SERVATION AND HISTORIC**
4 **PRESERVATION FUNDS**
5 **Subtitle A—Land and Water**
6 **Conservation Fund**

7 **SEC. 401. AMENDMENTS TO THE LAND AND WATER CON-**
8 **SERVATION FUND ACT OF 1965.**

9 Except as otherwise expressly provided, whenever in
10 this subtitle an amendment or repeal is expressed in terms
11 of an amendment to, or repeal of, a section or other provi-
12 sion, the reference shall be considered to be made to a
13 section or other provision of the Land and Water Con-
14 servation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

15 **SEC. 402. EXTENSION OF THE LAND AND WATER CON-**
16 **SERVATION FUND.**

17 Section 2 (16 U.S.C. 460l–5) is amended by striking
18 “September 30, 2015” both places it appears and insert-
19 ing “September 30, 2040”.

20 **SEC. 403. PERMANENT FUNDING.**

21 (a) **IN GENERAL.**—The text of section 3 (16 U.S.C.
22 460l–6) is amended to read as follows: “Of the moneys
23 covered into the fund, \$900,000,000 shall be available
24 each fiscal year for expenditure for the purposes of this
25 Act without further appropriation. Moneys made available

1 for obligation or expenditure from the fund or from the
2 special account established under section 4(i)(1) may be
3 obligated or expended only as provided in this Act.”.

4 (b) CONFORMING AMENDMENT.—Section 2(e)(2) (16
5 U.S.C. 4601–5(c)(2)) is amended by striking “: *Provided*”
6 and all that follows through the end of the sentence and
7 inserting a period.

8 **Subtitle B—National Historic** 9 **Preservation Fund**

10 **SEC. 411. PERMANENT FUNDING.**

11 The text of section 108 (16 U.S.C. 470h) of the Na-
12 tional Historic Preservation Act is amended to read as fol-
13 lows: “To carry out the provisions of this Act, there is
14 hereby established the Historic Preservation Fund (here-
15 inafter referred to as the ‘fund’) in the Treasury of the
16 United States. There shall be covered into the fund
17 \$150,000,000 for fiscal years 1982 through 2040 from
18 revenues due and payable to the United States under the
19 Outer Continental Shelf Lands Act (67 Stat. 462, 469),
20 as amended (43 U.S.C. 1338) and/or under the Act of
21 June 4, 1920 (41 Stat. 813), as amended (30 U.S.C.
22 191), notwithstanding any provision of law that such pro-
23 ceeds shall be credited to miscellaneous receipts of the
24 Treasury. Such moneys shall be used only to carry out

1 the purposes of this Act and shall be available for expendi-
2 ture without further appropriation.”.

3 **TITLE V—ALTERNATIVE ENERGY**
4 **DEVELOPMENT**

5 **SEC. 501. COMMERCIAL WIND AND SOLAR LEASING PRO-**
6 **GRAM.**

7 (a) IN GENERAL.—Pursuant to the Federal Land
8 Policy and Management Act of 1976 (43 U.S.C. 1701 et
9 seq.) and the National Forest Management Act of 1976
10 (16 U.S.C. 1600 et seq.), the Secretary, acting through
11 the Director, may issue leases, on a competitive basis, for
12 commercial electricity generation from solar or wind re-
13 sources on Federal lands under the administrative juris-
14 diction of the Bureau of Land Management or of the For-
15 est Service, except that the Secretary may not issue any
16 such lease on National Forest System lands over the objec-
17 tion of the Secretary of Agriculture.

18 (b) FINAL REGULATIONS.—Not later than 18 months
19 after the date of enactment of this Act, the Secretary of
20 the Interior shall publish final regulations establishing a
21 commercial wind and solar leasing program under sub-
22 section (a).

23 (c) COMMENCEMENT OF COMMERCIAL LEASING FOR
24 SOLAR AND WIND ENERGY ON PUBLIC LANDS.—Not
25 later than 90 days after completion of regulations required

1 under subsection (b), or as soon as practicable thereafter,
2 and following consultation with affected governors and
3 other stakeholders, the Secretary may conduct lease sales
4 under the regulations under this subtitle.

5 (d) EASEMENTS, SPECIAL-USE PERMITS, AND
6 RIGHTS-OF-WAY.—Upon completion of regulations re-
7 quired under subsection (b), easements, special-use per-
8 mits, and rights-of-way shall not be available for commer-
9 cial wind and solar projects on Federal lands under the
10 administrative jurisdiction of the Bureau of Land Man-
11 agement or Forest Service, except for the placement and
12 operation of testing or data collection devices or facilities
13 that will not result in the commercial sale of electric
14 power.

15 (e) NONCOMPETITIVE LEASING.—

16 (1) IN GENERAL.—The Secretary may issue
17 leases under this section on a noncompetitive basis
18 if—

19 (A) the lease is for resource data collection
20 or equipment testing;

21 (B) the lease will not result in the commer-
22 cial sale of electric power;

23 (C) the lease has a term of not more than
24 5 years; and

1 (D) the Secretary, after public notice of a
2 proposed lease, determines that there is no
3 competitive interest.

4 (2) PREFERENCE.—In any competitive lease
5 sale for lands subject to a lease awarded under this
6 subsection, the Secretary may give a preference to
7 the holder of the lease under this subsection.

8 (f) TRANSITION TO COMMERCIAL LEASING.—The
9 Secretary of the Interior, for lands under the jurisdiction
10 of the Bureau of Land Management, and the Secretary
11 of Agriculture, for lands under the jurisdiction of the For-
12 est Service, may issue an easement, special-use permit, or
13 right-of-way for a commercial wind or solar project for
14 which—

15 (1) a plan of development has been submitted
16 to the relevant Secretary before the date of enact-
17 ment of this Act; or

18 (2) a meteorological testing tower or other data
19 collection device has been installed under an ap-
20 proved easement, special-use permit, or right-of-way
21 before the date of enactment of this Act.

22 (g) DILIGENT DEVELOPMENT REQUIREMENTS.—The
23 Secretary shall, by regulation, designate work require-
24 ments and milestones to ensure that diligent development
25 is carried out under each lease issued under this subtitle.

1 **SEC. 502. LAND MANAGEMENT.**

2 The Secretary, in consultation with the Director of
3 the Bureau of Land Management and the Chief of the
4 Forest Service, shall issue regulations that—

5 (1) establish the duration of leases under this
6 subtitle;

7 (2) require the holder of a lease granted under
8 this subtitle to—

9 (A) furnish a surety bond or other form of
10 security, as prescribed by the Director, to as-
11 sure the completion of—

12 (i) interim and final reclamation and
13 the restoration of the area that is subject
14 to the lease to the condition in which the
15 area existed before the granting of the
16 lease; or

17 (ii) mitigation activities, including
18 compensatory mitigation, if restoration to
19 such condition is impractical; and

20 (B) comply with such other requirements
21 as the Director and affected Federal land man-
22 ager consider necessary to protect the interests
23 of the public and the United States; and

24 (3) establish best management practices and re-
25 quire renewable energy operators to comply with
26 those practices to ensure the sound, efficient, and

1 environmentally responsible development of wind and
2 solar resources on Federal lands in a manner that
3 shall avoid, minimize, and mitigate actual and an-
4 ticipated impacts to habitat and ecosystem function
5 resulting from such development and to areas pro-
6 posed for wilderness or other protection.

7 **SEC. 503. REVENUES.**

8 (a) ESTABLISHMENT OF PAYMENT REQUIRE-
9 MENTS.—The Secretary shall establish royalties, fees,
10 rentals, bonus bids, or other payments for leases issued
11 under this subtitle, that shall—

12 (1) encourage development of solar and wind
13 energy on public lands;

14 (2) ensure a fair return to the United States;
15 and

16 (3) be commensurate with similar payments for
17 the development of solar and wind energy on State
18 and private lands.

19 (b) DEPOSIT.—All revenues for payments established
20 under this section shall be deposited in the general fund
21 of the Treasury.

22 **SEC. 504. RECORDKEEPING AND REPORTING REQUIRE-**
23 **MENTS.**

24 (a) IN GENERAL.—A lessee, permit holder, operator,
25 or other person directly involved in developing, producing,

1 processing, transporting, purchasing, or selling renewable
2 energy under this title, through the point of royalty com-
3 putation, shall establish and maintain any records, make
4 any reports, and provide any information that the Sec-
5 retary may reasonably require for the purposes of imple-
6 menting this section or determining compliance with rules
7 or orders under this section. Such records shall include,
8 but not be limited to, periodic reports, records, documents,
9 and other data. Such reports may include, but not be lim-
10 ited to, pertinent technical and financial data relating to
11 the resources being developed under the lease. Upon the
12 request of any officer or employee duly designated by the
13 Secretary conducting an audit or investigation pursuant
14 to this section, the appropriate records, reports, or infor-
15 mation that may be required by this section shall be made
16 available for inspection and duplication by such officer or
17 employee. Failure by a claim holder, operator, or other
18 person referred to in the first sentence to cooperate with
19 such an audit, provide data required by the Secretary, or
20 grant access to information may, at the discretion of the
21 Secretary, result in involuntary forfeiture of the lease or
22 permit.

23 (b) MAINTENANCE.—Records required by the Sec-
24 retary under this section shall be maintained for 7 years
25 after release of financial assurance unless the Secretary

1 notifies the operator that the Secretary has initiated an
2 audit or investigation involving such records and that such
3 records must be maintained for a longer period. In any
4 case when an audit or investigation is underway, records
5 shall be maintained until the Secretary releases the oper-
6 ator of the obligation to maintain such records.

7 **SEC. 505. AUDITS.**

8 The Secretary may conduct such audits of all lessees
9 and permit holders, operators, transporters, purchasers,
10 processors, or other persons directly or indirectly involved
11 in the production or sales of renewable energy resources
12 covered by this Act, as the Secretary deems necessary for
13 the purposes of ensuring compliance with the require-
14 ments of this title. For purposes of performing such au-
15 dits, the Secretary shall, at reasonable times and upon re-
16 quest, have access to, and may copy, all books, papers and
17 other documents that relate to compliance with any provi-
18 sion of this section by any person.

19 **SEC. 506. TRADE SECRETS.**

20 Trade secrets, proprietary information, and other
21 confidential information protected from disclosure under
22 section 552 of title 5, United States Code (popularly
23 known as the Freedom of Information Act), shall be made
24 available by the Secretary to other Federal agencies as

1 necessary to assure compliance with this Act and other
2 Federal laws.

3 **SEC. 507. INTEREST AND SUBSTANTIAL UNDERREPORTING**
4 **ASSESSMENTS.**

5 (a) INTEREST.—In the case of renewable energy
6 leases or permits under which royalty payments are not
7 received by the Secretary on the date that such payments
8 are due, the Secretary shall charge interest on such under-
9 payments at the same interest rate as the rate applicable
10 under section 6621(a)(2) of the Internal Revenue Code of
11 1986. In the case of an underpayment, interest shall be
12 computed and charged only on the amount of the defi-
13 ciency and not on the total amount.

14 (b) PENALTY.—If there is any underreporting of roy-
15 alty owed on production from a lease or permit for any
16 production month by any person liable for royalty pay-
17 ments under this title, the Secretary shall assess a penalty
18 of not greater than 25 percent of the amount of that
19 underreporting.

20 (c) UNDERREPORTING DEFINED.—For the purposes
21 of this section, the term “underreporting” means the dif-
22 ference between the royalty on the value of the production
23 that should have been reported and the royalty on the
24 value of the production that was reported, if the value that

1 should have been reported is greater than the value that
2 was reported.

3 (d) WAIVER OR REDUCTION.—

4 (1) IN GENERAL.—The Secretary may waive or
5 reduce the assessment provided in subsection (b) if
6 the person liable for royalty payments under this
7 section corrects the underreporting before the date
8 such person receives notice from the Secretary that
9 an underreporting may have occurred, or before 90
10 days after the date of the enactment of this section,
11 whichever is later.

12 (2) REQUIRED WAIVER.—The Secretary shall
13 waive any portion of an assessment under subsection
14 (b) attributable to that portion of the underreporting
15 for which the person responsible for paying the roy-
16 alty demonstrates that—

17 (A) such person had written authorization
18 from the Secretary to report royalty on the
19 value of the production on basis on which it was
20 reported;

21 (B) such person had substantial authority
22 for reporting royalty on the value of the produc-
23 tion on the basis on which it was reported;

24 (C) such person previously had notified the
25 Secretary, in such manner as the Secretary may

1 by rule prescribe, of relevant reasons or facts
2 affecting the royalty treatment of specific pro-
3 duction that led to the underreporting; or

4 (D) such person meets any other exception
5 that the Secretary may, by rule, establish.

6 (e) EXPANDED ROYALTY OBLIGATIONS.—Each per-
7 son liable for royalty payments under this section shall
8 be jointly and severally liable for royalty on renewable en-
9 ergy resources produced under a lease issued under this
10 Act when such loss or waste is due to negligence on the
11 part of any person or due to the failure to comply with
12 any rule, regulation, or order issued under this section.

13 (f) FAILURE TO COMPLY WITH ROYALTY REQUIRE-
14 MENTS.—Any person who fails to comply with the require-
15 ments of this section or any regulation or order issued to
16 implement this section shall be liable for a civil penalty
17 under section 109 of the Federal Oil and Gas Royalty
18 Management Act of 1982 (30 U.S.C. 1719) to the same
19 extent as if the failure to comply occurred under that Act.

20 (g) DEPOSIT OF PENALTIES.—All penalties collected
21 under this subsection shall be deposited in the general
22 fund of the Treasury.

23 **SEC. 508. INDIAN SAVINGS PROVISION.**

24 Nothing in this subtitle shall abridge, diminish, or
25 alter any right or interest of any affected Indian tribe.

1 Nothing in this subtitle shall authorize any Federal agency
2 or official to abridge, diminish, or alter any right or inter-
3 est of any affected Indian tribe.

4 **TITLE VI—OUTER CONTINENTAL**
5 **SHELF COORDINATION AND**
6 **PLANNING**

7 **SEC. 601. REGIONAL OUTER CONTINENTAL SHELF COORDI-**
8 **NATION.**

9 (a) IN GENERAL.—The purpose of this title is to pro-
10 mote coordinated regional planning efforts, to require that
11 decisions are made using the best available science, and
12 to ensure the protection and maintenance of marine eco-
13 system health in decisions affecting the siting of energy
14 facilities and development of Federal renewable and non-
15 renewable energy resources on, in, or above the Outer
16 Continental Shelf for the long-term economic and environ-
17 mental benefit of the United States.

18 (b) OBJECTIVES OF REGIONAL EFFORTS.—Such re-
19 gional efforts shall achieve the following objectives:

20 (1) Greater systematic communication and co-
21 ordination among Federal, coastal State, and af-
22 fected tribal governments concerned with the siting
23 and development of Federal renewable and non-
24 renewable energy resources on, in, or above the
25 Outer Continental Shelf.

1 (2) To the maximum extent feasible, greater re-
2 liance on a multiobjective, science- and ecosystem-
3 based, spatially explicit management approach that
4 integrates regional economic, ecological, affected
5 tribal, and social objectives into energy development
6 decisions.

7 (3) Identification and prioritization of shared
8 State and Federal energy development issues.

9 (4) Identification of data and information need-
10 ed by the Regional Outer Continental Shelf Councils
11 established under section 602.

12 (c) REGIONS.—There are hereby designated the fol-
13 lowing Outer Continental Shelf Regions:

14 (1) PACIFIC OUTER CONTINENTAL SHELF RE-
15 GION.—The Pacific Outer Continental Shelf Region,
16 which shall consist of the Outer Continental Shelf
17 adjacent to the States of Washington, Oregon, Cali-
18 fornia, and Hawaii.

19 (2) GULF OF MEXICO OUTER CONTINENTAL
20 SHELF REGION.—The Gulf of Mexico Outer Conti-
21 nental Shelf Region, which shall consist of the Outer
22 Continental Shelf adjacent to the States of Texas,
23 Louisiana, Mississippi, and Alabama, and the west
24 coast of Florida.

1 (3) ATLANTIC OUTER CONTINENTAL SHELF RE-
2 GION.—The Atlantic Outer Continental Shelf Re-
3 gion, which shall consist of the Outer Continental
4 Shelf adjacent to the States of Maine, New Hamp-
5 shire, Massachusetts, Rhode Island, Connecticut,
6 New York, New Jersey, Pennsylvania, Delaware,
7 Maryland, Virginia, North Carolina, South Carolina,
8 and Georgia, the east coast of Florida, and the
9 Straits of Florida Planning Area.

10 (4) ALASKA OUTER CONTINENTAL SHELF RE-
11 GION.—The Alaska Outer Continental Shelf Region,
12 which shall consist of the Outer Continental Shelf
13 adjacent to the State of Alaska.

14 **SEC. 602. REGIONAL OUTER CONTINENTAL SHELF COUN-**
15 **CILS.**

16 (a) IN GENERAL.—Within 180 days after the date
17 of enactment of this Act, the Secretary of the Interior and
18 the Secretary of Commerce, in consultation with the af-
19 fected coastal States and affected Indian tribes, shall es-
20 tablish or designate a Regional Outer Continental Shelf
21 Council for each of the Outer Continental Shelf Regions
22 designated by section 601(c).

23 (b) MEMBERSHIP.—

24 (1) FEDERAL REPRESENTATIVES.—Within 90
25 days after the date of enactment of this Act, the

1 Secretary of the Interior, in consultation with the
2 Secretary of Commerce, shall publish the titles of
3 the officials of each Federal agency and department
4 that shall participate in each Council. The Councils
5 shall include representatives of each Federal agency
6 and department that has expertise in energy produc-
7 tion facility siting and development or ocean and
8 coastal policy, or engages in planning, management,
9 or scientific activities that significantly affect or in-
10 form the use of ocean waters, coastal waters, or
11 ocean resources or other affected uses. The Sec-
12 retary of the Interior, or at the Secretary of the In-
13 terior's discretion, the Secretary of Commerce, shall
14 serve as the chairperson of each Council.

15 (2) COASTAL STATE REPRESENTATIVES.—

16 (A) NOTICE OF INTENT TO PARTICI-
17 PATE.—The Governor of each coastal State
18 within each Outer Continental Shelf Region
19 designated by section 601(c) shall within 3
20 months after the date of enactment of this Act,
21 inform the Secretary and the Secretary of Com-
22 merce whether or not the State intends to par-
23 ticipate in the Council for the Outer Conti-
24 nental Shelf Region.

1 (B) APPOINTMENT OF RESPONSIBLE
2 STATE OFFICIAL.—If the Governor of a coastal
3 State informs the Secretaries in accordance
4 with subparagraph (A) that the State intends
5 to participate in such Council, the Governor
6 shall appoint an officer or employee of the
7 coastal State agency with primary responsibility
8 for overseeing ocean and coastal policy or re-
9 source management to that Council.

10 (3) REGIONAL FISHERIES REPRESENTATION.—
11 The Chair of each Regional Fishery Management
12 Council with jurisdiction in the Outer Continental
13 Shelf Region of a Council and the executive director
14 of the interstate marine fisheries commission with
15 jurisdiction in the Outer Continental Shelf Region of
16 a Council shall each serve as a member of the Coun-
17 cil.

18 (4) REGIONAL OCEAN PARTNERSHIP REP-
19 RESENTATION.—A representative of any Regional
20 Ocean Partnership that has been established for any
21 part of the Outer Continental Shelf Region of a
22 Council may appoint a representative to serve on the
23 Council in addition to any Federal or State appoint-
24 ment.

1 (A) identify the Region's potential alter-
2 native energy resources and energy-related min-
3 eral resources;

4 (B) identify the Region's existing infra-
5 structure and projections for future trans-
6 mission requirements;

7 (C) document the health and relative envi-
8 ronmental sensitivity of the marine ecosystem
9 including a comprehensive survey of species,
10 habitats, and indicators of ecosystem health;

11 (D) identify marine habitat types and im-
12 portant ecological areas within the Region;

13 (E) assess the Region's marine economy
14 and cultural attributes; and

15 (F) inventory other existing uses of the
16 Outer Continental Shelf in the Region.

17 (2) DATA.—Each initial assessment shall—

18 (A) use the best available data;

19 (B) collect and provide data in a spatially
20 explicit manner wherever practicable and pro-
21 vide such data to the interagency comprehensive
22 digital mapping initiative as described in section
23 2 of Public Law 109–58 (42 U.S.C. 15801);
24 and

1 (C) make publicly available any such data
2 that is not classified information.

3 (b) REGIONAL OUTER CONTINENTAL SHELF STRA-
4 TEGIC PLANS.—

5 (1) REQUIREMENT.—Each Council shall, within
6 2 years after the completion of the initial Outer
7 Continental Shelf Region assessment, prepare and
8 submit to the Secretaries a multiobjective, science
9 and ecosystem-based, spatially explicit, integrated
10 marine energy and energy-related mineral resources
11 Strategic Plan in accordance with this subsection.

12 (2) MANAGEMENT OBJECTIVE.—The manage-
13 ment objective of the Strategic Plans under this sub-
14 section shall be to foster sustainable development of
15 additional energy resources from the Outer Conti-
16 nental Shelf, while protecting marine ecosystem
17 health and sustaining the long-term economic and
18 ecosystem values of the oceans.

19 (3) CONTENTS.—Each Strategic Plan prepared
20 by a Council shall—

21 (A) be based on the Outer Continental
22 Shelf Region assessment and updates for the
23 Region under subsections (a) and (c), respec-
24 tively;

1 (B) foster sustainable ocean energy devel-
2 opment in a manner that protects the health of
3 marine ecosystems;

4 (C) identify areas with potential for siting
5 and developing renewable and nonrenewable en-
6 ergy resources in the Outer Continental Shelf
7 Region covered by the Strategic Plan;

8 (D) identify and recommend long-term
9 monitoring needs for ecosystem health and so-
10 cioeconomic variables within the Outer Conti-
11 nental Shelf Region covered by the Strategic
12 Plan;

13 (E) identify existing State and Federal
14 regulating authorities within the Outer Conti-
15 nental Shelf Region covered by the Strategic
16 Plan;

17 (F) identify best available technologies that
18 can minimize adverse environmental impacts of
19 construction and operation of energy facilities
20 in the Region;

21 (G) identify additional research, informa-
22 tion, and data needed to carry out the Strategic
23 Plan;

24 (H) identify research, information, and
25 data needed to carry out the Strategic Plan;

1 (I) identify performance measures and
2 benchmarks for purposes of fulfilling the re-
3 sponsibilities under this section to be used to
4 evaluate the Strategic Plan's effectiveness; and

5 (J) define responsibilities and include an
6 analysis of the gaps in authority, coordination,
7 and resources, including funding, that must be
8 filled in order to fully achieve those perform-
9 ance measures and benchmarks.

10 (4) PUBLIC PARTICIPATION.—Each Council
11 shall provide adequate opportunities for review and
12 input by stakeholders and the general public during
13 the development of the Strategic Plan and any Stra-
14 tegic Plan revisions.

15 (c) UPDATED OUTER CONTINENTAL SHELF REGION
16 ASSESSMENTS.—The Secretary, in consultation with the
17 Secretary of Commerce, and in consultation with the ap-
18 propriate Council and other experts, shall update the ini-
19 tial Outer Continental Shelf Region assessment prepared
20 under subsection (a) in coordination with each plan revi-
21 sion under subsection (e), to provide more detailed infor-
22 mation regarding the required elements of the assessment
23 and to include any relevant new information that has be-
24 come available in the interim.

25 (d) REVIEW AND APPROVAL.—

1 (1) COMMENCEMENT OF REVIEW.—Within 10
2 days after transmittal of a Strategic Plan under this
3 section, or any revision to such a Strategic Plan, by
4 a Council, the Secretary, in consultation with the
5 Secretary of Commerce, shall commence a review of
6 the Strategic Plan or the revised Strategic Plan, re-
7 spectively.

8 (2) PUBLIC NOTICE AND COMMENT.—Imme-
9 diately after receipt of such a Strategic Plan or revi-
10 sion, the Secretary, in consultation with the Sec-
11 retary of Commerce, shall publish the Strategic Plan
12 or revision in the Federal Register and provide an
13 opportunity for the submission of public comment
14 for a 90-day period beginning on the date of such
15 publication.

16 (3) REQUIREMENTS FOR APPROVAL.—Before
17 approving a Strategic Plan, or any revision to a
18 Strategic Plan, the Secretary, in consultation with
19 the Secretary of Commerce, must find that the Stra-
20 tegic Plan or revision—

21 (A) is consistent with the Outer Conti-
22 nental Shelf Lands Act;

23 (B) complies with subsection (b); and

1 (C) complies with the purposes of this title
2 as identified in section 601(a) and the objec-
3 tives identified in section 601(b).

4 (4) DEADLINE FOR COMPLETION.—Within 180
5 days after transmittal of a Strategic Plan, or a revi-
6 sion to a Strategic Plan, the Secretary, in consulta-
7 tion with the Secretary of Commerce, shall approve
8 or disapprove the Strategic Plan or revision by writ-
9 ten notice to the Council that submitted the Stra-
10 tegic Plan. If the Secretary disapproves the Stra-
11 tegic Plan, the Secretary, in consultation with the
12 Secretary of Commerce, shall transmit to the Coun-
13 cil that submitted the strategic Plan an identifica-
14 tion of the deficiencies in the Strategic Plan and rec-
15 ommendations to improve the Strategic Plan. The
16 Council shall submit a revised Strategic Plan to the
17 Secretaries within 180 days after the Secretary
18 transmits such deficiencies and recommendations.

19 (e) PLAN REVISION.—Each Strategic Plan that is ap-
20 proved by the Secretary of the Interior, in consultation
21 with the Secretary of Commerce, shall be reviewed and
22 revised by the relevant Council at least once every 5 years.
23 Such review and revision shall be based on the most re-
24 cently updated Outer Continental Shelf Region assess-
25 ment. Any proposed revisions to the Strategic Plan shall

1 be transmitted to the Secretaries for review and approval
2 pursuant to this section.

3 **SEC. 604. REGULATIONS.**

4 The Secretaries shall issue such regulations as the
5 Secretaries consider necessary to ensure proper adminis-
6 tration of this title.

7 **SEC. 605. OCEAN RESOURCES CONSERVATION AND ASSIST-**
8 **ANCE FUND.**

9 (a) ESTABLISHMENT.—

10 (1) IN GENERAL.—There is established in the
11 Treasury of the United States a separate account to
12 be known as the Ocean Resources Conservation and
13 Assistance Fund.

14 (2) CREDITS.—The ORCA Fund shall be cred-
15 ited with amounts as specified in section 9 of the
16 Outer Continental Shelf Lands Act (43 U.S.C.
17 1338), as amended by section 207 of this Act.

18 (3) ALLOCATION OF THE ORCA FUND.—

19 (A) IN GENERAL.—Of the amounts depos-
20 ited in the ORCA Fund each fiscal year—

21 (i) 70 percent shall be allocated to the
22 Secretary of Commerce, of which—

23 (I) $\frac{1}{2}$ shall be used to make
24 grants to coastal States and affected

1 Indian tribes under subsection (b);
2 and

3 (II) $\frac{1}{2}$ shall be used for the
4 ocean, coastal, and Great Lakes
5 grants program established by sub-
6 section (c);

7 (ii) 20 percent shall be allocated to
8 the Secretary to carry out the purposes of
9 subsection (e); and

10 (iii) 10 percent shall be allocated to
11 the Secretary to make grants to Regional
12 Ocean Partnerships under subsection (d).

13 (B) AVAILABILITY.—Amounts allocated to
14 the Secretary of Commerce under subparagraph
15 (A) shall be available without further appropria-
16 tion.

17 (4) PROCEDURES.—The Secretary shall estab-
18 lish application, review, oversight, financial account-
19 ability, and performance accountability procedures
20 for each grant program for which funds are allo-
21 cated under this subsection.

22 (b) GRANTS TO COASTAL STATES.—

23 (1) GRANT AUTHORITY.—The Secretary may
24 use amounts allocated under subsection
25 (a)(3)(A)(I)(I) to make grants to—

1 (A) coastal States pursuant to the formula
2 established under section 306(c) of the Coastal
3 Zone Management Act of 1972 (16 U.S.C.
4 1455(c)); and

5 (B) affected Indian tribes based on and
6 proportional to any specific coastal and ocean
7 management authority granted to an affected
8 tribe pursuant to affirmation of a Federal re-
9 served right.

10 (2) ELIGIBILITY.—To be eligible to receive a
11 grant under this subsection, a coastal State or af-
12 fected Indian tribe must prepare and revise a 5-year
13 plan and annual work plans that—

14 (A) demonstrate that activities for which
15 the coastal State or affected Indian tribe will
16 use the funds are consistent with the eligible
17 uses of the Fund described in subsection (f);
18 and

19 (B) provide mechanisms to ensure that
20 funding is made available to government, non-
21 government, and academic entities to carry out
22 eligible activities at the county and local level.

23 (3) APPROVAL OF STATE AND AFFECTED TRIB-
24 AL PLANS.—

1 (A) IN GENERAL.—Plans required under
2 paragraph (2) must be submitted to and ap-
3 proved by the Secretary.

4 (B) PUBLIC INPUT AND COMMENT.—In de-
5 termining whether to approve such plans, the
6 Secretary shall provide opportunity for, and
7 take into consideration, public input and com-
8 ment on the plans from stakeholders and the
9 general public.

10 (5) ENERGY PLANNING GRANTS.—For each of
11 the fiscal years 2011 through 2015, the Secretary
12 may use funds allocated for grants under this sub-
13 section to make grants to coastal States and affected
14 tribes under section 320 of the Coastal Zone Man-
15 agement Act of 1972 (16 U.S.C. 1451 et seq.), as
16 amended by this Act.

17 (6) USE OF FUNDS.—Any amounts provided as
18 a grant under this subsection, other than as a
19 grants under paragraph (5), may only be used for
20 activities described in subsection (f).

21 (c) OCEAN AND COASTAL COMPETITIVE GRANTS
22 PROGRAM.—

23 (1) ESTABLISHMENT.—The Secretary shall use
24 amounts allocated under subsection (a)(3)(A)(I)(II)
25 to make competitive grants for conservation and

1 management of ocean, coastal, and Great Lakes eco-
2 systems and marine resources.

3 (2) OCEAN, COASTAL, AND GREAT LAKES RE-
4 VIEW PANEL.—

5 (A) IN GENERAL.—The Secretary shall es-
6 tablish an Ocean, Coastal, and Great Lakes Re-
7 view Panel (in this subsection referred to as the
8 “Panel”), which shall consist of 12 members
9 appointed by the Secretary with expertise in the
10 conservation and management of ocean, coastal,
11 and Great Lakes ecosystems and marine re-
12 sources. In appointing members to the Council,
13 the Secretary shall include a balanced diversity
14 of representatives of relevant Federal agencies,
15 the private sector, nonprofit organizations, and
16 academia.

17 (B) FUNCTIONS.—The Panel shall—

18 (i) review, in accordance with the pro-
19 cedures and criteria established under
20 paragraph (3), grant applications under
21 this subsection;

22 (ii) make recommendations to the
23 Secretary regarding which grant applica-
24 tions should be funded and the amount of
25 each grant; and

1 (iii) establish any specific require-
2 ments, conditions, or limitations on a grant
3 application recommended for funding.

4 (3) PROCEDURES AND ELIGIBILITY CRITERIA
5 FOR GRANTS.—

6 (A) IN GENERAL.—The Secretary shall es-
7 tablish—

8 (i) procedures for applying for a grant
9 under this subsection and criteria for eval-
10 uating applications for such grants; and

11 (ii) criteria, in consultation with the
12 Panel, to determine what persons are eligi-
13 ble for grants under the program.

14 (B) ELIGIBLE PERSONS.—Persons eligible
15 under the criteria under subparagraph (A)(ii)
16 shall include Federal, State, affected tribal, and
17 local agencies, fishery or wildlife management
18 organizations, nonprofit organizations, and aca-
19 demic institutions.

20 (4) APPROVAL OF GRANTS.—In making grants
21 under this subsection the Secretary shall give the
22 highest priority to the recommendations of the
23 Panel. If the Secretary disapproves a grant rec-
24 ommended by the Panel, the Secretary shall explain
25 that disapproval in writing.

1 (5) USE OF GRANT FUNDS.—Any amounts pro-
2 vided as a grant under this subsection may only be
3 used for activities described in subsection (f).

4 (d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—

5 (1) GRANT AUTHORITY.—The Secretary may
6 use amounts allocated under subsection (a)(3)(A)(iii)
7 to make grants to Regional Ocean Partnerships.

8 (2) ELIGIBILITY.—In order to be eligible to re-
9 ceive a grant, a Regional Ocean Partnership must
10 prepare and annually revise a plan that—

11 (A) identifies regional science and informa-
12 tion needs, regional goals and priorities, and
13 mechanisms for facilitating coordinated and col-
14 laborative responses to regional issues;

15 (B) establishes a process for coordinating
16 and collaborating with Federal agencies to ad-
17 dress regional issues and information needs and
18 achieve regional goals and priorities; and

19 (C) demonstrates that activities to be car-
20 ried out with such funds are eligible uses of the
21 funds identified in subsection (f).

22 (3) APPROVAL BY SECRETARY.—Such plans
23 must be submitted to and approved by the Sec-
24 retary.

1 (4) PUBLIC INPUT AND COMMENT.—In deter-
2 mining whether to approve such plans, the Secretary
3 shall provide opportunity for, and take into consider-
4 ation, input and comment on the plans from stake-
5 holders and the general public.

6 (5) USE OF FUNDS.—Any amounts provided as
7 a grant under this subsection may only be used for
8 activities described in subsection (f).

9 (e) LONG-TERM OCEAN AND COASTAL OBSERVA-
10 TIONS.—

11 (1) IN GENERAL.—The Secretary shall use the
12 amounts allocated under subsection (a)(3)(A)(ii) to
13 build, operate, and maintain the system established
14 under section 12304 of Public Law 111–11 (33
15 U.S.C. 3603), in accordance with the purposes and
16 policies for which the system was established, and to
17 support activities authorized by—

18 (A) the Outer Continental Shelf Lands Act
19 (43 U.S.C. 1331 et seq.;

20 (B) the Magnuson-Stevens Fisheries Con-
21 servation and Management Act (16 U.S.C.
22 1801 et seq.);

23 (C) the Coastal Zone Management Act (16
24 U.S.C. 1451 et seq);

1 (D) the National Marine Sanctuaries Act
2 (16 U.S.C. 1431 et seq.); and

3 (E) other relevant Federal laws and pro-
4 grams affecting marine resource planning, re-
5 search, and management.

6 (2) ADMINISTRATION OF FUNDS.—The Sec-
7 retary shall administer and distribute funds under
8 this subsection based upon comprehensive system
9 budgets adopted by the Council referred to in section
10 12304(c)(1)(A) of the Integrated Coastal and Ocean
11 Observation System Act of 2009 (33 U.S.C.
12 3603(c)(1)(A)).

13 (f) ELIGIBLE USE OF FUNDS.—Any funds made
14 available under this section may only be used for activities
15 that contribute to the conservation, protection, mainte-
16 nance, and restoration of ocean, coastal, and Great Lakes
17 ecosystems in a manner that is consistent with Federal
18 environmental laws and that avoids environmental deg-
19 radation, including—

20 (1) activities to conserve, protect, maintain, and
21 restore coastal, marine, and Great Lakes ecosystem
22 health;

23 (2) activities to protect marine biodiversity and
24 living marine and coastal resources and their habi-
25 tats, including fish populations;

1 (3) the development and implementation of
2 multiobjective, science- and ecosystem-based plans
3 for monitoring and managing the wide variety of
4 uses affecting ocean, coastal, and Great Lakes eco-
5 systems and resources that consider cumulative im-
6 pacts and are spatially explicit where appropriate;

7 (4) activities to improve the resiliency of those
8 ecosystems;

9 (5) activities to improve the ability of those eco-
10 systems to become more resilient, and to adapt to
11 and withstand the impacts of climate change and
12 ocean acidification;

13 (6) planning for and managing coastal develop-
14 ment to minimize the loss of life and property asso-
15 ciated with sea level rise and the coastal hazards re-
16 sulting from it;

17 (7) research, assessment, monitoring, and dis-
18 semination of information that contributes to the
19 achievement of these purposes; and

20 (8) research of, protection of, enhancement to,
21 and activities to improve the resiliency of culturally
22 significant areas and resources.

23 (g) SECRETARY DEFINED.—In this section:

1 (1) ORCA FUND.—The term “ORCA Fund”
2 means the Ocean Resources Conservation and As-
3 sistance Fund established by this section

4 (2) SECRETARY.—Notwithstanding section 3,
5 the term “Secretary” means the Secretary of Com-
6 merce.

7 **SEC. 606. WAIVER.**

8 The Federal Advisory Committee Act (5 U.S.C. App.)
9 shall not apply to the Regional Outer Continental Shelf
10 Councils established under section 602.

11 **SEC. 607. TRANSITION PERIOD.**

12 (a) ACTIVITIES BEFORE APPROVAL OF STRATEGIC
13 PLAN.—Prior to approval by the Secretary of a Strategic
14 Plan for an Outer Continental Shelf Region under section
15 603(d), the following activities shall not be affected by the
16 preparation or proposal of such a Plan:

17 (1) Initiation of the process to develop a new 5-
18 year leasing plan or amendment to such plan pursu-
19 ant to section 18 of the Outer Continental Shelf
20 Lands Act.

21 (2) Ongoing planning processes being conducted
22 for that Region pursuant to section 18 of the Outer
23 Continental Shelf Lands Act.

24 (3) Administrative procedures necessary to ap-
25 prove a 5-year plan developed pursuant to section 18

1 of the Outer Continental Shelf Lands Act, including
2 approval and adoption of a 5-year plan.

3 (4) Leasing activity being conducted in that Re-
4 gion under a 5-year leasing plan approved by the
5 Secretary of the Interior pursuant to section 18 of
6 the Outer Continental Shelf Lands Act.

7 (5) Other activities that the Secretary may au-
8 thorize pursuant to the Outer Continental Shelf
9 Lands Act.

10 (b) FAILURE TO PRODUCE A PLAN.—Failure by a
11 Council to produce a Strategic Plan for an Outer Conti-
12 nental Shelf Region, or failure of the Secretary, in con-
13 sultation with the Secretary of Commerce, to approve a
14 Strategic Plan for such a Region, shall not delay the proc-
15 ess of preparing and approving any new 5-year drilling
16 plan under the Outer Continental Shelf Lands Act and
17 shall not delay any activities being conducted pursuant to
18 an existing Outer Continental Shelf leasing program pre-
19 pared and approved by the Secretary under section 18 of
20 the Outer Continental Shelf Lands Act (43 U.S.C. 1344)
21 prior to the enactment of this Act.

22 **SEC. 608. ALTERNATIVE ENERGY ON THE OUTER CONTI-**
23 **NENTAL SHELF.**

24 (a) PRIOR TO APPROVAL OF STRATEGIC PLAN.—
25 Prior to approval of a Strategic Plan for an Outer Conti-

1 nental Shelf Region under subsection 603(d), the Sec-
2 retary of the Interior shall continue to implement without
3 delay the rule for Renewable Energy and Alternate Uses
4 of Existing Facilities on the Outer Continental Shelf, as
5 published in the Federal Register on April 29, 2009, in
6 that Region.

7 (b) APPROVAL OF STRATEGIC PLAN.—The approval
8 of a Strategic Plan shall not affect—

9 (1) projects for which leases have been obtained
10 under that rule prior to submittal of the Plan for
11 approval; and

12 (2) tracts of the Outer Continental Shelf for
13 which the competitive alternative energy leasing
14 process under that rule has been initiated prior to
15 submittal of the Plan for approval.

16 **TITLE VII—MISCELLANEOUS** 17 **PROVISIONS**

18 **SEC. 701. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED** 19 **ROYALTY RELIEF FOR THE OIL AND GAS IN-** 20 **DUSTRY.**

21 (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT
22 OF 2005.—The following provisions of the Energy Policy
23 Act of 2005 (Public Law 109–58) are repealed:

1 (1) Section 344 (42 U.S.C. 15904; relating to
2 incentives for natural gas production from deep wells
3 in shallow waters of the Gulf of Mexico).

4 (2) Section 345 (42 U.S.C. 15905; relating to
5 royalty relief for deep water production in the Gulf
6 of Mexico).

7 (b) PROVISIONS RELATING TO PLANNING AREAS
8 OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer
9 Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B))
10 is amended by striking “and in the Planning Areas off-
11 shore Alaska” after “West longitude”.

12 (c) PROVISIONS RELATING TO NAVAL PETROLEUM
13 RESERVE IN ALASKA.—Section 107 of the Naval Petro-
14 leum Reserves Production Act of 1976 (as transferred, re-
15 designated, moved, and amended by section 347 of the En-
16 ergy Policy Act of 2005 (119 Stat. 704)) is amended—

17 (1) in subsection (i) by striking paragraphs (2)
18 through (6); and

19 (2) by striking subsection (k).

20 **SEC. 702. CONSERVATION FEE.**

21 (a) ESTABLISHMENT.—The Secretary shall, within
22 180 days after the date of enactment of this Act, issue
23 regulations to establish an annual production incentive fee
24 for all leases in effect on the date of enactment of this
25 Act, of Federal onshore and offshore lands for production

1 of oil or natural gas under which production is occurring
2 in commercial quantities or is included in a unitization
3 agreement under which production is occurring in com-
4 mercial quantities.

5 (b) AMOUNT.—The amount of the fee shall be, for
6 each barrel or barrel equivalent produced from land that
7 is subject to a lease from which oil or natural gas is pro-
8 duced in a calendar year, \$2 per barrel of oil and 20 cents
9 per million BTU of natural gas in 2010 dollars.

10 (c) ASSESSMENT AND COLLECTION.—The Secretary
11 shall assess and collect the fee established under this sec-
12 tion.

13 (d) REGULATIONS.—The Secretary may issue regula-
14 tions to prevent evasion of the fee under this section.

15 (e) SUNSET.—This section and the fee established
16 under this section shall expire on December 31, 2021.

17 **SEC. 703. LEASING ON INDIAN LANDS.**

18 Nothing in this Act modifies, amends, or affects leas-
19 ing on Indian lands as currently carried out by the Bureau
20 of Indian Affairs.

21 **SEC. 704. OFFSHORE AQUACULTURE CLARIFICATION.**

22 (a) NO AUTHORITY.—The Secretary of Commerce,
23 the Administrator of the National Oceanic and Atmos-
24 pheric Administration, or the Regional Fishery Manage-
25 ment Councils shall not develop or approve a fishery man-

1 agement plan or fishery management plan amendment to
2 permit or regulate offshore aquaculture.

3 (b) PERMITS INVALID.—Any permit issued for the
4 conduct of offshore aquaculture, including the siting or op-
5 eration of offshore aquaculture facilities, under the Mag-
6 nuson-Stevens Fishery Conservation and Management Act
7 (16 U.S.C. 1801 et seq.) shall be invalid upon enactment
8 of this Act.

9 (c) DEFINITIONS.—In this section:

10 (1) OFFSHORE AQUACULTURE.—The term “off-
11 shore aquaculture” means all activities related to—

12 (A) the placement of any installation, facil-
13 ity, or structure in the exclusive economic zone
14 for the purposes of propagation or rearing, or
15 attempting to propagate or rear, any species; or

16 (B) the operation of offshore aquaculture
17 facilities in the exclusive economic zone involved
18 in the propagation or rearing, or attempted
19 propagation or rearing, of species.

20 (2) OFFSHORE AQUACULTURE FACILITY.—The
21 term “offshore aquaculture facility” means—

22 (A) a structure, installation, or other com-
23 plex used, in whole or in part, for offshore
24 aquaculture; or

1 (B) an area of the seabed or the subsoil
2 used for offshore aquaculture.

3 **SEC. 705. STATE MORATORIA.**

4 Section 8 of the Outer Continental Shelf Lands Act
5 (43 U.S.C. 1337) is further amended by adding at the
6 end the following new subsection:

7 “(t) STATE MORATORIA.—When there is in effect
8 with respect to lands beneath navigable waters of a coastal
9 State a moratorium on oil, gas, or other mineral explo-
10 ration, development, or production activities established by
11 statute or by order of the Governor of the coastal State,
12 the Secretary shall not issue a lease for the exploration,
13 development, or production of minerals on submerged
14 lands of the outer Continental Shelf that are seaward of
15 or adjacent to those lands.”.

16 **SEC. 706. LIABILITY FOR NATIONAL WILDLIFE REFUGES.**

17 Section 4 of the National Wildlife Refuge System Ad-
18 ministration Act of 1966 (16 U.S.C. 668dd) is amended
19 by adding at the end the following new subsection:

20 “(p) DESTRUCTION OR LOSS OF, OR INJURY TO,
21 REFUGE RESOURCES.—

22 “(1) LIABILITY.—

23 “(A) LIABILITY TO UNITED STATES.—Any
24 person who destroys, causes the loss of, or in-

1 jures any refuge resource is liable to the United
2 States for an amount equal to the sum of—

3 “(i) the amount of the response costs
4 and damages resulting from the destruc-
5 tion, loss, or injury; and

6 “(ii) interest on that amount cal-
7 culated in the manner described under
8 section 1005 of the Oil Pollution Act of
9 1990 (33 U.S.C. 2705).

10 “(B) LIABILITY IN REM.—Any instrumen-
11 tality, including a vessel, vehicle, aircraft, or
12 other equipment, that destroys, causes the loss
13 of, or injures any refuge resource shall be liable
14 in rem to the United States for response costs
15 and damages resulting from such destruction,
16 loss, or injury to the same extent as a person
17 is liable under subparagraph (A).

18 “(C) DEFENSES.—A person is not liable
19 under this paragraph if that person establishes
20 that—

21 “(i) the destruction or loss of, or in-
22 jury to, the refuge resource was caused
23 solely by an act of God, an act of war, or
24 an act or omission of a third party, and
25 the person acted with due care;

1 “(ii) the destruction, loss, or injury
2 was caused by an activity authorized by
3 Federal or State law; or

4 “(iii) the destruction, loss, or injury
5 was negligible.

6 “(D) LIMITS TO LIABILITY.—Nothing in
7 sections 30501 to 30512 or section 30706 of
8 title 46, United States Code, shall limit the li-
9 ability of any person under this section.

10 “(2) RESPONSE ACTIONS.—The Secretary may
11 undertake or authorize all necessary actions to pre-
12 vent or minimize the destruction or loss of, or injury
13 to, refuge resources, or to minimize the imminent
14 risk of such destruction, loss, or injury.

15 “(3) CIVIL ACTIONS FOR RESPONSE COSTS AND
16 DAMAGES.—

17 “(A) IN GENERAL.—The Attorney General,
18 upon request of the Secretary, may commence
19 a civil action against any person or instrumen-
20 tality who may be liable under paragraph (1)
21 for response costs and damages. The Secretary,
22 acting as trustee for refuge resources for the
23 United States, shall submit a request for such
24 an action to the Attorney General whenever a
25 person may be liable for such costs or damages.

1 “(B) JURISDICTION AND VENUE.—An ac-
2 tion under this subsection may be brought in
3 the United States district court for any district
4 in which—

5 “(i) the defendant is located, resides,
6 or is doing business, in the case of an ac-
7 tion against a person;

8 “(ii) the instrumentality is located, in
9 the case of an action against an instru-
10 mentality; or

11 “(iii) the destruction of, loss of, or in-
12 jury to a refuge resource occurred.

13 “(4) USE OF RECOVERED AMOUNTS.—Response
14 costs and damages recovered by the Secretary under
15 this subsection shall be retained by the Secretary in
16 the manner provided for in section 107(f)(1) of the
17 Comprehensive Environmental Response, Compensa-
18 tion, and Liability Act of 1980 (42 U.S.C.
19 9607(f)(1)) and used as follows:

20 “(A) RESPONSE COSTS.—Amounts recov-
21 ered by the United States for costs of response
22 actions and damage assessments under this
23 subsection shall be used, as the Secretary con-
24 siders appropriate—

1 “(i) to reimburse the Secretary or any
2 other Federal or State agency that con-
3 ducted those activities; and

4 “(ii) after reimbursement of such
5 costs, to restore, replace, or acquire the
6 equivalent of any refuge resource.

7 “(B) OTHER AMOUNTS.—All other
8 amounts recovered shall be used, in order of
9 priority—

10 “(i) to restore, replace, or acquire the
11 equivalent of the refuge resources that
12 were the subject of the action, including
13 the costs of monitoring the refuge re-
14 sources;

15 “(ii) to restore degraded refuge re-
16 sources of the refuge that was the subject
17 of the action, giving priority to refuge re-
18 sources that are comparable to the refuge
19 resources that were the subject of the ac-
20 tion; and

21 “(iii) to restore degraded refuge re-
22 sources of other refuges.

23 “(5) DEFINITIONS.—In this subsection, the
24 term—

25 “(A) ‘damages’ includes—

1 “(i) compensation for—

2 “(I)(aa) the cost of replacing, re-
3 storing, or acquiring the equivalent of
4 a refuge resource; and

5 “(bb) the value of the lost use of
6 a refuge resource pending its restora-
7 tion or replacement or the acquisition
8 of an equivalent refuge resource; or

9 “(II) the value of a refuge re-
10 source if the refuge resource cannot
11 be restored or replaced or if the equiv-
12 alent of such resource cannot be ac-
13 quired;

14 “(ii) the cost of conducting damage
15 assessments;

16 “(iii) the reasonable cost of moni-
17 toring appropriate to the injured, restored,
18 or replaced refuge resource; and

19 “(iv) the cost of enforcement actions
20 undertaken by the Secretary in response to
21 the destruction or loss of, or injury to, a
22 refuge resource;

23 “(B) ‘response costs’ means the costs of
24 actions taken or authorized by the Secretary to
25 minimize destruction or loss of, or injury to,

1 refuge resources, or to minimize the imminent
2 risks of such destruction, loss, or injury, includ-
3 ing costs related to seizure, forfeiture, storage,
4 or disposal arising from liability, or to monitor
5 ongoing effects of incidents causing such de-
6 struction, loss, or injury under this subsection;
7 and

8 “(C) ‘refuge resource’ means any living or
9 nonliving resource of a refuge that contributes
10 to the conservation, management, and restora-
11 tion mission of the System, including living or
12 nonliving resources of a marine national monu-
13 ment that may be managed as a unit of the
14 System.”.

15 **SEC. 707. STRENGTHENING COASTAL STATE OIL SPILL**
16 **PLANNING AND RESPONSE.**

17 The Coastal Zone Management Act of 1972 (16
18 U.S.C. 1451 et seq.) is amended adding at the end the
19 following new section:

20 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**
21 **SPONSE AND PLANNING.**

22 “(a) GRANTS TO STATES.—The Secretary may make
23 grants to eligible coastal states—

24 “(1) to revise relevant plans of management
25 programs approved under section 306 (16 U.S.C.

1 1455) to identify and implement new policies and
2 procedures to ensure sufficient response capabilities
3 at the state level to address the environmental, eco-
4 nomic and social impacts of oil spills or other acci-
5 dents resulting from Outer Continental Shelf energy
6 activities with the potential to affect the coastal
7 zone; and

8 “(2) to review and revise where necessary appli-
9 cable enforceable policies within approved coastal
10 state management programs affecting coastal energy
11 activities and energy to ensure that these policies are
12 consistent with—

13 “(A) other emergency response plans devel-
14 oped under Federal or State law; and

15 “(B) new policies and procedures developed
16 under paragraph (1).

17 “(b) ELEMENTS.—New plans, procedures and en-
18 forceable policies developed by coastal states with grants
19 awarded under this section shall consider, but not be lim-
20 ited to—

21 “(1) other existing emergency response plans,
22 procedures and enforceable policies developed under
23 other Federal or State law that affect the coastal
24 zone;

1 “(2) identification of critical infrastructure es-
2 sential to facilitate spill or accident response activi-
3 ties;

4 “(3) identification of coordination, logistics and
5 communication networks between Federal and State
6 government agencies, and between State agencies
7 and affected local communities, to ensure the effi-
8 cient and timely dissemination of data and other in-
9 formation;

10 “(4) inventories of shore locations and infra-
11 structure and equipment necessary to respond to oil
12 spills or other accidents resulting from Outer Conti-
13 nental Shelf energy activities;

14 “(5) identification and characterization of sig-
15 nificant or sensitive marine ecosystems or other
16 areas possessing important conservation, rec-
17 reational, ecological, historic, or aesthetic values;

18 “(6) inventories and surveys of shore locations
19 and infrastructure capable of supporting alternative
20 energy development; and

21 “(7) other information or actions as may be
22 necessary.

23 “(c) GUIDELINES.—The Secretary shall, within 180
24 days after the date of enactment of this section and after

1 consultation with the coastal states, publish guidelines for
2 the application for and use of grants under this section.

3 “(d) PARTICIPATION.—To the extent practicable,
4 coastal states shall provide opportunity for public partici-
5 pation in developing new policies and procedures under
6 this section, especially by relevant Federal agencies, other
7 coastal state agencies, local governments, regional organi-
8 zations, port authorities, and other interested parties and
9 stakeholders, public and private, that are related to, or
10 affected by Outer Continental Shelf energy activities.

11 “(e) ANNUAL GRANTS.—

12 “(1) IN GENERAL.—For each of fiscal years
13 2011 through 2015, the Secretary may make a
14 grant to a coastal state to develop new plans, proce-
15 dures, and enforceable polices as required under this
16 section.

17 “(2) GRANT AMOUNTS AND LIMIT ON
18 AWARDS.—The amount of any grant under this sec-
19 tion shall not exceed \$750,000 for any fiscal year.
20 No coastal state may receive more than two annual
21 grants under this section.

22 “(3) NO STATE MATCHING CONTRIBUTION RE-
23 QUIRED.—As it is in the national interest to be able
24 to respond efficiently and effectively at all levels of
25 government to oil spills and other accidents resulting

1 from Outer Continental Shelf energy activities, a
2 coastal state shall not be required to contribute any
3 portion of the cost of a grant awarded under this
4 section.

5 “(4) SECRETARIAL REVIEW AND LIMIT ON
6 AWARDS.—After an initial grant is made to a coastal
7 state under this section, no subsequent grant may be
8 made to that coastal state under this section unless
9 the Secretary finds that the coastal state is satisfac-
10 torily developing revisions to address offshore energy
11 impacts. No coastal state is eligible to receive grants
12 under this section for more than 2 fiscal years.

13 “(f) APPLICABILITY.—This section shall not be con-
14 strued to convey any new authority to any coastal state,
15 or repeal or supersede any existing authority of any coast-
16 al state, to regulate the siting, licensing, leasing, or per-
17 mitting of alternative energy facilities in areas of the
18 Outer Continental Shelf under the administration of the
19 Federal Government. Nothing in this section repeals or
20 supersedes any existing coastal state authority.

21 “(g) ASSISTANCE BY THE SECRETARY.—The Sec-
22 retary as authorized under section 310(a) and to the ex-
23 tent practicable, shall make available to coastal states the
24 resources and capabilities of the National Oceanic and At-
25 mospheric Administration to provide technical assistance

1 to the coastal states to prepare revisions to approved
2 coastal management plans to meet the requirements under
3 this section.”.

4 **SEC. 708. FEDERAL COORDINATION AND COLLABORATION.**

5 The President shall—

6 (1) establish policies and processes to promote
7 better coordination, communication and collabora-
8 tion between Federal agencies with ocean and coast-
9 al related functions;

10 (2) establish policies and processes to support
11 Regional Ocean Partnerships and other voluntary re-
12 gional coordination efforts related to the conserva-
13 tion and management of coastal and marine re-
14 sources;

15 (3) establish a National Ocean Council to facili-
16 tate these efforts; and

17 (4) ensure for adequate public notice and com-
18 ment in the development and implementation of such
19 policies and processes.

20 **SEC. 709. INFORMATION SHARING.**

21 Section 388(b) of the Energy Policy Act of 2005 (43
22 U.S.C. 1337 note) is amended by adding at the end the
23 following:

24 “(4) AVAILABILITY OF DATA AND INFORMA-
25 TION.—All heads of departments and agencies of the

1 Federal Government shall, upon request of the Sec-
2 retary, provide to the Secretary all data and infor-
3 mation that the Secretary deems necessary for the
4 purpose of including such data and information in
5 the mapping initiative, except that no department or
6 agency of the Federal Government shall be required
7 to provide any data or information that is privileged
8 or proprietary.”.

9 **SEC. 710. SAVINGS CLAUSE.**

10 None of the funds authorized or made available by
11 this Act may be used to carry out any activity or pay any
12 cost for which a responsible party (as such term is defined
13 in section 1001 of the Oil Pollution Act of 1990 (33
14 U.S.C. 2701)) is liable under the Oil Pollution Act of 1990
15 (33 U.S.C. 2701 et seq.) or other law.

16 **TITLE VIII—GULF OF MEXICO**
17 **RESTORATION**

18 **SEC. 801. GULF OF MEXICO RESTORATION PROGRAM.**

19 (a) PROGRAM.—There is established a Gulf of Mexico
20 Restoration Program for the purposes of coordinating
21 Federal, State, and local restoration programs and
22 projects to ensure the greatest contribution in restoring
23 biological productivity and ecosystem functions in the Gulf
24 of Mexico.

25 (b) GULF OF MEXICO RESTORATION TASK FORCE.—

1 (1) ESTABLISHMENT.—There is established a
2 task force to be known as the Gulf of Mexico Res-
3 toration Task Force (hereinafter, the “Restoration
4 Task Force”).

5 (2) MEMBERSHIP.—The Restoration Task
6 Force shall consist of the following members:

7 (A) The Chair appointed under paragraph

8 (3).

9 (B) The Secretary of the Interior.

10 (C) The Chair of the Council on Environ-
11 mental Quality.

12 (D) The Secretary of the Army.

13 (E) The Secretary of Commerce.

14 (F) The Secretary of Agriculture.

15 (G) The Administrator of the Environ-
16 mental Protection Agency.

17 (H) The Secretary of Homeland Security.

18 (I) The Governor of each of the Gulf coast
19 States

20 (3) CHAIR.—The chairperson of the Restoration
21 Task Force (in this subsection referred to as the
22 “Chair”) shall be appointed by the President. The
23 Chair shall be a person who, as the result of experi-
24 ence and training, is exceptionally well-qualified to
25 manage the work of the Restoration Task Force.

1 The Chair shall serve in the Executive Office of the
2 President.

3 (4) ADVISORY COMMITTEES.—The Restoration
4 Task Force may establish advisory committees and
5 working groups as necessary to carry out its du-
6 ties under this Act.

7 (c) GULF OF MEXICO RESTORATION PLAN.—

8 (1) IN GENERAL.—Not later than nine months
9 after the date of enactment of this Act, the Restora-
10 tion Task Force shall issue a proposed comprehen-
11 sive plan for long-term restoration of the Gulf of
12 Mexico. Not later than 12 months after the date of
13 enactment and after notice and opportunity for pub-
14 lic comment, the Restoration Task Force shall pub-
15 lish a final plan. The Plan shall be updated every
16 five years in the same manner.

17 (2) ELEMENTS OF RESTORATION PLANS.—The
18 Plan shall—

19 (A) identify processes and strategies for
20 coordinating Federal, State, and local restora-
21 tion programs and projects to ensure the great-
22 est contribution in restoring biological produc-
23 tivity and ecosystem functions in the Gulf of
24 Mexico region;

1 (B) identify mechanisms for scientific re-
2 view and input to evaluate the benefits of res-
3 toration programs and projects;

4 (C) identify, using the best science avail-
5 able, strategies for implementing restoration
6 programs and projects for trust resources in-
7 cluding—

8 (i) restoring fish, wildlife and migra-
9 tory bird habitat including oyster reefs, sea
10 grass beds, coral reefs, tidal marshes and
11 other coastal wetlands and barrier islands
12 and beaches;

13 (ii) restoring fish passage and improv-
14 ing migratory pathways for wildlife; and

15 (iii) research that directly supports
16 restoration programs and projects.

17 (d) DEFINITIONS.—For purposes of this section, the
18 term—

19 (1) “Gulf coast State” means each of the
20 States of Texas, Louisiana, Mississippi, Alabama,
21 and Florida;

22 (2) “restoration programs and projects” means
23 activities that support the restoration, rehabilitation,
24 replacement, or acquisition of the equivalent, of in-
25 jured or lost natural resources including the ecologi-

1 cal services and benefits provided by such resources;
2 and

3 (3) “trust resources” means the living and non-
4 living natural resources belonging to, managed by,
5 held in trust by, appertaining to, or otherwise con-
6 trolled by the United States, any State, an Indian
7 Tribe, or a local government.

8 **SEC. 802. GULF OF MEXICO LONG-TERM ENVIRONMENTAL**
9 **MONITORING AND RESEARCH PROGRAM.**

10 (a) IN GENERAL.—To ensure that the Federal Gov-
11 ernment has independent, peer-reviewed scientific data
12 and information to assess long-term direct and indirect
13 impacts on trust resources located in the Gulf of Mexico
14 and Southeast region resulting from the *Deepwater Hori-*
15 *zon* oil spill, the Secretary, through the National Oceanic
16 and Atmospheric Administration, shall establish as soon
17 as practicable after date of enactment of this Act, a long-
18 term, comprehensive marine environmental monitoring
19 and research program for the marine and coastal environ-
20 ment of the Gulf of Mexico. The program shall remain
21 in effect for a minimum of 10 years, and the Secretary
22 may extend the program beyond this initial period based
23 upon a determination that additional monitoring and re-
24 search is warranted.

1 (b) SCOPE OF PROGRAM.—The program established
2 under subsection (a) shall at a minimum include moni-
3 toring and research of the physical, chemical, and biologi-
4 cal characteristics of the affected marine, coastal, and es-
5 tuarine areas of the Gulf of Mexico and other regions of
6 the exclusive economic zone of the United States affected
7 by the *Deepwater Horizon* oil spill, and shall include spe-
8 cifically the following elements:

9 (1) The fate, transport, and persistence of oil
10 released during the spill and spatial distribution
11 throughout the water column.

12 (2) The fate, transport, and persistence of
13 chemical dispersants applied in-situ or on surface
14 waters.

15 (3) Identification of lethal and sub-lethal im-
16 pacts to fish and wildlife resources that utilize habi-
17 tats located within the affected region.

18 (4) Impacts to regional, State, and local econo-
19 mies that depend on the natural resources of the af-
20 fected area, including commercial and recreational
21 fisheries, tourism, and other wildlife-dependent
22 recreation.

23 (5) Other elements considered necessary by the
24 Secretary to ensure a comprehensive marine re-
25 search and monitoring program to comprehend and

1 understand the implications to trust resources
2 caused by the *Deepwater Horizon* oil spill.

3 (c) COOPERATION AND CONSULTATION.—In devel-
4 oping the research and monitoring program established
5 under subsection (a), the Secretary shall cooperate with
6 the United States Geological Survey, and shall consult
7 with—

8 (1) the Council authorized under subtitle E of
9 title II of Public Law 104–201;

10 (2) appropriate representatives from the Gulf
11 coast States;

12 (3) academic institutions and other research or-
13 ganizations; and

14 (4) other experts with expertise in long-term
15 environmental monitoring and research of the ma-
16 rine environment.

17 (d) AVAILABILITY OF DATA.—Data and information
18 generated through the program established under sub-
19 section (a) shall be managed and archived to ensure that
20 it is accessible and available to governmental and non-gov-
21 ernmental personnel and to the general public for their
22 use and information.

23 (e) REPORT.—No later than one year after the estab-
24 lishment of the program under subsection (a), and bienni-
25 ally thereafter, the Secretary shall forward to the Con-

1 gress a comprehensive report summarizing the activities
2 and findings of the program and detailing areas and issues
3 requiring future monitoring and research.

4 (f) DEFINITIONS.—For the purposes of this section,
5 the term—

6 (1) “trust resources” means the living and non-
7 living natural resources belonging to, managed by,
8 held in trust by, appertaining to, or otherwise con-
9 trolled by the United States, any State, an Indian
10 Tribe, or a local government;

11 (2) “Gulf coast State” means each of the states
12 of Texas, Louisiana, Mississippi, Alabama and Flor-
13 ida; and

14 (3) “Secretary” means the Secretary of Com-
15 merce.

16 **SEC. 803. GULF OF MEXICO EMERGENCY MIGRATORY SPE-**
17 **CIES ALTERNATIVE HABITAT PROGRAM.**

18 (a) IN GENERAL.—In order to reduce the injury or
19 death of many populations of migratory species of fish and
20 wildlife, including threatened and endangered species and
21 other species of critical conservation concern, that utilize
22 estuarine, coastal, and marine habitats of the Gulf of Mex-
23 ico that have been impacted, or are likely to be impacted,
24 by the *Deepwater Horizon* oil spill, and to ensure that mi-
25 gratory species upon their annual return to the Gulf of

1 Mexico find viable, healthy, and environmentally-safe habi-
2 tats to utilize for resting, feeding, nesting and roosting,
3 and breeding, the Secretary shall establish as soon as
4 practicable after date of enactment of this Act, an emer-
5 gency migratory species alternative habitat program.

6 (b) SCOPE OF PROGRAM.—The program established
7 under subsection (a) shall at a minimum support projects
8 along the Northern coast of the Gulf of Mexico to—

9 (1) improve wetland water quality and forage;

10 (2) restore and refurbish diked impoundments;

11 (3) improve riparian habitats to increase fish
12 passage and breeding habitat;

13 (4) encourage conversion of agricultural lands
14 to provide alternative migratory habitat for water-
15 fowl and other migratory birds;

16 (5) transplant, relocate or rehabilitate fish and
17 wildlife;

18 (6) conduct other activities considered nec-
19 essary by the Secretary to ensure that migratory
20 species have alternative habitat available for their
21 use outside of habitat impacted by the oil spill.

22 (c) NATIONAL FISH AND WILDLIFE FOUNDATION.—
23 In implementing this section the Secretary may enter into

1 an agreement with the National Fish and Wildlife Foun-
2 dation to administer the program.

