

CONSOLIDATED LAND, ENERGY, AND AQUATIC
RESOURCES ACT OF 2010

JULY 28, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3534]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3534) to provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Consolidated Land, Energy, and Aquatic Resources Act of 2010”.

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

Sec. 1. Short title; table of contents.
Sec. 2. 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. References.
Sec. 106. Abolishment of Minerals Management Service.

- Sec. 107. Conforming amendment.
- Sec. 108. Outer Continental Shelf 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. Outer Continental Shelf leasing standard.
- Sec. 206. Leases, easements, and rights-of-way.
- Sec. 207. Disposition of revenues.
- Sec. 208. Exploration plans.
- Sec. 209. Outer Continental Shelf leasing program.
- Sec. 210. Environmental studies.
- Sec. 211. Safety regulations.
- Sec. 212. Enforcement of safety and environmental regulations.
- Sec. 213. Judicial review.
- Sec. 214. Remedies and penalties.
- Sec. 215. Uniform planning for Outer Continental Shelf.
- Sec. 216. Oil and gas information program.
- Sec. 217. Limitation on royalty-in-kind program.
- Sec. 218. Restrictions on employment.
- Sec. 219. Repeal of royalty relief provisions.
- Sec. 220. Manning and buy- and build-American requirements.
- Sec. 221. National Commission on Outer Continental Shelf Oil Spill Prevention.

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

- Sec. 231. Diligent development.
- Sec. 232. Reporting requirements.
- Sec. 233. Notice requirements.
- Sec. 234. Oil and gas leasing system.
- Sec. 235. Electronic reporting.
- Sec. 236. Best management practices.
- Sec. 237. Surface disturbance, reclamation.
- Sec. 238. Wildlife sustainability.
- Sec. 239. Online availability to the public of information relating to oil and gas chemical use.
- Sec. 240. Limitation on royalty-in-kind program.
- Sec. 241. Environmental review.
- Sec. 242. Federal lands uranium leasing.

Subtitle C—Royalty Relief for American Consumers

- Sec. 251. Short title.
- Sec. 252. Eligibility for new leases and the transfer of leases.
- Sec. 253. Price thresholds for royalty suspension provisions.

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. Shared civil penalties.
- Sec. 318. Applicability to other minerals.
- Sec. 319. Entitlements.

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

Subtitle A—Land and Water Conservation Fund

- Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965.
- Sec. 402. Extension of the Land and Water Conservation Fund.
- Sec. 403. Permanent funding.

Subtitle B—National Historic Preservation Fund

- Sec. 411. Permanent funding.

TITLE V—ALTERNATIVE ENERGY DEVELOPMENT

- Sec. 501. Commercial wind and solar leasing program.
- Sec. 502. Land management.
- Sec. 503. Revenues.
- Sec. 504. Recordkeeping and reporting requirements.
- Sec. 505. Audits.
- Sec. 506. Trade secrets.
- Sec. 507. Interest and substantial underreporting assessments.

- Sec. 508. Indian savings provision.
 Sec. 509. Transmission savings provision.

TITLE VI—COORDINATION AND PLANNING

- Sec. 601. Regional coordination.
 Sec. 602. Regional Coordination Councils.
 Sec. 603. Regional strategic plans.
 Sec. 604. Regulations.
 Sec. 605. Ocean Resources Conservation and Assistance Fund.
 Sec. 606. Waiver.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry.
 Sec. 702. Conservation fee.
 Sec. 703. Leasing on Indian lands.
 Sec. 704. Offshore aquaculture clarification.
 Sec. 705. Outer Continental Shelf State boundaries.
 Sec. 706. Liability for damages to national wildlife refuges.
 Sec. 707. Strengthening coastal State oil spill planning and response.
 Sec. 708. Information sharing.
 Sec. 709. Repeal of funding.
 Sec. 710. Limitation on use of funds.
 Sec. 711. Additional public-right-to-know requirements.
 Sec. 712. Federal response to State proposals to protect State lands and waters.

TITLE VIII—GULF OF MEXICO RESTORATION

- Sec. 801. Gulf of Mexico restoration program.

TITLE IX—GEOTHERMAL PRODUCTION EXPANSION

- Sec. 901. Short title.
 Sec. 902. Findings.
 Sec. 903. Noncompetitive leasing of adjoining areas for development of geothermal resources.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

- (1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.
- (2) **AFFECTED INDIAN TRIBE.**—The term “affected Indian tribe” means an Indian tribe that has federally reserved rights that are affirmed by treaty, statute, Executive order, Federal court order, or other Federal law in the area at issue.
- (3) **ALTERNATIVE ENERGY.**—The term “alternative energy” means electricity generated by a renewable energy resource.
- (4) **COASTAL STATE.**—The term “coastal State” has the meaning given the term “coastal state” in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).
- (5) **DEPARTMENT.**—The term “Department” means the Department of the Interior, except as the context indicates otherwise.
- (6) **ECOSYSTEM-BASED MANAGEMENT.**—The term “ecosystem-based management” means an integrated approach to management that—
- (A) considers the entire ecosystem, including humans, and accounts for interactions among the ecosystem, the range of activities affecting the ecosystem, and the management of such activities;
- (B) aims to maintain ecosystems in a healthy, productive, sustainable, and resilient condition so that they can provide the services humans want and need;
- (C) emphasizes the protection of ecosystem structure, function, patterns, and important processes;
- (D) considers the impacts, including cumulative impacts, of the range of activities affecting an ecosystem that fall within geographical boundaries of the ecosystem;
- (E) explicitly accounts for the interconnectedness within an ecosystem, such as food webs, and acknowledges the interconnectedness among systems, such as between air, land, and sea; and
- (F) integrates ecological, social, economic, cultural, and institutional perspectives, recognizing their strong interdependencies.
- (7) **FEDERAL LAND MANAGEMENT AGENCY.**—The term “Federal land management agency” means—
- (A) the Bureau of Land Management;
- (B) the Forest Service;
- (C) the United States Fish and Wildlife Service; and
- (D) the National Park Service.
- (8) **FUNCTION.**—The term “function” includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.
- (9) **IMPORTANT ECOLOGICAL AREA.**—The term “important ecological area” means an area that contributes significantly to local or larger marine ecosystem health or is an especially unique or sensitive marine ecosystem.

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

(11) MARINE ECOSYSTEM HEALTH.—The term “marine ecosystem health” means the ability of an ecosystem in ocean and coastal waters to support and maintain patterns, important processes, and productive, sustainable, and resilient communities of organisms, having a species composition, diversity, and functional organization resulting from the natural habitat of the region, such that it is capable of supporting a variety of activities and providing a complete range of ecological benefits. Such an ecosystem would be characterized by a variety of factors, including—

(A) a complete diversity of native species and habitat wherein each native species is able to maintain an abundance, population structure, and distribution supporting its ecological and evolutionary functions, patterns, and processes; and

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

(12) MINERAL.—The term “mineral” has the same meaning that the term “minerals” has in section 2(q) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(q)).

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

(14) OPERATOR.—The term “operator” means—

(A) the lessee; or

(B) a person designated by the lessee as having control or management of operations on the leased area or a portion thereof, who is—

(i) approved by the Secretary, acting through the Bureau of Energy and Resource Management; or

(ii) the holder of operating rights under an assignment of operating rights that is approved by the Secretary, acting through the Bureau of Energy and Resource Management.

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

(16) PUBLIC LAND STATE.—The term “public land State” means—

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

(B) Alaska.

(17) REGIONAL OCEAN PARTNERSHIP.—The term “Regional Ocean Partnership” means voluntary, collaborative management initiatives developed and entered into by the Governors of two or more coastal States or created by an interstate compact for the purpose of addressing more than one ocean, coastal, or Great Lakes issue and to implement policies and activities identified under special area management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) or other agreements developed and signed by the Governors.

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

(A) Wind energy.

(B) Solar energy.

(C) Geothermal energy.

(D) Biomass or landfill gas.

(E) Marine and hydrokinetic renewable energy, as that term is defined in section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211).

(19) SECRETARIES.—The term “Secretaries” means the Secretary of the Interior and the Secretary of Commerce.

(20) SECRETARY.—The term “Secretary” means the Secretary of the Interior, except as otherwise provided in this Act.

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

(22) TERMS DEFINED IN OTHER LAW.—Each of the terms “Federal land”, “lease”, “lease site”, and “mineral leasing law” has the meaning that term has under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), except that such terms shall also apply to all minerals and renewable energy resources in addition to oil and gas.

(23) **TRIBE.**—The term “tribe” has the same meaning as the term “Indian tribe” has in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR AGENCIES

SEC. 101. BUREAU OF ENERGY AND RESOURCE MANAGEMENT.

(a) **ESTABLISHMENT.**—There is established in the Department of the Interior a Bureau of Energy and Resource Management (referred to in this section as the “Bureau”) to be headed by a Director of Energy and Resource Management (referred to in this section as the “Director”).

(b) **DIRECTOR.**—

(1) **APPOINTMENT.**—The Director shall be appointed by the President, by and with the advice and consent of the Senate, on the basis of—

- (A) professional background, demonstrated competence, and ability; and
- (B) capacity to—

- (i) administer the provisions of this Act; and
- (ii) ensure that the fiduciary duties of the United States Government on behalf of the people of the United States, as they relate to development of nonrenewable and renewable energy and mineral resources, are duly met.

(2) **COMPENSATION.**—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) **DUTIES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (4), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in the Secretary relating to the administration of a comprehensive program of nonrenewable and renewable energy and mineral resources management—

(A) on the Outer Continental Shelf, pursuant to the Outer Continental Shelf Lands Act as amended by this Act (43 U.S.C. 1331 et seq.);

(B) on Federal public lands, pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

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

(D) in the National Petroleum Reserve in Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

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

(F) pursuant to this Act and all other applicable Federal laws, including the administration and approval of all instruments and agreements required to ensure orderly, safe, and environmentally responsible nonrenewable and renewable energy and mineral resources development activities.

(2) **SPECIFIC AUTHORITIES.**—The Director shall promulgate and implement regulations for the proper issuance of leases for the exploration, development, and production of nonrenewable and renewable energy and mineral resources, and for the issuance of permits under such leases, on the Outer Continental Shelf and lands managed by the Bureau of Land Management, the Forest Service, or any other Federal land management agency, including regulations relating to resource identification, access, evaluation, and utilization.

(3) **INDEPENDENT ENVIRONMENTAL SCIENCE.**—

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

- (i) shall report to the Director;
- (ii) shall be programmatically separate and distinct from the leasing and permitting activities of the Bureau; and
- (iii) shall—

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

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

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

- (B) CONSULTATION.—Studies and analyses carried out by the office created under subparagraph (A) shall be conducted in appropriate and timely consultation with other relevant Federal agencies, including—
- (i) the Bureau of Safety and Environmental Enforcement;
 - (ii) the United States Fish and Wildlife Service;
 - (iii) the United States Geological Survey; and
 - (iv) the National Oceanic and Atmospheric Administration.
- (4) LIMITATION.—The Secretary shall not carry out through the Bureau any function, power, or duty that is—
- (A) required by section 102 to be carried out through Bureau of Safety and Environmental Enforcement; or
 - (B) required by section 103 to be carried out through the Office of Natural Resources Revenue.
- (d) COMPREHENSIVE DATA AND ANALYSES ON OUTER CONTINENTAL SHELF RESOURCES.—
- (1) IN GENERAL.—
 - (A) PROGRAMS.—The Director shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of data and information that is relevant to carrying out the duties of the Bureau, including studies under section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346).
 - (B) USE OF DATA AND INFORMATION.—The Director shall, in carrying out functions pursuant to the Outer Continental Lands Act (43 U.S.C. 1331 et seq.), consider data and information referred to in subparagraph (A) which shall inform the management functions of the Bureau, and shall contribute to a broader coordination of development activities within the contexts of the best available science and marine spatial planning.
 - (2) INTERAGENCY COOPERATION.—In carrying out programs under this subsection, the Bureau shall—
 - (A) utilize the authorities of subsection (g) and (h) of section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344);
 - (B) cooperate with appropriate offices in the Department and in other Federal agencies;
 - (C) use existing inventories and mapping of marine resources previously undertaken by the Minerals Management Service, mapping undertaken by the United States Geological Survey and the National Oceanographic and Atmospheric Administration, and information provided by the Department of Defense and other Federal and State agencies possessing relevant data; and
 - (D) use any available data regarding renewable energy potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses of the Outer Continental Shelf.
- (e) RESPONSIBILITIES OF LAND MANAGEMENT AGENCIES.—Nothing in this section shall affect the authorities of the Bureau of Land Management under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or of the Forest Service under the National Forest Management Act of 1976 (Public Law 94–588).
- SEC. 102. BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT.**
- (a) ESTABLISHMENT.—There is established in the Department a Bureau of Safety and Environmental Enforcement (referred to in this section as the “Bureau”) to be headed by a Director of Safety and Environmental Enforcement (referred to in this section as the “Director”).
- (b) DIRECTOR.—
- (1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, on the basis of—
 - (A) professional background, demonstrated competence, and ability; and
 - (B) capacity to administer the provisions of this Act.
 - (2) COMPENSATION.—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.
- (c) DUTIES.—
- (1) IN GENERAL.—The Secretary shall carry out through the Bureau all functions, powers, and duties vested in the Secretary relating to the administration of safety and environmental enforcement activities related to nonrenewable and renewable energy and mineral resources—
 - (A) on the Outer Continental Shelf pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(B) on Federal public lands, pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

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

(D) in the National Petroleum Reserve in Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.); and

(E) pursuant to—

(i) the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.);

(ii) the Energy Policy Act of 2005 (Public Law 109–58);

(iii) the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (Public Law 104–185);

(iv) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(vi) this Act; and

(vii) all other applicable Federal laws,

including the authority to develop, promulgate, and enforce regulations to ensure the safe and environmentally sound exploration, development, and production of nonrenewable and renewable energy and mineral resources on the Outer Continental Shelf and onshore federally managed lands.

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

(1) performing necessary oversight activities to ensure the proper application of environmental reviews, including those conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the Bureau of Energy and Resource Management in the performance of its duties under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(2) suspending or prohibiting, on a temporary basis, any operation or activity, including production—

(A) on leases held on the Outer Continental Shelf, in accordance with section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(1)); or

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

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

(A) on the Outer Continental Shelf, in accordance with section 5(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2)); or

(B) on onshore Federal lands, in accordance with section 302(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(c));

(4) compelling compliance with applicable worker safety and environmental laws and regulations;

(5) requiring comprehensive safety and environmental management programs for persons engaged in activities connected with the exploration, development, and production of energy or mineral resources;

(6) developing and implementing regulations for Federal employees to carry out any inspection or investigation to ascertain compliance with applicable regulations, including health, safety, or environmental regulations;

(7) collecting, evaluating, assembling, analyzing, and publicly disseminating electronically data and information that is relevant to inspections, failures, or accidents involving equipment and systems used for exploration and production of energy and mineral resources, including human factors associated therewith;

(8) implementing the Offshore Technology Research and Risk Assessment Program under section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347);

(9) summoning witnesses and directing the production of evidence;

(10) levying fines and penalties and disqualifying operators; and

(11) carrying out any safety, response, and removal preparedness functions.

(e) EMPLOYEES.—

(1) IN GENERAL.—The Secretary shall ensure that the inspection force of the Bureau consists of qualified, trained employees who meet qualification requirements and adhere to the highest professional and ethical standards.

(2) QUALIFICATIONS.—The qualification requirements referred to in paragraph (1)—

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

(B) shall include—

- (i) three years of practical experience in oil and gas exploration, development, or production; or
- (ii) a degree in an appropriate field of engineering from an accredited institution of higher learning.

(3) ASSIGNMENT.—In assigning oil and gas inspectors to the inspection and investigation of individual operations, the Secretary shall give due consideration to the extent possible to their previous experience in the particular type of oil and gas operation in which such inspections are to be made.

(4) TRAINING ACADEMY.—

(A) IN GENERAL.—The Secretary shall establish and maintain a National Oil and Gas Health and Safety Academy (referred to in this paragraph as the “Academy”) as an agency of the Department of the Interior.

(B) FUNCTIONS OF ACADEMY.—The Secretary, through the Academy, shall be responsible for—

- (i) the initial and continued training of both newly hired and experienced oil and gas inspectors in all aspects of health, safety, environmental, and operational inspections;
- (ii) the training of technical support personnel of the Bureau;
- (iii) any other training programs for oil and gas inspectors, Bureau personnel, Department personnel, or other persons as the Secretary shall designate; and
- (iv) certification of the successful completion of training programs for newly hired and experienced oil and gas inspectors.

(C) COOPERATIVE AGREEMENTS.—

(i) IN GENERAL.—In performing functions under this paragraph, and subject to clause (ii), the Secretary may enter into cooperative educational and training agreements with educational institutions, related Federal academies, other Federal agencies, State governments, labor organizations, and oil and gas operators and related industries.

(ii) TRAINING REQUIREMENT.—Such training shall be conducted by the Academy in accordance with curriculum needs and assignment of instructional personnel established by the Secretary.

(D) USE OF DEPARTMENTAL PERSONNEL.—In performing functions under this subsection, the Secretary shall use, to the extent practicable, the facilities and personnel of the Department of the Interior. The Secretary may appoint or assign to the Academy such officers and employees as the Secretary considers necessary for the performance of the duties and functions of the Academy.

(5) ADDITIONAL TRAINING PROGRAMS.—

(A) IN GENERAL.—The Secretary shall work with appropriate educational institutions, operators, and representatives of oil and gas workers to develop and maintain adequate programs with educational institutions and oil and gas operators, that are designed—

- (i) to enable persons to qualify for positions in the administration of this Act; and
- (ii) to provide for the continuing education of inspectors or other appropriate Departmental personnel.

(B) FINANCIAL AND TECHNICAL ASSISTANCE.—The Secretary may provide financial and technical assistance to educational institutions in carrying out this paragraph.

SEC. 103. OFFICE OF NATURAL RESOURCES REVENUE.

(a) ESTABLISHMENT.—There is established in the Department an Office of Natural Resources Revenue (referred to in this section as the “Office”) to be headed by a Director of Natural Resources Revenue (referred to in this section as the “Director”).

(b) APPOINTMENT AND COMPENSATION.—

(1) IN GENERAL.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, on the basis of—

(A) professional competence; and

(B) capacity to—

- (i) administer the provisions of this Act; and
- (ii) ensure that the fiduciary duties of the United States Government on behalf of the American people, as they relate to development of non-renewable and renewable energy and mineral resources, are duly met.

(2) COMPENSATION.—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) DUTIES.—

(1) IN GENERAL.—The Secretary shall carry out, through the Office—

(A) all functions, powers, and duties vested in the Secretary and relating to the administration of the royalty and revenue management functions pursuant to—

- (i) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);
- (ii) the Mineral Leasing Act (30 U.S.C. 181 et seq.);
- (iii) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.);
- (iv) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);
- (v) the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);
- (vi) the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.);
- (vii) the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (Public Law 104–185);
- (viii) the Energy Policy Act of 2005 (Public Law 109–58);
- (ix) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);
- (x) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (xi) this Act and all other applicable Federal laws; and

(B) all functions, powers, and duties previously assigned to the Minerals Management Service (including the authority to develop, promulgate, and enforce regulations) regarding—

- (i) royalty and revenue collection;
 - (ii) royalty and revenue distribution;
 - (iii) auditing and compliance;
 - (iv) investigation and enforcement of royalty and revenue regulations;
- and
- (v) asset management for onshore and offshore activities.

(d) OVERSIGHT.—In order to provide transparency and ensure strong oversight over the revenue program, the Secretary shall—

(1) create within the Office an independent audit and oversight program responsible for monitoring the performance of the Office with respect to the duties and functions under subsection (c), and conducting internal control audits of the operations of the Office;

(2) facilitate the participation of those Indian tribes and States operating pursuant to cooperative agreements or delegations under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) on all of the management teams, committees, councils, and other entities created by the Office; and

(3) assure prior consultation with those Indian tribes and States referred to in paragraph (2) in the formulation all policies, procedures, guidance, standards, and rules relating to the functions referred to in subsection (c).

SEC. 104. ETHICS.

(a) CERTIFICATION.—The Secretary shall certify annually that all Department of the Interior officers and employees having regular, direct contact with lessees and operators as a function of their official duties are in full compliance with all Federal employee ethics laws and regulations under the Ethics in Government Act of 1978 (5 U.S.C. App.) and part 2635 of title 5, Code of Federal Regulations, and all guidance issued under subsection (b).

(b) GUIDANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue supplementary ethics guidance for the employees for which certification is required under subsection (a).

SEC. 105. REFERENCES.

(a) BUREAU OF ENERGY AND RESOURCE MANAGEMENT.—Any reference in any law, rule, regulation, directive, instruction, certificate, or other official document, in force immediately before the enactment of this Act—

(1) to the Minerals Management Service that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to the Bureau of Energy and Resource Management established by section 101;

(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to the Director of the Bureau of Energy and Resource Management;

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to that same or equivalent position in the Bureau of Energy and Resource Management;

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

(5) to the Director of the Bureau of Land Management that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to the Director of the Bureau of Energy and Resource Management; and

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

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

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

(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities referred to in section 102 is deemed to refer and apply to the Director of the Bureau of Safety and Environmental Enforcement;

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 102 is deemed to refer and apply to that same or equivalent position in the Bureau of Safety and Environmental Enforcement;

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

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

(6) to any other position in the Bureau of Land Management that pertains to any of the duties and authorities referred to in section 102 is deemed to refer and apply to that same or equivalent position in the Bureau of Safety and Environmental Enforcement.

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

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

(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities referred to in section 103 is deemed to refer and apply to the Director of Natural Resources Revenue; and

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 103 is deemed to refer and apply to that same or equivalent position in the Office of Natural Resources Revenue.

SEC. 106. ABOLISHMENT OF MINERALS MANAGEMENT SERVICE.

(a) ABOLISHMENT.—The Minerals Management Service (in this section referred to as the “Service”) is abolished.

(b) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of the Service shall not be affected by the enactment of this Act, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

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

(c) PENDING PROCEEDINGS.—Subject to the authority of the Secretary of the Interior and the officers of the Department of the Interior under this Act—

(1) pending proceedings in the Service, including notices of proposed rule-making, and applications for licenses, permits, certificates, grants, and financial

assistance, shall continue, notwithstanding the enactment of this Act or the vesting of functions of the Service in another agency, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance or modification could have occurred if this Act had not been enacted; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

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

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

SEC. 107. CONFORMING AMENDMENT.

Section 5316 of title 5, United States Code, is amended by striking “Director, Bureau of Mines, Department of the Interior.” and inserting the following new items:

“Director, Bureau of Energy and Resource Management, Department of the Interior.

“Director, Bureau of Safety and Environmental Enforcement, Department of the Interior.

“Director, Office of Natural Resources Revenue, Department of the Interior.”.

SEC. 108. OUTER CONTINENTAL SHELF SAFETY AND ENVIRONMENTAL ADVISORY BOARD.

(a) **ESTABLISHMENT.**—The Secretary shall establish, under the Federal Advisory Committee Act, an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this section as the “Board”), to provide the Secretary and the Directors of the bureaus established by this title with independent scientific and technical advice on safe and environmentally compliant nonrenewable and renewable energy and mineral resource exploration, development, and production activities.

(b) **MEMBERSHIP.**—

(1) **SIZE.**—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, environmental, and other disciplines related to safe and environmentally compliant renewable and nonrenewable energy and mineral resource exploration, development, and production activities. The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for the Board.

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

(3) **BALANCE.**—In appointing members to the Board, the Secretary shall ensure a balanced representation of industry- and nonindustry-related interests.

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

(d) **MEETINGS.**—The Board shall meet not less than 3 times per year and, at least once per year, shall host a public forum to review and assess the overall safety and environmental performance of Outer Continental Shelf nonrenewable and renewable energy and mineral resource activities.

(e) **REPORTS.**—Reports of the Board shall be submitted to the Congress and made available to the public in electronically accessible form.

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

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.

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

SEC. 202. DEFINITIONS.

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

“(r) The term ‘safety case’ means a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment.”.

SEC. 203. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

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

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

“(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, that should be managed in a manner that—

“(A) recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources;

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

“(C) acknowledges the long-term economic value to the United States of the balanced and orderly management of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf.”;

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

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

(4) by redesignating paragraph (6) as paragraph (7);

(5) by inserting after paragraph (5) the following:

“(6) exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that minimizes—

“(A) harmful impacts to life (including fish and other aquatic life) and health;

“(B) damage to the marine, coastal, and human environments and to property; and

“(C) harm to other users of the waters, seabed, or subsoil; and”;

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

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

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

(C) striking “or minimize”.

SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTINENTAL SHELF.

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

(1) inserting “or producing or supporting production of energy from sources other than oil and gas” after “therefrom”;

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

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

SEC. 205. OUTER CONTINENTAL SHELF LEASING STANDARD.

(a) IN GENERAL.—Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended—

(1) in subsection (a), by striking “The Secretary may at any time” and inserting “The Secretary shall”;

(2) in the second sentence of subsection (a), by adding after “provide for” the following: “operational safety, the protection of the marine and coastal environment, and”;

(3) in subsection (a), by inserting “and the Secretary of Commerce with respect to matters that may affect the marine and coastal environment” after “which may affect competition”;

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

(5) in subsection (a)(7), by inserting “in a manner that minimizes harmful impacts to the marine and coastal environment” after “lease area”;

(6) in subsection (a), by striking “and” after the semicolon at the end of paragraph (7), redesignating paragraph (8) as paragraph (12), and inserting after paragraph (7) the following:

“(8) for independent third-party certification requirements of safety systems related to well control, such as blowout preventers;

“(9) for performance requirements for blowout preventers, including quantitative risk assessment standards, subsea testing, and secondary activation methods;

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

“(11) for the establishment of mandatory safety and environmental management systems by operators on the Outer Continental Shelf.”;

(7) in subsection (a), by striking the period at the end of paragraph (12), as so redesignated, and inserting “; and”, and by adding at the end the following:

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

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

“(k) DOCUMENTS INCORPORATED BY REFERENCE.—Any documents incorporated by reference in regulations promulgated by the Secretary pursuant to this Act shall be made available to the public, free of charge, on a website maintained by the Secretary.”

(b) CONFORMING AMENDMENT.—Subsection (g) of section 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1351), as redesignated by section 215(4) of this Act, is further amended by striking “paragraph (8) of section 5(a) of this Act” each place it appears and inserting “paragraph (12) of section 5(a) of this Act”.

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

(a) FINANCIAL ASSURANCE AND FISCAL RESPONSIBILITY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

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

“(r) PERIODIC FISCAL REVIEW AND REPORT.—

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

“(A)(i) the royalty and rental rates included in new offshore oil and gas leases; and

“(ii) the rationale for the rates;

“(B) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) will yield a fair return to the public while promoting the production of oil and gas resources in a timely manner;

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

“(ii) the rationale for the minimum amounts;

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

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

“(2) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under paragraph (1), the Secretary shall provide to the public an opportunity to participate.

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

“(A) the Committee on Energy and Natural Resources of the Senate; and

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

“(s) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and every 5 years thereafter, the Secretary shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements for—

- “(A) bonus bids;
- “(B) rental rates;
- “(C) royalties; and
- “(D) oil and gas taxes.

“(2) REQUIREMENTS.—

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

- “(i) the information and analyses necessary to compare the offshore bonus bids, rents, royalties, and taxes of the Federal Government to the offshore bonus bids, rents, royalties, and taxes of other resource owners, including States and foreign countries; and
- “(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

“(B) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under paragraph (1), the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

“(3) REPORT.—

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

- “(i) the contents and results of the review carried out under paragraph (1) for the period covered by the report; and
- “(ii) any recommendations of the Secretary based on the contents and results of the review.

“(B) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes a report under paragraph (1), the Secretary shall transmit copies of the report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.”.

(b) ENVIRONMENTAL DILIGENCE.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking subsection (d) and inserting the following:

“(d) REQUIREMENT FOR CERTIFICATION OF RESPONSIBLE STEWARDSHIP.—

“(1) CERTIFICATION REQUIREMENT.—No bid or request for a lease, easement, or right-of-way under this section, or for a permit to drill under section 11(d), may be submitted by any person unless the person certifies to the Secretary that the person (including any related person and any predecessor of such person or related person) meets each of the following requirements:

“(A) The person is meeting due diligence, safety, and environmental requirements on other leases, easements, and rights-of-way.

“(B) In the case of a person that is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702), the person has met all of its obligations under that Act to provide compensation for covered removal costs and damages.

“(C) In the 7-year period ending on the date of certification, the person, in connection with activities in the oil industry (including exploration, development, production, transportation by pipeline, and refining)—

“(i) was not found to have committed willful or repeated violations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (including State plans approved under section 18(c) of such Act (29 U.S.C. 667(c))) at a rate that is higher than five times the rate determined by the Secretary to be the oil industry average for such violations for such period;

“(ii) was not convicted of a criminal violation for death or serious bodily injury;

“(iii) did not have more than 10 fatalities at its exploration, development, and production facilities and refineries as a result of violations of Federal or State health, safety, or environmental laws;

“(iv) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including State programs approved under sections 402 and 404 of such Act (33 U.S.C. 1342 and 1344)) in a total amount that is equal to more than \$10,000,000; and

“(v) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Clean Air Act (42 U.S.C. 7401 et seq.) (including State plans approved under section 110 of such Act (42 U.S.C. 7410)) in a total amount that is equal to more than \$10,000,000.

“(2) ENFORCEMENT.—If the Secretary determines that a certification made under paragraph (1) is false, the Secretary shall cancel any lease, easement, or right of way and shall revoke any permit with respect to which the certification was required under such paragraph.

“(3) DEFINITION OF RELATED PERSON.—For purposes of this subsection, the term ‘related person’ includes a parent, subsidiary, affiliate, member of the same controlled group, contractor, subcontractor, a person holding a controlling interest or in which a controlling interest is held, and a person with substantially the same board members, senior officers, or investors.”.

(c) ALTERNATIVE ENERGY DEVELOPMENT.—

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

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or” after “1501 et seq.”, and by striking “or other applicable law.”; and

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

“(D) use, for energy-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.”; and

(B) in paragraph (4)—

(i) in subparagraph (E), by striking “coordination” and inserting “in consultation”; and

(ii) in subparagraph (J)(ii), by inserting “a potential site for an alternative energy facility,” after “deepwater port.”.

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

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

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

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

“(i) is for the placement and operation of a meteorological or marine data collection facility; and

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

“(C) the Secretary determines, after providing public notice of a proposed lease, easement, right-of-way, or other authorization, that no competitive interest exists.”.

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

“(9) At least 60 days prior to any lease sale, the Secretary shall request a review by the Secretary of Commerce of the proposed sale with respect to impacts on the marine and coastal environment. The Secretary of Commerce shall complete and submit in writing the results of that review within 60 days after receipt of the Secretary of the Interior’s request.”.

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

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

(g) TERMS AND PROVISIONS.—Section 8(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(b)) is amended by striking “An oil and gas lease issued pursuant to this section shall” and inserting “An oil and gas lease may be issued pursuant to this section only if the Secretary determines that activities under the lease are not likely to result in any condition described in section 5(a)(2)(A)(i), and shall”.

SEC. 207. DISPOSITION OF REVENUES.

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

“SEC. 9. DISPOSITION OF REVENUES.

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

“(b) LAND AND WATER CONSERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, \$900,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Land and Water Conservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

“(c) HISTORIC PRESERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, \$150,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Historic Preservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the National Historic Preservation Fund Act of 1966 (16 U.S.C. 470 et seq.).

“(d) OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.—Effective for each fiscal year 2011 and thereafter, 10 percent of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Ocean Resources Conservation and Assistance Fund established by the Consolidated Land, Energy, and Aquatic Resources Act of 2010. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of section 605 of the Consolidated Land, Energy, and Aquatic Resources Act of 2010.

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

SEC. 208. EXPLORATION PLANS.

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

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

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

(2) in paragraph (1)(A), as designated by the amendment made by paragraph

(1) of this subsection—

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

(B) by striking the fourth sentence and inserting the following:

“(B) The Secretary shall approve such plan, as submitted or modified, within 90 days after its submission and it is made publicly accessible by the Secretary, or within such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews, if the Secretary determines that—

“(i) any proposed activity under such plan is not likely to result in any condition described in section 5(a)(2)(A)(i);

“(ii) the plan complies with other applicable environmental or natural resource conservation laws; and

“(iii) the applicant has demonstrated the capability and technology to respond immediately and effectively to a worst-case oil spill in real-world conditions in the area of the proposed activity.”; and

(3) by adding at the end the following:

“(5) If the Secretary requires greater than 90 days to review an exploration plan submitted pursuant to any oil and gas lease issued or maintained under this Act, then the Secretary may provide for a suspension of that lease pursuant to section 5 until the review of the exploration plan is completed.”.

(c) REQUIREMENTS.—Section 11(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(c)), is amended by amending paragraph (3) to read as follows:

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

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

“(B) a detailed and accurate description of equipment to be used for such activities, including—

- “(i) a description of each drilling unit;
 - “(ii) a statement of the design and condition of major safety-related pieces of equipment, including independent third party certification of such equipment; and
 - “(iii) a description of any new technology to be used;
 - “(C) a map showing the location of each well to be drilled;
 - “(D) a scenario for the potential blowout of the well involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons;
 - “(E) an analysis of the potential impacts of the worst-case-scenario discharge of hydrocarbons on the marine, coastal, and human environments for activities conducted pursuant to the proposed exploration plan; and
 - “(F) such other information deemed pertinent by the Secretary.”.
- (d) DRILLING PERMITS.—Section 11(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(d)) is amended by to read as follows:
- “(d) DRILLING PERMITS.—
- “(1) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit prior to drilling any well in accordance with such plan, and prior to any significant modification of the well design as originally approved by the Secretary.
 - “(2) ENGINEERING REVIEW REQUIRED.—The Secretary may not grant any drilling permit or modification of the permit prior to completion of a full engineering review of the well system, including a determination that critical safety systems, including blowout prevention, will utilize best available technology and that blowout prevention systems will include redundancy and remote triggering capability.
 - “(3) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary shall not grant any drilling permit or modification of the permit prior to completion of a safety and environmental management plan to be utilized by the operator during all well operations.”.
- (e) EXPLORATION PERMIT REQUIREMENTS.—Section 11(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(g)) is amended by—
- (1) striking “shall be issued” and inserting “may be issued”;
 - (2) inserting “and after consultation with the Secretary of Commerce,” after “in accordance with regulations issued by the Secretary”;
 - (3) striking the “and” at the end of paragraph (2);
 - (4) in paragraph (3) striking “will not be unduly harmful to” and inserting “is not likely to harm”;
 - (5) striking the period at the end of paragraph (3) and inserting a semicolon; and
 - (6) adding at the end the following:
 - “(4) the exploration will be conducted in accordance with other applicable environmental and natural resource conservation laws;
 - “(5) in the case of geophysical surveys, the applicant shall use the best available technologies and methods to minimize impacts on marine life; and
 - “(6) in the case of drilling operations, the applicant has available oil spill response and clean-up equipment and technology that has been demonstrated to be capable of effectively remediating a worst-case release of oil.”.
- (f) ENVIRONMENTAL REVIEW OF PLANS; DEEPWATER PLAN; PLAN DISAPPROVAL.—Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by adding at the end the following:
- “(i) ENVIRONMENTAL REVIEW OF PLANS.—The Secretary shall treat the approval of an exploration plan, or a significant revision of such a plan, as an agency action requiring preparation of an environmental assessment or environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and shall require that such plan—
- “(1) be based on the best available technology to ensure safety in carrying out both the drilling of the well and any oil spill response; and
 - “(2) contain a technical systems analysis of the safety of the proposed activity, the blowout prevention technology, and the blowout and spill response plans.
- “(j) DISAPPROVAL OF PLAN.—

“(1) IN GENERAL.—The Secretary shall disapprove the plan if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—

“(A) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

“(B) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

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

“(2) CANCELLATION OF LEASE FOR DISAPPROVAL OF PLAN.—If a plan is disapproved under this subsection, the Secretary may cancel such lease in accordance with subsection (c)(1) of this section.”.

SEC. 209. OUTER CONTINENTAL SHELF LEASING PROGRAM.

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

(1) in subsection (a) in the second sentence by striking “meet national energy needs” and inserting “balance national energy needs and the protection of the marine and coastal environment and all the resources in that environment.”;

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

(3) in subsection (a)(2)(A)—

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

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

(4) in subsection (a)(2)(D), by inserting “, potential and existing sites of renewable energy installations” after “deepwater ports.”;

(5) in subsection (a)(2)(H), by inserting “including the availability of infrastructure to support oil spill response” before the period;

(6) in subsection (a)(3), by—

(A) striking “to the maximum extent practicable.”;

(B) striking “obtain a proper balance between” and inserting “minimize”;

and

(C) striking “damage,” and all that follows through the period and inserting “damage and adverse impacts on the marine, coastal, and human environments, and enhancing the potential for the discovery of oil and gas.”;

(7) in subsection (b)(1), by inserting “environmental, marine, and energy” after “obtain”;

(8) in subsection (b)(2), by inserting “environmental, marine, and” after “interpret the”;

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

(10) by striking the period at the end of subsection (b)(4) and inserting a semicolon;

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

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

“(6) conduct regular and thorough safety reviews and inspections; and

“(7) enforce all applicable laws and regulations.”;

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

(13) in subsection (c)(2)—

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

(B) in the third sentence, by inserting “or head of a Federal agency” after “such Governor”; and

(C) in the fourth sentence, by inserting “or between the Secretary and the head of a Federal agency,” after “affected State.”;

(14) in the second sentence of subsection (d)(2), by inserting “, the head of a Federal agency,” after “Attorney General”;

(15) in subsection (g), by inserting after the first sentence the following: “Such information may include existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource po-

tential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf.”; and

(16) by adding at the end the following new subsection:

“(i) RESEARCH AND DEVELOPMENT.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner. Such research and development activities may include activities to provide accurate estimates of energy and mineral reserves and potential on the Outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.”.

SEC. 210. ENVIRONMENTAL STUDIES.

(a) INFORMATION NEEDED FOR ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL IMPACTS.—Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended by striking so much as precedes subsection (a)(2) and inserting the following:

“SEC. 20. ENVIRONMENTAL STUDIES.

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

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

(1) redesignating subsections (c) through (f) as (d) through (g); and

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

“(c) The Secretary shall conduct research to identify and reduce data gaps related to impacts of deepwater hydrocarbon spills, including—

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

“(2) water column habitats and species;

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

“(4) the use of dispersants.”.

SEC. 211. SAFETY REGULATIONS.

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

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

(2) in subsection (b) by—

(A) striking “for the artificial islands, installations, and other devices referred to in section 4(a)(1) of” and inserting “under”;

(B) striking “which the Secretary determines to be economically feasible”;

and

(C) adding at the end “Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010 and every 3 years thereafter, the Secretary shall, in consultation with the Outer Continental Shelf Safety and Environmental Advisory Board established under title I of the Consolidated Land, Energy, and Aquatic Resources Act of 2010, identify and publish an updated list of (1) the best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response and (2) technology needs for which the Secretary intends to identify best available technologies in the future.”; and

(3) by adding at the end the following:

“(g) SAFETY CASE.—Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf. Not later than 5 years after the date final regulations promulgated under this subsection go into effect, and not less than every 5 years thereafter, the Secretary shall enter into an arrangement with the National Academy of Engineering to conduct a study to assess the effectiveness of these regulations and to recommend improvements in their administration.

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

“(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with exploration for, and development and production of, energy and mineral resources on the outer Continental Shelf, with the primary purpose of informing its role relating to safety, environmental protection, and spill response.

“(2) SPECIFIC FOCUS AREAS.—The program under this subsection shall include research and development related to—

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

“(B) analysis of industry trends in technology, investment, and frontier areas;

“(C) reviews of best available technologies, including those associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

“(D) oil spill response and mitigation;

“(E) risk associated with human factors;

“(F) technologies and methods to reduce the impact of geophysical exploration activities on marine life; and

“(G) renewable energy operations.”.

SEC. 212. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS.

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

(1) by amending subsection (c) to read as follows:

“(c) INSPECTIONS.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

“(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;

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

“(3) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations; and

“(4) periodic audits of each required safety and environmental management plan, and any associated safety case, both with respect to their implementation at each facility on the outer Continental Shelf for which such a plan or safety case is required and with respect to onshore management support for activities at such a facility.”;

(2) in subsection (d)(1)—

(A) by striking “each major fire and each major oil spillage” and inserting “each major fire, each major oil spillage, each loss of well control, and any other accident that presented a serious risk to human or environmental safety”; and

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

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

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

(5) in subsection (b)(1), by striking “recognized” and inserting “uncontrolled”; and

(6) by adding at the end the following:

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

“(h) OPERATOR’S ANNUAL CERTIFICATION.—

“(1) The Secretary, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall require all operators of all new and

existing drilling and production operations to annually certify that their operations are being conducted in accordance with applicable law and regulations.

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

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

“(B) examined and conducted tests to ensure that the emergency equipment has been function-tested and is capable of addressing emergency situations;

“(C) reviewed all rig drilling, casing, cementing, well abandonment (temporary and permanent), completion, and workover practices to ensure that well control is not compromised at any point while emergency equipment is installed on the wellhead;

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

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

“(i) CEO ANNUAL CERTIFICATION.—Operators of all drilling and production operations shall annually submit to the Secretary a general statement by the operator’s chief executive officer that certifies to the operators’ compliance with all applicable laws and operating regulations.

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

SEC. 213. JUDICIAL REVIEW.

Section 23(c)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(c)(3)) is amended by striking “sixty” and inserting “90”.

SEC. 214. REMEDIES AND PENALTIES.

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

“(b)(1) Except as provided in paragraph (2), any person who fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, shall be liable for a civil administrative penalty of not more than \$75,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

“(2) If a failure described in paragraph (1) constitutes or constituted a threat of harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty of not more than \$150,000 shall be assessed for each day of the continuance of the failure.”.

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

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

SEC. 215. UNIFORM PLANNING FOR OUTER CONTINENTAL SHELF.

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

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

(2) in subsection (c), by striking “and” after the semicolon at the end of paragraph (5), redesignating paragraph (6) as paragraph (11), and inserting after paragraph (5) the following new paragraphs:

“(6) a detailed and accurate description of equipment to be used for the drilling of wells pursuant to activities included in the development and production plan, including—

- “(A) a description of the drilling unit or units;
 - “(B) a statement of the design and condition of major safety-related pieces of equipment, including independent third-party certification of such equipment; and
 - “(C) a description of any new technology to be used;
- “(7) a scenario for the potential blowout of each well to be drilled as part of the plan involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons;
- “(8) an analysis of the potential impacts of the worst-case-scenario discharge on the marine, coastal, and human environments for activities conducted pursuant to the proposed development and production plan;
- “(9) a comprehensive survey and characterization of the coastal or marine environment within the area of operation, including bathymetry, currents and circulation patterns within the water column, and descriptions of benthic and pelagic environments;
- “(10) a description of the technologies to be deployed on the facilities to routinely observe and monitor in real time the marine environment throughout the duration of operations, and a description of the process by which such observation data and information will be made available to Federal regulators and to the System established under section 12304 of Public Law 111–11 (33 U.S.C. 3603); and”;
- (3) in subsection (e), by striking so much as precedes paragraph (2) and inserting the following:
- “(e)(1) The Secretary shall treat the approval of a development and production plan, or a significant revision of a development and production plan, as an agency action requiring preparation of an environmental assessment or environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”;
- (4) by striking subsections (g) and (l), and redesignating subsections (h) through (k) as subsections (g) through (j); and
- (5) in subsection (g), as so redesignated, by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:
- “(2) The Secretary shall not approve a development and production plan, or a significant revision to such a plan, unless—
- “(A) the plan is in compliance with all other applicable environmental and natural resource conservation laws; and
 - “(B) the applicant has available oil spill response and clean-up equipment and technology that has been demonstrated to be capable of effectively remediating the projected worst-case release of oil from activities conducted pursuant to the development and production plan.”.

SEC. 216. OIL AND GAS INFORMATION PROGRAM.

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

- (1) striking the period at the end of subparagraph (A) and inserting, “, provided that such data shall be transmitted in electronic format either in real-time or as quickly as practicable following the generation of such data.”; and
- (2) striking subparagraph (C) and inserting the following:
 - “(C) Lessees engaged in drilling operations shall provide to the Secretary all daily reports generated by the lessee, or any daily reports generated by contractors or subcontractors engaged in or supporting drilling operations on the lessee’s lease, no more than 24 hours after the end of the day for which they should have been generated.”.

SEC. 217. LIMITATION ON ROYALTY-IN-KIND PROGRAM.

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

SEC. 218. RESTRICTIONS ON EMPLOYMENT.

Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1355) is amended—

- (1) in the matter preceding paragraph (1)—
 (A) by striking “SEC. 29” and all that follows through “No full-time” and inserting the following:

“SEC. 29. RESTRICTIONS ON EMPLOYMENT.

“(a) IN GENERAL.—No full-time”; and

(B) by striking “, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule”;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting “or advise” after “represent”;

(B) in subparagraph (B), by striking “with the intent to influence, make” and inserting “act with the intent to influence, directly or indirectly, or make”; and

(C) in the matter following subparagraph (C)—

(i) by inserting “inspection or enforcement action,” before “or other particular matter”; and

(ii) by striking “or” at the end;

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting “or advise” after “represent”;

(B) in subparagraph (B), by striking “with the intent to influence, make” and inserting “act with the intent to influence, directly or indirectly, or make”; and

(C) by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following:

“(3) during the 2-year period beginning on the date on which the employment of the officer or employee ceased at the Department, accept employment or compensation from any party that has a direct and substantial interest—

“(A) that was pending under the official responsibility of the officer or employee as an officer at any point during the 2-year period preceding the date of termination of the responsibility; or

“(B) in which the officer or employee participated personally and substantially as an officer or employee of the Department.

“(b) PRIOR DEALINGS.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee—

“(1) the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;

“(2) any organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee has a financial interest;

“(3) any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or

“(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee.

“(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title 5, Code of Federal Regulations (or successor regulations).

“(d) PENALTY.—Any person that violates subsection (a) or (b) shall be punished in accordance with section 216 of title 18, United States Code.”.

SEC. 219. REPEAL OF ROYALTY RELIEF PROVISIONS.

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

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

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

(b) REPEAL OF PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking “and in the Planning Areas offshore Alaska”.

SEC. 220. MANNING AND BUY- AND BUILD-AMERICAN REQUIREMENTS.

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

(1) in subsection (a), by striking “shall issue regulations which” and inserting “shall issue regulations that shall be supplemental to and complementary with and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the outer Continental Shelf pursuant to section 4(a)(1) of this Act, except insofar as such laws would otherwise apply to individuals who have extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim, and that”; and

(2) by adding at the end the following:

“(d) BUY AND BUILD AMERICAN.—It is the intention of the Congress that this Act, among other things, result in a healthy and growing American industrial, manufacturing, transportation, and service sector employing the vast talents of America’s workforce to assist in the development of energy from the outer Continental Shelf. Moreover, the Congress intends to monitor the deployment of personnel and material on the outer Continental Shelf to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act by good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.”.

SEC. 221. NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION.

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

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

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

(2) to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident;

(3) to build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate;

(B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and

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

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

(5) to investigate and report to the President and Congress findings, conclusions, and recommendations for corrective measures that may be taken to prevent similar incidents.

(c) COMPOSITION OF COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

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

(B) 1 member shall be appointed by the majority or minority (as the case may be) leader of the Senate from the Republican Party and the majority or minority (as the case may be) leader of the House of Representatives from the Republican Party, who shall serve as Vice Chairperson of the Commission;

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

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

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

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

(2) QUALIFICATIONS; INITIAL MEETING.—

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

(B) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be a current officer or employee of the Federal Government or any State or local government.

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

- (i) engineering;
- (ii) environmental compliance;
- (iii) health and safety law (particularly oil spill legislation);
- (iv) oil spill insurance policies;
- (v) public administration;
- (vi) oil and gas exploration and production;
- (vii) environmental cleanup; and
- (viii) fisheries and wildlife management.

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

(E) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(3) QUORUM; VACANCIES.—

(A) IN GENERAL.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of the members of the Commission.

(B) QUORUM.—6 members of the Commission shall constitute a quorum.

(C) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made.

(d) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission are—

(A) to conduct an investigation that—

(i) investigates relevant facts and circumstances relating to the *Deepwater Horizon* incident of April 20, 2010, and the associated oil spill thereafter, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(ii) may include relevant facts and circumstances relating to—

- (I) permitting agencies;
- (II) environmental and worker safety law enforcement agencies;
- (III) national energy requirements;
- (IV) deepwater and ultradeepwater oil and gas exploration and development;
- (V) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention;
- (VI) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation;
- (VII) the role of congressional oversight and resource allocation; and

(VIII) other areas of the public and private sectors determined to be relevant to the *Deepwater Horizon* incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the *Deepwater Horizon* incident of April 20, 2010, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress such reports as are required under this section containing such findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(2) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL COMMITTEES.—In investigating facts and circumstances relating to energy policy, the Commission shall—

(A) first review the information compiled by, and any findings, conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

- (B) after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that—
- (i) those committees have not investigated that area;
 - (ii) the investigation of that area by those committees has not been completed; or
 - (iii) new information not reviewed by the committees has become available with respect to that area.
- (e) POWERS OF COMMISSION.—
- (1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—
 - (A) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and
 - (B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;
 as the Commission or such subcommittee or member considers to be advisable.
 - (2) SUBPOENAS.—
 - (A) ISSUANCE.—
 - (i) IN GENERAL.—A subpoena may be issued under this paragraph only—
 - (I) by the agreement of the Chairperson and the Vice Chairperson; or
 - (II) by the affirmative vote of 6 members of the Commission.
 - (ii) SIGNATURE.—Subject to clause (i), a subpoena issued under this paragraph—
 - (I) shall bear the signature of the Chairperson or any member designated by a majority of the Commission;
 - (II) and may be served by any person or class of persons designated by the Chairperson or by a member designated by a majority of the Commission for that purpose.
 - (B) ENFORCEMENT.—
 - (i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.
 - (ii) JUDICIAL ACTION FOR NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of that court.
 - (iii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 through 194).
 - (3) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this section.
 - (4) INFORMATION FROM FEDERAL AGENCIES.—
 - (A) IN GENERAL.—The Commission may secure directly from any Executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this section.
 - (B) COOPERATION.—Each Federal department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the Chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.
 - (C) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall be received, handled, stored, and disseminated only by members of the Commission and the staff of the Commission in accordance with all applicable laws (including regulations and Executive orders).
 - (5) ASSISTANCE FROM FEDERAL AGENCIES.—

- (A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.
- (B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.
- (6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.
- (7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.
- (f) PUBLIC MEETINGS AND HEARINGS.—
- (1) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—
- (A) hold public hearings and meetings, to the extent appropriate; and
- (B) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).
- (2) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or developed for or by the Commission as required by any applicable law (including a regulation or Executive order).
- (g) STAFF OF COMMISSION.—
- (1) IN GENERAL.—
- (A) APPOINTMENT AND COMPENSATION.—
- (i) IN GENERAL.—The Chairperson, in consultation with the Vice Chairperson and in accordance with rules agreed upon by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.
- (ii) MAXIMUM RATE OF PAY.—No rate of pay fixed under this subparagraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.
- (B) PERSONNEL AS FEDERAL EMPLOYEES.—
- (i) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.
- (ii) MEMBERS OF COMMISSION.—Clause (i) shall not apply to members of the Commission.
- (2) DETAILEES.—
- (A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.
- (B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.
- (3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.
- (h) COMPENSATION AND TRAVEL EXPENSES.—
- (1) COMPENSATION OF MEMBERS.—
- (A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.
- (B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.
- (2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an

- employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.
- (i) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—
- (1) IN GENERAL.—Subject to paragraph (2), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances, to the maximum extent practicable, pursuant to existing procedures and requirements.
- (2) PROPRIETARY INFORMATION.—No person shall be provided with access to proprietary information under this section without the appropriate security clearances.
- (j) REPORTS OF COMMISSION; ADJOURNMENT.—
- (1) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.
- (2) FINAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.
- (3) TEMPORARY ADJOURNMENT.—
- (A) IN GENERAL.—The Commission, and all the authority provided under this section, shall adjourn and be suspended, respectively, on the date that is 60 days after the date on which the final report is submitted under paragraph (2).
- (B) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding activities of the Commission, including—
- (i) providing testimony to committees of Congress concerning reports of the Commission; and
- (ii) disseminating the final report submitted under paragraph (2).
- (C) RECONVENING OF COMMISSION.—The Commission shall stand adjourned until such time as the President or the Secretary of Homeland Security declares an oil spill of national significance to have occurred, at which time—
- (i) the Commission shall reconvene in accordance with subsection (c)(3); and
- (ii) the authority of the Commission under this section shall be of full force and effect.
- (k) FUNDING.—
- (1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—
- (A) \$10,000,000 for the first fiscal year in which the Commission convenes; and
- (B) \$3,000,000 for each fiscal year thereafter in which the Commission convenes.
- (2) AVAILABILITY.—Amounts made available to carry out this section shall be available—
- (A) for transfer to the Commission for use in carrying out the functions and activities of the Commission under this section; and
- (B) until the date on which the Commission adjourns for the fiscal year under subsection (j)(3).
- (l) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

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

SEC. 231. DILIGENT DEVELOPMENT.

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

(1) include benchmarks for oil and gas development that will ensure that leaseholders take all appropriate measures necessary to produce oil and gas from each lease that contains commercial quantities of oil and gas within the original term of the lease;

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

(3) provide accommodation for development delays, including lease suspensions, directed by the Secretary that restrict diligent development in order to meet environmental stipulations and considerations; and

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

(b) **BEGINNING OF LEASE TERM.**—The regulations shall provide that the term of a lease shall not begin until the completion of all civil actions challenging—

(1) the issuance of the lease; and

(2) the issuance of all permits required to initiate operations under the lease.

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

SEC. 232. REPORTING REQUIREMENTS.

(a) **BIANNUAL REPORTS.**—The Secretary shall require biannual reports from each Federal oil and gas lessee that holds a nonproducing lease on the actions the lessee has taken to diligently develop each Federal lease the lessee holds.

(b) **ELECTRONIC DATABASE.**—The Secretary shall establish and maintain an electronic database that is available to the public that identifies each Federal oil and gas lease, each lessee under such lease, the acreage held by each such lessee, and the progress made toward production under each such lease.

SEC. 233. NOTICE REQUIREMENTS.

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

(1) by striking all through the first 2 sentences and inserting the following:
“(f)(1) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action to—

“(A) the general public by posting such notice in the appropriate local office and on the electronic website of the leasing and land management agencies offering the lands for lease;

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

“(C) the holders of special recreation permits for commercial use, competitive events, and other organized activities on the lands being offered for lease.

“(2)”; and

(2) by designating the last sentence as paragraph (3).

SEC. 234. OIL AND GAS LEASING SYSTEM.

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

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

“(2) Leasing activities under this Act shall be conducted to assure receipt of fair market value for the lands and resources leased and the rights conveyed by the Federal Government.”.

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

“(b)(1)(A) All lands to be leased shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by sealed bid. Lease sales shall be held for a State on a statewide basis where eligible lands in such States are available no more than 3 times per year per State, unless the Secretary of the Interior determines additional sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary may issue a lease to the responsible qualified bidder with the highest bid that is equal to or greater than the national minimum acceptable bid, with evaluation of the value of the lands proposed for

lease. The Secretary shall decide whether to accept a bid and issue a lease within 90 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected.

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

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

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

“(ii) The proposal or promulgation of any regulation to establish a higher minimum acceptable bid for a State shall not be considered a major Federal action that is subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).”

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

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

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

“(B) to promote more efficient management of oil and gas and alternative energy resources on Federal lands.

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

(d) ELIMINATION OF NONCOMPETITIVE LEASING.—The Mineral Leasing Act is amended—

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

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

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

(A) by striking “Competitive and noncompetitive leases” and inserting “Leases”; and

(B) by striking “competitive”;

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

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

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

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

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

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

(A) in paragraph (1) by striking “a competitive” and all that follows through the period and inserting “in the same manner as the original lease issued pursuant to section 17.”;

(B) by striking paragraph (2); and

(C) in paragraph (3) by striking “, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except,” and inserting “, except”.

SEC. 235. ELECTRONIC REPORTING.

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

“(4) Upon request of a Committee listed under paragraph (2), that Committee may receive notifications under this subsection in electronic format in addition to in writing, or in electronic format alone. The Committee shall designate to the Secretary the appropriate individual or individuals on the Committee to receive such electronic notices.”

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

SEC. 236. BEST MANAGEMENT PRACTICES.

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

SEC. 237. SURFACE DISTURBANCE, RECLAMATION.

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

“(g) REGULATION OF SURFACE-DISTURBING ACTIVITIES; APPROVAL OF PLAN OF OPERATIONS; BOND OR SURETY; FAILURE TO COMPLY WITH RECLAMATION REQUIREMENTS AS BARRING LEASE; OPPORTUNITY TO COMPLY WITH REQUIREMENTS; STANDARDS; MONITORING.—

“(1) DEFINITIONS.—In this subsection:

“(A) INTERIM RECLAMATION PLAN.—The term ‘Interim Reclamation Plan’ means an ongoing plan specifying reclamation steps to be taken on all disturbed areas covered by any lease issued under this Act which are not needed for active operations. Such Interim Reclamation Plans shall be reviewed by the relevant Secretary at regular intervals and shall be amended as warranted, subject to the approval of the relevant Secretary.

“(B) FINAL RECLAMATION PLAN.—The term ‘Final Reclamation Plan’ includes a detailed description of all reclamation activity to be conducted for all disturbed areas covered by a lease issued under this Act prior to final abandonment. Final Reclamation Plans shall include reclamation of all locations, facilities, trenches, rights-of-way, roads and any other surface disturbance on lands covered by the lease.

“(2) IN GENERAL.—The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources.

“(3) RECLAMATION PLANS REQUIRED.—

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

“(B) ANALYSIS AND APPROVAL REQUIRED.—No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of both an interim reclamation plan and a final reclamation plan covering proposed surface-disturbing activities within the lease area.

“(C) PLANS OF OPERATIONS.—All Plans of Operations submitted and approved pursuant to this Act shall include an Interim Reclamation Plan.

“(4) BONDING.—The Secretary concerned shall, by regulation, require that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

“(5) STANDARDS.—The Secretary of the Interior and the Secretary of Agriculture shall, by regulation, establish uniform standards for all Interim and

Final Reclamation Plans. The goal of such plans shall be the restoration of the affected ecosystem to a condition approximating or equal to that which existed prior to the surface disturbance. Such standards shall include, but are not limited to, restoration of natural vegetation and hydrology, habitat restoration, salvage, storage and reuse of topsoils, erosion control, control of invasive species and noxious weeds and natural contouring.

“(6) MONITORING.—The Secretary concerned shall not approve final abandonment and shall not release any bond required by this Act until the standards and requirement for final reclamation established pursuant to this Act have been met.”.

SEC. 238. WILDLIFE SUSTAINABILITY.

(a) DEFINITIONS.—In this section:

(1) DESIRED NONNATIVE SPECIES.—The term “desired nonnative species” means those wild species of plants or animals that are not indigenous to a planning area but are valued for their contribution to species diversity or their social, cultural, or economic value.

(2) FOCAL SPECIES.—The term “focal species” means species selected, based on best available science, for monitoring because their population status and trends are believed to provide useful information regarding the effects of management activities, or other factors, on the diversity of ecological systems to which they belong, and to validate the monitoring of habitats and ecological conditions.

(3) NATIVE SPECIES.—The term “native species” means species of plants and animals indigenous to a planning area.

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

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

(A) the Secretary of the Interior, with respect to land under such Secretary’s jurisdiction; and

(B) the Secretary of Agriculture, with respect to land under such Secretary’s jurisdiction.

(6) SUSTAINABLE POPULATION.—The term “sustainable population” means a population of a species that has a high likelihood of persisting well distributed throughout its range within a planning area based on the best available scientific information, including information obtained through the monitoring program under subsection (c), regarding its habitat and ecological conditions, abundance and distribution.

(b) PLANNING FOR AND MANAGEMENT OF SUSTAINABLE POPULATIONS.—

(1) MANAGEMENT DIRECTION.—Each Secretary, in cooperation with the appropriate State fish and wildlife agency, shall plan for and manage planning areas under the Secretary’s respective jurisdiction in order to maintain sustainable populations of native species and desired nonnative species within each planning area consistent with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

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

(C) all other applicable laws.

(2) MANAGEMENT COORDINATION.—If a population of a species extends across more than one planning area, each Secretary shall coordinate the management of lands in the planning areas containing such population in order to maintain a sustainable population of such species.

(3) EXTRINSIC CONDITIONS.—If a Secretary, using the best available science and after providing notice to the public by publication in the Federal Register and opportunity for public comment for a period of at least 60 days, determines that conditions beyond such Secretary’s authority make it impossible for the Secretary to maintain a sustainable population of a native species or desired nonnative species within a planning area, or, under the circumstances identified in paragraph (2), within two or more planning areas, such Secretary shall—

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

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

- (4) COMPLIANCE.—Each Secretary shall certify that land management plans for a planning area under the Secretary's respective jurisdiction and actions implementing or authorized under such plans comply with this section.
- (c) MONITORING AND EVALUATION.—
- (1) ESTABLISHMENT OF MONITORING PROGRAMS.—To provide a basis for determining the sustainability of native species and desired nonnative species populations for purposes of subsection (b), each Secretary shall adopt and implement, as part of the land management planning for a planning area, a strategically targeted monitoring program for identified focal species to determine the status and trends of such species populations in such planning area.
- (2) MONITORING PROGRAM REQUIREMENTS.—The monitoring programs established under paragraph (1) shall designate focal species representing the diversity of ecological systems in the planning area and provide for—
- (A) monitoring of the status and trends of the habitats and ecological conditions that support focal species; and
- (B) population surveys of focal species identified in the monitoring program to establish that monitoring of habitats and ecological conditions is providing accurate information regarding the status and trends of species' populations in the planning area.
- (3) CONSULTATION AND COOPERATION WITH STATES.—Each Secretary shall develop and implement, to the maximum extent practicable, the monitoring program established under this section, including the selection of native species and desired nonnative species, focal species, habitat, and ecological conditions to be monitored and methodologies for conducting such monitoring, in consultation with the United States Fish and Wildlife Service, State fish and wildlife agencies and in coordination with other State agencies with responsibility for management of natural resources. Each Secretary shall consider and utilize relevant population data maintained by other Federal agencies, State agencies, tribes, or other relevant entities.
- (d) COORDINATION.—
- (1) MANAGEMENT COORDINATION.—To the maximum extent practicable and consistent with applicable law, each Secretary shall coordinate the management of planning areas with the management of the National Wildlife Refuge System and the National Park System, other Federal agencies, State fish and wildlife agencies, other State agencies with responsibility for management of natural resources, tribes, local governments, and nongovernmental organizations engaged in species conservation in order to—
- (A) maintain sustainable populations of native species and desired nonnative species;
- (B) develop strategies to address the impacts of climate change on native species and desired nonnative species;
- (C) establish linkages between habitats and discrete populations;
- (D) reintroduce extirpated species, where appropriate, when a species population is no longer present; and
- (E) conduct other joint efforts in support of sustainable plant and animal communities across jurisdictional boundaries.
- (2) COORDINATION WITH CONSERVATION ACTIVITIES.—In planning for the management of lands for the purpose of maintaining sustainable populations of native species and desired nonnative species in a planning area, each Secretary shall, to the maximum extent practicable and consistent with Federal law—
- (A) consult with and offer opportunities for participation to adjoining Federal, State, tribal, local, and private landowners, State and tribal fish and wildlife agencies, and other State and tribal agencies with responsibility for management of natural resources; and
- (B) coordinate such management planning with relevant conservation plans for fish, plants, and wildlife and their habitats, including State comprehensive wildlife strategies and other State conservation strategies for species, National Fish Habitat partnerships, North American Wetland Conservation Joint Ventures, and the Federal-State-private partnership known as Partners in Flight.
- (3) NO EFFECT ON NATIONAL WILDLIFE REFUGE SYSTEM OR NATIONAL PARK SYSTEM.—Nothing in this section affects the laws or management standards applicable to lands or species populations within the National Wildlife Refuge System or National Park System.
- (e) IMPLEMENTING REGULATIONS.—
- (1) REGULATIONS.—Not later than one year following the date of enactment of this Act, each Secretary shall issue regulations implementing all provisions of this section.

(2) REGULATIONS UNDER THE NATIONAL FOREST MANAGEMENT ACT.—Issuance of regulations consistent with the requirements of this section shall be deemed consistent with the Secretary's obligation to promulgate regulations to specify guidelines for land management plans for the National Forest System which provide for diversity of plant and animal communities pursuant to the National Forest Management Act (16 U.S.C. sec. 1604(g)(3)(B)).

(f) CONSTRUCTION.—Nothing in this section shall be construed to—

(1) affect the authority, jurisdiction, or responsibility of each of the several States to manage, control, or regulate fish, plants, and wildlife under the laws and regulations of each of the States; or

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

SEC. 239. ONLINE AVAILABILITY TO THE PUBLIC OF INFORMATION RELATING TO OIL AND GAS CHEMICAL USE.

(a) IN GENERAL.—An operator authorized to explore for, develop, or produce oil and gas under any Federal mineral leasing law shall, within 30 days after completion of drilling a well on a lease area or any portion thereof, make the list of chemicals used in drilling or completing the well, including the chemical constituents of mixtures, Chemical Abstracts Service numbers, and material safety data sheets, available to the public on an Internet website created and maintained by the Bureau of Safety and Environmental Enforcement.

(b) PROPRIETARY CHEMICAL FORMULAS.—This section does not authorize the Director of the Bureau of Safety and Environmental Enforcement to require the public disclosure of proprietary chemical formulas.

(c) RULEMAKING AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and an opportunity for public comment, shall promulgate regulations to implement this section.

SEC. 240. LIMITATION ON ROYALTY-IN-KIND PROGRAM.

Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by inserting before the period at the end of the first sentence the following: “, except that the Secretary shall not conduct a regular program to take oil and gas lease royalties in oil or gas”.

SEC. 241. ENVIRONMENTAL REVIEW.

Section 390 of the Energy Policy Act of 2005 (Public Law 109–58; 42 U.S.C. 15942) is repealed.

SEC. 242. FEDERAL LANDS URANIUM LEASING.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by redesignating section 44 as section 45, and by inserting after section 43 the following new section:

“SEC. 44. LEASING OF LANDS FOR URANIUM MINING.

“(a) IN GENERAL.—

“(1) WITHDRAWAL FROM ENTRY; LEASING REQUIREMENT.—Effective upon the date of enactment of the Consolidated Land, Energy, and Aquatic Resources Act of 2010, all Federal lands are hereby permanently withdrawn from location and entry under section 2319 of the Revised Statutes (30 U.S.C. 22 et seq.) for uranium. After the end of the 2-year period beginning on such date of enactment, no uranium may be produced from Federal lands except pursuant to a lease issued under this Act.

“(2) LEASING.—The Secretary—

“(A) may divide any lands subject to this Act that are not withdrawn from mineral leasing and that are otherwise available for uranium leasing under applicable law, including lands available under the terms of land use plans prepared by the Federal agency managing the land, into leasing tracts of such size as the Secretary finds appropriate and in the public interest; and

“(B) thereafter shall, in the Secretary's discretion, upon the request of any qualified applicant or on the Secretary's own motion, from time to time, offer such lands for uranium leasing and award uranium leases thereon by competitive bidding.

“(b) FAIR MARKET VALUE REQUIRED.—

“(1) IN GENERAL.—No bid for a uranium lease shall be accepted that is less than the fair market value, as determined by the Secretary, of the uranium subject to the lease.

“(2) PUBLIC COMMENT.—Prior to the Secretary's determination of the fair market value of the uranium subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value.

- “(3) DISCLOSURE NOT REQUIRED.—Nothing in this section shall be construed to require the Secretary to make public the Secretary’s judgment as to the fair market value of the uranium to be leased, or the comments the Secretary receives thereon prior to the issuance of the lease.
- “(c) LANDS UNDER THE JURISDICTION OF OTHER AGENCIES.—Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only—
- “(1) upon consent of the head of the other Federal agency; and
- “(2) upon such conditions the head of such other Federal agency may prescribe with respect to the use and protection of the nonmineral interests in those lands.
- “(d) CONSIDERATION OF EFFECTS OF MINING.—Before issuing any uranium lease, the Secretary shall consider effects that mining under the proposed lease might have on an impacted community or area, including impacts on the environment, on agricultural, on cultural resources, and other economic activities, and on public services.
- “(e) NOTICE OF PROPOSED LEASE.—No lease sale shall be held for lands until after a notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated, or in electronic format, in accordance with regulations prescribed by the Secretary.
- “(f) AUCTION REQUIREMENTS.—All lands to be leased under this section shall be leased to the highest responsible qualified bidder—
- “(1) under general regulations;
- “(2) in units of not more than 2,560 acres that are as nearly compact as possible; and
- “(3) by oral bidding.
- “(g) REQUIRED PAYMENTS.—
- “(1) IN GENERAL.—A lease under this section shall be conditioned upon the payment by the lessee of—
- “(A) a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold under the lease; and
- “(B) a rental of—
- “(i) not less than \$2.50 per acre per year for the first through fifth years of the lease; and
- “(ii) not less than \$3 per acre per year for each year thereafter.
- “(2) USE OF REVENUES.—Amounts received as revenues under this subsection with respect to a lease may be used by the Secretary of the Interior, subject to the availability of appropriations, for cleaning up uranium mill tailings and reclaiming abandoned uranium mines on Federal lands in accordance with the priorities and eligibility restrictions, respectively, under subsections (c) and (d) of section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a), or may be transferred by the Secretary, subject to the availability of appropriations, to the Attorney General for use by the Attorney General to pay claims filed under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) that the Attorney General determines meet the requirements of that Act.
- “(h) LEASE TERM.—A lease under this section—
- “(1) shall be effective for a primary term of 10 years; and
- “(2) shall continue in effect after such primary term for so long is as uranium is produced under the lease in paying quantities.
- “(i) EXPLORATION LICENSES.—
- “(1) IN GENERAL.—The Secretary may, under such regulations as the Secretary may prescribe, issue to any person an exploration license. No person may conduct uranium exploration for commercial purposes on lands subject to this Act without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this Act. The issuance of exploration licenses shall not preclude the Secretary from issuing uranium leases at such times and locations and to such persons as the Secretary deems appropriate. No exploration license may be issued for any land on which a uranium lease has been issued. A separate exploration license shall be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall be limited to specific geographic areas in each State as determined by the Secretary, and shall contain such reasonable conditions as the Secretary may require, including conditions to ensure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations.

Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

“(2) LIMITATIONS.—A licensee may not cause substantial disturbance to the natural land surface. A licensee may not remove any uranium for sale but may remove a reasonable amount of uranium from the lands subject to this Act included under the Secretary’s license for analysis and study. A licensee must comply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this Act. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and protection of the non-mineral interests in those lands.

“(3) SHARING OF DATA.—The licensee shall furnish to the Secretary copies of all data (including geological, geophysical, and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as the Secretary determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

“(4) EXPLORATION WITHOUT A LICENSE.—Any person who willfully conducts uranium exploration for commercial purposes on lands subject to this Act without an exploration license issued under this subsection shall be subject to a fine of not more than \$1,000 for each day of violation. All data collected by such person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.

“(j) CONVERSION OF MINING CLAIMS TO MINERAL LEASES.—

“(1) IN GENERAL.—The owner of any mining claim (in this subsection referred to as a ‘claimant’) located prior to the date of enactment of the Consolidated Land, Energy, and Aquatic Resources Act of 2010 may, within two years after such date, apply to the Secretary of the Interior to convert the claim to a lease under this section. The Secretary shall issue a uranium lease under this section to the claimant upon a demonstration by the claimant, to the satisfaction of the Secretary, within one year after the date of the application to the Secretary, that the claim was, as of such date of enactment, supported by the discovery of a valuable deposit of uranium on the claimed land. The holder of a lease issued upon conversion from a mining claim under this subsection shall be subject to all the requirements of this section governing uranium leases, except that the holder shall pay a royalty of 6.25 percent on the value of the uranium produced under the lease, until beginning ten years after the date the claim is converted to a lease.

“(2) OTHER CLAIMS EXTINGUISHED.—All mining claims located for uranium on Federal lands whose claimant does not apply to the Secretary for conversion to a lease, or whose claimant cannot make such a demonstration of discovery, shall become null and void by operation of law three years after such date of enactment.”.

Subtitle C—Royalty Relief for American Consumers

SEC. 251. SHORT TITLE.

This subtitle may be cited as the “Royalty Relief for American Consumers Act of 2010”.

SEC. 252. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.

(a) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—The Secretary shall not issue any new lease that authorizes the production of oil or natural gas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person described in paragraph (2) unless the person has renegotiated each covered lease with respect to which the person is a lessee, to modify the payment responsibilities of the person to require the payment of royalties if the price of oil and natural gas is greater than or equal to the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) PERSONS DESCRIBED.—A person referred to in paragraph (1) is a person that—

(A) is a lessee that—

(i) holds a covered lease on the date on which the Secretary considers the issuance of the new lease; or

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other person that has any direct or indirect interest in, or that derives any benefit from, a covered lease.

(3) MULTIPLE LESSEES.—

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(B) TREATMENT OF SHARE AS COVERED LEASE.—Beginning on the effective date of an agreement under subparagraph (A), any share subject to the agreement shall not constitute a covered lease with respect to any lessees that entered into the agreement.

(b) TRANSFERS.—A lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a lease shall not be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any covered lease, the economic benefit of any covered lease, or any other lease for the production of oil or natural gas in the Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), unless the lessee or other person has—

(1) renegotiated each covered lease with respect to which the lessee or person is a lessee, to modify the payment responsibilities of the lessee or person to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)); or

(2) entered into an agreement with the Secretary to modify the terms of all covered leases of the lessee or other person to include limitations on royalty relief based on market prices that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—Notwithstanding any other provision of law, any amounts received by the United States as rentals or royalties under covered leases shall be deposited in the Treasury and used for Federal budget deficit reduction or, if there is no Federal budget deficit, for reducing the Federal debt in such manner as the Secretary of the Treasury considers appropriate.

(d) DEFINITIONS.—In this section—

(1) COVERED LEASE.—The term “covered lease” means a lease for oil or gas production in the Gulf of Mexico that is—

(A) in existence on the date of enactment of this Act;

(B) issued by the Department of the Interior under section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (43 U.S.C. 1337 note; Public Law 104-58); and

(C) not subject to limitations on royalty relief based on market price that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

(2) LESSEE.—The term “lessee” includes any person or other entity that controls, is controlled by, or is in or under common control with, a lessee.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 253. PRICE THRESHOLDS FOR ROYALTY SUSPENSION PROVISIONS.

The Secretary of the Interior shall agree to a request by any lessee to amend any lease issued for any Central and Western Gulf of Mexico tract in the period of January 1, 1996, through November 28, 2000, to incorporate price thresholds applicable to royalty suspension provisions, that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)). Any amended lease shall impose the new or revised price thresholds effective October 1, 2010. Existing lease provisions shall prevail through September 30, 2010.

TITLE III—OIL AND GAS ROYALTY REFORM

SEC. 301. AMENDMENTS TO DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

(1) in paragraph (8), by striking the semicolon and inserting “including but not limited to the Act of October 20, 1914 (38 Stat. 741); the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); and all Acts heretofore or hereafter enacted that are amendatory of or supplementary to any of the foregoing Acts;”;

(2) in paragraph (20)(A), by striking “: *Provided, That*” and all that follows through “subject of the judicial proceeding”;

(3) in paragraph (20)(B), by striking “(with written notice to the lessee who designated the designee)”;

(4) in paragraph (23)(A), by striking “(with written notice to the lessee who designated the designee)”;

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

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

(6) in paragraph (25)(B)—

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

and

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

“that arises from or relates to any lease, easement, right-of-way, permit, or other agreement regardless of form administered by the Secretary for, or any mineral leasing law related to, the exploration, production, and development of oil and gas or other energy resource on Federal lands or the Outer Continental Shelf;”.

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

(8) by striking “and” after the semicolon at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting a semicolon, and by adding at the end the following new paragraphs:

“(34) ‘compliance review’ means a full-scope or a limited-scope examination of a lessee’s lease accounts to compare one or all elements of the royalty equation (volume, value, royalty rate, and allowances) against anticipated elements of the royalty equation to test for variances; and

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

SEC. 302. COMPLIANCE REVIEWS.

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

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

SEC. 303. CLARIFICATION OF LIABILITY FOR ROYALTY PAYMENTS.

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

“(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease, easement, right-of-way, permit, or other agreement, regardless of form, or under the mineral leasing laws, shall make such payment in the time and manner as may be specified by the Secretary or the applicable delegated State. Any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee must make is the lessee’s designee under this Act. Notwithstanding any other provision of this Act to the contrary, a designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease. The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for that person’s pro rata share of payment obligations under the lease.”.

SEC. 304. REQUIRED RECORDKEEPING.

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

SEC. 305. FINES AND PENALTIES.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended—

- (1) in subsection (a) in the matter following paragraph (2), by striking “\$500” and inserting “\$1,000”;
- (2) in subsection (a)(2)(B), by inserting “(i)” after “such person”, and by striking the period at the end and inserting “; and (ii) has not received notice, pursuant to paragraph (1), of more than two prior violations in the current calendar year.”;
- (3) in subsection (b), by striking “\$5,000” and inserting “\$10,000”;
- (4) in subsection (c)—
 - (A) in paragraph (2), by striking “; or” and inserting “, including any failure or refusal to promptly tender requested documents;”;
 - (B) in the text following paragraph (3)—
 - (i) by striking “\$10,000” and inserting “\$20,000”; and
 - (ii) by striking the period at the end and inserting a semicolon; and
 - (C) by adding at the end the following new paragraphs:
 - “(4) knowingly or willfully fails to make any royalty payment in the amount or value as specified by statute, regulation, order, or terms of the lease; or
 - “(5) fails to correctly report and timely provide operations or financial records necessary for the Secretary or any authorized designee of the Secretary to accomplish lease management responsibilities;”;
- (5) in subsection (d), by striking “\$25,000” and inserting “\$50,000”;
- (6) in subsection (h), by striking “by registered mail” and inserting “a common carrier that provides proof of delivery”; and
- (7) by adding at the end the following subsection:
 - “(m)(1) Any determination by the Secretary or a designee of the Secretary that a person has committed a violation under subsection (a), (c), or (d)(1) shall toll any applicable statute of limitations for all oil and gas leases held or operated by such person, until the later of—
 - “(A) the date on which the person corrects the violation and certifies that all violations of a like nature have been corrected for all of the oil and gas leases held or operated by such person; or
 - “(B) the date a final, nonappealable order has been issued by the Secretary or a court of competent jurisdiction.
 - “(2) A person determined by the Secretary or a designee of the Secretary to have violated subsection (a), (c), or (d)(1) shall maintain all records with respect to the person’s oil and gas leases until the later of—
 - “(A) the date the Secretary releases the person from the obligation to maintain such records; and
 - “(B) the expiration of the period during which the records must be maintained under section 103(b).”.

SEC. 306. INTEREST ON OVERPAYMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended—

- (1) by amending subsections (h) and (i) to read as follows:
 - “(h) Interest shall not be allowed nor paid nor credited on any overpayment, and no interest shall accrue from the date such overpayment was made.
 - “(i) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection referred to as the ‘estimated payment’) that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owed on the underpaid amount. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated by the lessee or its designee provided such adjustment, recoupment, or reinstatement is made within the limitation period for which the date royalties were due for that lease.”;
- (2) by striking subsection (j); and
- (3) in subsection (k)(4)—
 - (A) by striking “or overpaid royalties and associated interest”; and
 - (B) by striking “, refunded, or credited”.

SEC. 307. ADJUSTMENTS AND REFUNDS.

Section 111A of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721a) is amended—

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

“(B) Except as provided in subparagraph (C), no adjustment may be made with respect to an obligation that is the subject of an audit or compliance review after completion of the audit or compliance review, respectively, unless such adjustment is approved by the Secretary or the applicable delegated State, as appropriate.

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

(2) in subsection (a)(4)—

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

(B) by striking “shall” the first time such term appears and inserting “may”; and

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

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

SEC. 308. CONFORMING AMENDMENT.

Section 114 of the Federal Oil and Gas Royalty Management Act of 1982 is repealed.

SEC. 309. OBLIGATION PERIOD.

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

“(3) ADJUSTMENTS.—In the case of an adjustment under section 111A(a) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act the obligation becomes due on the date the lessee or its designee makes the adjustment.”.

SEC. 310. NOTICE REGARDING TOLLING AGREEMENTS AND SUBPOENAS.

(a) TOLLING AGREEMENTS.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(1)) is amended by striking “(with notice to the lessee who designated the designee)”.

(b) SUBPOENAS.—Section 115(d)(2)(A) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(2)(A)) is amended by striking “(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee)”.

SEC. 311. APPEALS AND FINAL AGENCY ACTION.

Paragraphs (1) and (2) of section 115(h) the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(h)) are amended by striking “33” each place it appears and inserting “48”.

SEC. 312. ASSESSMENTS.

Section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724) is repealed.

SEC. 313. COLLECTION AND PRODUCTION ACCOUNTABILITY.

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

(b) REPORT.—The Secretary shall submit to Congress a report on findings and recommendations of the pilot project within 3 years after the date of enactment of this Act.

SEC. 314. NATURAL GAS REPORTING.

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

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

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

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

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

(5) revision of the “MMS–2014” reporting form to record, in addition to other information already required, the natural gas BTU values that form the basis for the required royalty payments.

SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING OF DATA.

(a) IN GENERAL.—The Secretary shall issue regulations by not later than 1 year after the date of enactment of this Act that establish a civil penalty for late or incorrect reporting of data under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

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

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

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

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

SEC. 316. REQUIRED RECORDKEEPING.

Within 1 year after the date of enactment of this Act, the Secretary shall publish final regulations concerning required recordkeeping of natural gas measurement data as set forth in part 250.1203 of title 30, Code of Federal Regulations (as in effect on the date of enactment of this Act), to include operators and other persons involved in the transporting, purchasing, or selling of gas under the requirements of that rule, under the authority provided in section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713).

SEC. 317. SHARED CIVIL PENALTIES.

Section 206 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1736) is amended by striking “Such amount shall be deducted from any compensation due such State or Indian Tribe under section 202 or section 205 or such State under section 205.”.

SEC. 318. APPLICABILITY TO OTHER MINERALS.

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

“(e) APPLICABILITY TO OTHER MINERALS.—

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

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

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

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

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

SEC. 319. ENTITLEMENTS.

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

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

Subtitle A—Land and Water Conservation Fund

SEC. 401. AMENDMENTS TO THE LAND AND WATER CONSERVATION FUND ACT OF 1965.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

SEC. 402. EXTENSION OF THE LAND AND WATER CONSERVATION FUND.

Section 2 (16 U.S.C. 4601–5) is amended by striking “September 30, 2015” both places it appears and inserting “September 30, 2040”.

SEC. 403. PERMANENT FUNDING.

(a) **IN GENERAL.**—The text of section 3 (16 U.S.C. 4601–6) is amended to read as follows: “Of the moneys covered into the fund, \$900,000,000 shall be available each fiscal year for expenditure for the purposes of this Act without further appropriation. Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.”

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

Subtitle B—National Historic Preservation Fund

SEC. 411. PERMANENT FUNDING.

The text of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended to read as follows: “To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereinafter referred to as the ‘fund’) in the Treasury of the United States. There shall be covered into the fund \$150,000,000 for fiscal years 1982 through 2040 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338) and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure without further appropriation.”

TITLE V—ALTERNATIVE ENERGY DEVELOPMENT

SEC. 501. COMMERCIAL WIND AND SOLAR LEASING PROGRAM.

(a) **IN GENERAL.**—Pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), the Secretary, acting through the Director of the Bureau of Energy and Resource Management, may issue leases, on a competitive basis, for commercial electricity generation from solar or wind resources on Federal lands under the administrative jurisdiction of the Bureau of Land Management or of the Forest Service, except that the Secretary may not issue any such lease on National Forest System lands over the objection of the Secretary of Agriculture.

(b) **FINAL REGULATIONS.**—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall publish final regulations establishing a commercial wind and solar leasing program under subsection (a).

(c) **COMMENCEMENT OF COMMERCIAL LEASING FOR SOLAR AND WIND ENERGY ON PUBLIC LANDS.**—Not later than 90 days after completion of regulations required under subsection (b), or as soon as practicable thereafter, and following consultation with affected governors and other stakeholders, the Secretary may conduct lease sales under the regulations under this title.

(d) EASEMENTS, SPECIAL-USE PERMITS, AND RIGHTS-OF-WAY.—Upon completion of regulations required under subsection (b), easements, special-use permits, and rights-of-way shall not be available for commercial wind and solar projects on Federal lands under the administrative jurisdiction of the Bureau of Land Management or Forest Service, except for the placement and operation of testing or data collection devices or facilities that will not result in the commercial sale of electric power.

(e) NONCOMPETITIVE LEASING.—

(1) IN GENERAL.—The Secretary may issue leases under this section on a non-competitive basis if—

- (A) the lease is for resource data collection or equipment testing;
- (B) the lease will not result in the commercial sale of electric power;
- (C) the lease has a term of not more than 5 years; and
- (D) the Secretary, after public notice of a proposed lease, determines that there is no competitive interest.

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

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

- (1) an application for a solar or wind right-of-way permit, or for a permit for a meteorological tower or to construct a wind farm, was submitted before July 1, 2010; or
- (2) a meteorological testing tower or other data collection device has been installed under an approved easement, special-use permit, or right-of-way before the date of enactment of this Act.

(g) DILIGENT DEVELOPMENT REQUIREMENTS.—The Secretary shall, by regulation, designate work requirements and milestones to ensure that diligent development is carried out under each lease issued under this title, and that such leases are not obtained for speculative purposes.

(h) CRITERIA FOR BIDDERS.—Before issuing leases under this title, the Secretary shall establish criteria for bidders for such leases, including for proof of financial ability to achieve project commitments and completion, and for a demonstrated understanding of the technology to be deployed under a lease.

SEC. 502. LAND MANAGEMENT.

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

- (1) establish the duration of leases under this title, which shall be not less than 30 years;
- (2) require the holder of a lease granted under this title to—
 - (A) furnish a surety bond or other form of security, as prescribed by the Director of the Bureau of Energy and Resource Management, to assure the completion of—
 - (i) interim and final reclamation and the restoration of the area that is subject to the lease to the condition in which the area existed before the granting of the lease; or
 - (ii) mitigation activities, including compensatory mitigation, if restoration to such condition is impractical; and
 - (B) comply with such other requirements as the Director of the Bureau of Energy and Resource Management and affected Federal land manager consider necessary to protect the interests of the public and the United States; and
- (3) establish best management practices and require renewable energy operators to comply with those practices to ensure the sound, efficient, and environmentally responsible development of wind and solar resources on Federal lands in a manner that shall avoid, minimize, and mitigate actual and anticipated impacts to habitat and ecosystem function resulting from such development and to areas proposed for wilderness or other protection.

SEC. 503. REVENUES.

(a) ESTABLISHMENT OF PAYMENT REQUIREMENTS.—The Secretary shall establish royalties, fees, rentals, bonus bids, or other payments for leases issued under this title, that shall—

- (1) encourage development of solar and wind energy on public lands;
- (2) ensure a fair return to the United States; and
- (3) be commensurate with similar payments for the development of solar and wind energy on State and private lands.

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

(c) PROMOTE DEVELOPMENT OF PREVIOUSLY IMPACTED LANDS.—To promote the priority development of renewable energy resources on lands that have already been adversely impacted by significant prior use, the Secretary may waive the rental payment until generation commences under a lease under section 501 of such land determined by the Secretary in consultation with the Secretaries of Agriculture and Energy, and the Administrator of the Environmental Protection Agency.

SEC. 504. RECORDKEEPING AND REPORTING REQUIREMENTS.

(a) IN GENERAL.—A lessee, permit holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling renewable energy under this title, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may include, but not be limited to, pertinent technical and financial data relating to the resources being developed under the lease. Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee. Failure by a claim holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the lease or permit.

(b) MAINTENANCE.—Records required by the Secretary under this section shall be maintained for 7 years after release of financial assurance unless the Secretary notifies the operator that the Secretary has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the operator of the obligation to maintain such records.

SEC. 505. AUDITS.

The Secretary may conduct such audits of all lessees and permit holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of renewable energy resources covered by this Act, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this title. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

SEC. 506. TRADE SECRETS.

Trade secrets, proprietary information, and other confidential information protected from disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), shall be made available by the Secretary to other Federal agencies as necessary to assure compliance with this Act and other Federal laws.

SEC. 507. INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.

(a) INTEREST.—In the case of renewable energy resources leases or permits under which royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such under payments at the same interest rate as the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(b) PENALTY.—If there is any underreporting of royalty owed on production from a lease or permit for any production month by any person liable for royalty payments under this title, the Secretary shall assess a penalty of not greater than 25 percent of the amount of that underreporting.

(c) UNDERREPORTING DEFINED.—For the purposes of this section, the term “underreporting” means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production that was reported, if the value that should have been reported is greater than the value that was reported.

(d) WAIVER OR REDUCTION.—

(1) IN GENERAL.—The Secretary may waive or reduce the assessment provided in subsection (b) if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the

Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(2) **REQUIRED WAIVER.**—The Secretary shall waive any portion of an assessment under subsection (b) attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported;

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported;

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production that led to the underreporting; or

(D) such person meets any other exception that the Secretary may, by rule, establish.

(e) **EXPANDED ROYALTY OBLIGATIONS.**—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on renewable energy resources produced under a lease issued under this Act when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(f) **FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.**—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) to the same extent as if the failure to comply occurred under that Act.

(g) **DEPOSIT OF PENALTIES.**—All penalties collected under this subsection shall be deposited in the general fund of the Treasury.

SEC. 508. INDIAN SAVINGS PROVISION.

Nothing in this title shall abridge, diminish, or alter any right or interest of any affected Indian tribe. Nothing in this title shall authorize any Federal agency or official to abridge, diminish, or alter any right or interest of any affected Indian tribe.

SEC. 509. TRANSMISSION SAVINGS PROVISION.

Nothing in this title shall affect the authority of a Federal agency to issue right-of-way grants for electric transmission facilities.

TITLE VI—COORDINATION AND PLANNING

SEC. 601. REGIONAL COORDINATION.

(a) **IN GENERAL.**—The purpose of this title is to promote—

(1) better coordination, communication, and collaboration between Federal agencies with authorities for ocean, coastal, and Great Lakes management; and

(2) coordinated and collaborative regional planning efforts using the best available science, and to ensure the protection and maintenance of marine ecosystem health, in decisions affecting the sustainable development and use of Federal renewable and nonrenewable resources on, in, or above the ocean (including the Outer Continental Shelf) and the Great Lakes for the long-term economic and environmental benefit of the United States.

(b) **OBJECTIVES OF REGIONAL EFFORTS.**—Such regional efforts shall achieve the following objectives:

(1) Greater systematic communication and coordination among Federal, coastal State, and affected tribal governments concerned with the conservation of and the sustainable development and use of Federal renewable and nonrenewable resources of the oceans, coasts, and Great Lakes.

(2) To the maximum extent feasible, greater reliance on a multiobjective, science- and ecosystem-based, spatially explicit management approach that integrates regional economic, ecological, affected tribal, and social objectives into ocean, coastal, and Great Lakes management decisions.

(3) Identification and prioritization of shared State and Federal ocean, coastal, and Great Lakes management issues.

(4) Identification of data and information needed by the Regional Coordination Councils established under section 602.

(c) **REGIONS.**—There are hereby designated the following Coordination Regions:

(1) **PACIFIC REGION.**—The Pacific Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Washington, Oregon, and California.

(2) GULF OF MEXICO REGION.—The Gulf of Mexico Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Texas, Louisiana, Mississippi, and Alabama, and the west coast of Florida.

(3) NORTH ATLANTIC REGION.—The North Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

(4) MID ATLANTIC REGION.—The Mid Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

(5) SOUTH ATLANTIC REGION.—The South Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of North Carolina, South Carolina, Georgia, the east coast of Florida, and the Straits of Florida Planning Area.

(6) ALASKA REGION.—The Alaska Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the State of Alaska.

(7) PACIFIC ISLANDS REGION.—The Pacific Islands Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the State of Hawaii, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam.

(8) CARIBBEAN REGION.—The Caribbean Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to Puerto Rico and the United States Virgin Islands.

(9) GREAT LAKES REGION.—The Great Lakes Coordination Region, which shall consist of waters of the Great Lakes in the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 602. REGIONAL COORDINATION COUNCILS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Chairman of the Council on Environmental Quality, in consultation with the affected coastal States and affected Indian tribes, shall establish or designate a Regional Coordination Council for each of the Coordination Regions designated by section 601(c).

(b) MEMBERSHIP.—

(1) FEDERAL REPRESENTATIVES.—Within 90 days after the date of enactment of this Act, the Chairman of the Council on Environmental Quality shall publish the titles of the officials of each Federal agency and department that shall participate in each Council. The Councils shall include representatives of each Federal agency and department that has authorities related to the development of ocean, coastal, or Great Lakes policies or engages in planning, management, or scientific activities that significantly affect or inform the use of ocean, coastal, or Great Lakes resources. The Chairman of the Council on Environmental Quality shall determine which Federal agency representative shall serve as the chairperson of each Council.

(2) COASTAL STATE REPRESENTATIVES.—

(A) NOTICE OF INTENT TO PARTICIPATE.—The Governor of each coastal State within each Coordination Region designated by section 601(c) shall within 3 months after the date of enactment of this Act, inform the Chairman of the Council on Environmental Quality whether or not the State intends to participate in the Regional Coordination Council for the Region.

(B) APPOINTMENT OF RESPONSIBLE STATE OFFICIAL.—If a coastal State intends to participate in such Council, the Governor of the coastal State shall appoint an officer or employee of the coastal State agency with primary responsibility for overseeing ocean and coastal policy or resource management to that Council.

(3) REGIONAL FISHERY MANAGEMENT COUNCIL REPRESENTATION.—The Chairman of each Regional Fishery Management Council with jurisdiction in the Coordination Region of a Regional Coordination Council and the executive director of the interstate marine fisheries commission with jurisdiction in the Coordination Region of a Regional Coordination Council shall each serve as a member of the Council.

(4) REGIONAL OCEAN PARTNERSHIP REPRESENTATION.—A representative of any Regional Ocean Partnership that has been established for any part of the Coordination Region of a Regional Coordination Council may appoint a representative to serve on the Council in addition to any Federal or State appointments.

(5) TRIBAL REPRESENTATION.—An appropriate tribal official selected by affected Indian tribes situated in the affected Coordination Region may elect to

appoint a representative of such tribes collectively to serve as a member of the Regional Coordination Council for that Region.

(6) LOCAL REPRESENTATION.—The Chairman of the Council on Environmental Quality shall, in consultation with the Governors of the coastal States within each Coordination Region, identify and appoint representatives of county and local governments, as appropriate, to serve as members of the Regional Coordination Council for that Region.

(c) ADVISORY COMMITTEE.—Each Regional Coordination Council shall establish an advisory committee made up of a balanced representation from the energy, shipping, and transportation, marine tourism, and recreation industries, from marine environmental nongovernmental organizations, and from scientific and educational authorities with expertise in the conservation and management of ocean, coastal, and Great Lakes resources to advise the Council during the development of Regional Assessments and Regional Strategic Plans and in its other activities.

(d) COORDINATION WITH EXISTING PROGRAMS.—Each Regional Coordination Council shall build upon and complement current State, multistate, and regional capacity and governance and institutional mechanisms to manage and protect ocean waters, coastal waters, and ocean resources.

SEC. 603. REGIONAL STRATEGIC PLANS.

(a) INITIAL REGIONAL ASSESSMENT.—

(1) IN GENERAL.—Each Regional Coordination Council, shall, within one year after the date of enactment of this Act, prepare an initial assessment of its Coordination Region that shall identify deficiencies in data and information necessary to informed decisionmaking. Each initial assessment shall to the extent feasible—

(A) identify the Coordination Region's renewable and non renewable resources, including current and potential energy resources;

(B) identify and include a spatially and temporally explicit inventory of existing and potential uses of the Coordination Region, including fishing and fish habitat, tourism, recreation, and energy development;

(C) document the health and relative environmental sensitivity of the marine ecosystem within the Coordination Region, including a comprehensive survey and status assessment of species, habitats, and indicators of ecosystem health;

(D) identify marine habitat types and important ecological areas within the Coordination Region;

(E) assess the Coordination Region's marine economy and cultural attributes and include regionally-specific ecological and socio-economic baseline data;

(F) identify and prioritize additional scientific and economic data necessary to inform the development of Strategic Plans; and

(G) include other information to improve decision making as determined by the Regional Coordination Council.

(2) DATA.—Each initial assessment shall—

(A) use the best available data;

(B) collect and provide data in a spatially explicit manner wherever practicable and provide such data to the interagency comprehensive digital mapping initiative as described in section 2 of Public Law 109–58 (42 U.S.C. 15801); and

(C) make publicly available any such data that is not classified information.

(3) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunity for review and input by stakeholders and the general public during the preparation of the initial assessment and any revised assessments.

(b) REGIONAL STRATEGIC PLANS.—

(1) REQUIREMENT.—Each Regional Coordination Council shall, within 3 years after the completion of the initial regional assessment, prepare and submit to the Chairman of the Council on Environmental Quality a multiobjective, science- and ecosystem-based, spatially explicit, integrated Strategic Plan in accordance with this subsection for the Council's Coordination Region.

(2) MANAGEMENT OBJECTIVE.—The management objective of the Strategic Plans under this subsection shall be to foster comprehensive, integrated, and sustainable development and use of ocean, coastal, and Great Lakes resources, while protecting marine ecosystem health and sustaining the long-term economic and ecosystem values of the oceans.

(3) CONTENTS.—Each Strategic Plan prepared by a Regional Coordination Council shall—

(A) be based on the initial regional assessment and updates for the Coordination Region under subsections (a) and (c), respectively;

(B) foster the sustainable and integrated development and use of ocean, coastal, and Great Lakes resources in a manner that protects the health of marine ecosystems;

(C) identify areas with potential for siting and developing renewable and nonrenewable energy resources in the Coordination Region covered by the Strategic Plan;

(D) identify other current and potential uses of the ocean and coastal resources in the Coordination Region;

(E) identify and recommend long-term monitoring needs for ecosystem health and socioeconomic variables within the Coordination Region covered by the Strategic Plan;

(F) identify existing State and Federal regulating authorities within the Coordination Region covered by the Strategic Plan;

(G) identify best available technologies to minimize adverse environmental impacts and use conflicts in the development of ocean and coastal resources in the Coordination Region;

(H) identify additional research, information, and data needed to carry out the Strategic Plan;

(I) identify performance measures and benchmarks for purposes of fulfilling the responsibilities under this section to be used to evaluate the Strategic Plan's effectiveness;

(J) define responsibilities and include an analysis of the gaps in authority, coordination, and resources, including funding, that must be filled in order to fully achieve those performance measures and benchmarks; and

(K) include such other information at the Chairman of the Council on Environmental Quality determines is appropriate.

(4) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunities for review and input by stakeholders and the general public during the development of the Strategic Plan and any Strategic Plan revisions.

(c) UPDATED REGIONAL ASSESSMENTS.—Each Regional Coordination Council shall update the initial regional assessment prepared under subsection (a) in coordination with each Strategic Plan revision under subsection (e), to provide more detailed information regarding the required elements of the assessment and to include any relevant new information that has become available in the interim.

(d) REVIEW AND APPROVAL.—

(1) COMMENCEMENT OF REVIEW.—Within 10 days after receipt of a Strategic Plan under this section, or any revision to such a Strategic Plan, from a Regional Coordination Council, the Chairman of the Council of Environmental Quality shall commence a review of the Strategic Plan or the revised Strategic Plan, respectively.

(2) PUBLIC NOTICE AND COMMENT.—Immediately after receipt of such a Strategic Plan or revision, the Chairman of the Council of Environmental Quality shall publish the Strategic Plan or revision in the Federal Register and provide an opportunity for the submission of public comment for a 90-day period beginning on the date of such publication.

(3) REQUIREMENTS FOR APPROVAL.—Before approving a Strategic Plan, or any revision to a Strategic Plan, the Chairman of the Council on Environmental Quality must find that the Strategic Plan or revision—

(A) is consistent with the Outer Continental Shelf Lands Act;

(B) complies with subsection (b); and

(C) complies with the purposes of this title as identified in section 601(a) and the objectives identified in section 601(b).

(4) DEADLINE FOR COMPLETION.—Within 180 days after the receipt of a Strategic Plan, or a revision to a Strategic Plan, the Chairman of the Council of Environmental Quality shall approve or disapprove the Strategic Plan or revision. If the Chairman disapproves the Strategic Plan or revision, the Chairman shall transmit to the Regional Coordination Council that submitted the Strategic Plan or revision, an identification of the deficiencies and recommendations to improve it. The Council shall submit a revised Strategic Plan or revision to such plan with 180 days after receiving the recommendations from the Chairman.

(e) PLAN REVISION.—Each Strategic Plan shall be reviewed and revised by the relevant Regional Coordination Council at least once every 5 years. Such review and revision shall be based on the most recently updated regional assessment. Any proposed revisions to the Strategic Plan shall be submitted to the Chairman of the Council on Environmental Quality for review and approval pursuant to this section.

SEC. 604. REGULATIONS.

The Chairman of the Council on Environmental Quality may issue such regulations as the Chairman considers necessary to ensure proper administration of this title.

SEC. 605. OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.**(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—There is established in the Treasury of the United States a separate account to be known as the Ocean Resources Conservation and Assistance Fund.

(2) **CREDITS.**—The ORCA Fund shall be credited with amounts as specified in section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), as amended by section 207 of this Act.

(3) ALLOCATION OF THE ORCA FUND.—

(A) **IN GENERAL.**—Of the amounts deposited in the ORCA Fund each fiscal year—

(i) 70 percent shall be allocated to the Secretary, of which—

(I) 1/2 shall be used to make grants to coastal States and affected Indian tribes under subsection (b); and

(II) 1/2 shall be used for the ocean, coastal, and Great Lakes grants program established by subsection (c);

(ii) 20 percent shall be allocated to the Secretary to carry out the purposes of subsection (e); and

(iii) 10 percent shall be allocated to the Secretary to make grants to Regional Ocean Partnerships under subsection (d).

(B) **AVAILABILITY.**—Amounts allocated to the Secretary under subparagraph (A) shall be available without further appropriation.

(4) **PROCEDURES.**—The Secretary shall establish application, review, oversight, financial accountability, and performance accountability procedures for each grant program for which funds are allocated under this subsection.

(b) GRANTS TO COASTAL STATES.—

(1) **GRANT AUTHORITY.**—The Secretary may use amounts allocated under subsection (a)(3)(A)(I)(I) to make grants to—

(A) coastal States pursuant to the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)); and

(B) affected Indian tribes based on and proportional to any specific coastal and ocean management authority granted to an affected tribe pursuant to affirmation of a Federal reserved right.

(2) **ELIGIBILITY.**—To be eligible to receive a grant under this subsection, a coastal State or affected Indian tribe must prepare and revise a 5-year plan and annual work plans that—

(A) demonstrate that activities for which the coastal State or affected Indian tribe will use the funds are consistent with the eligible uses of the Fund described in subsection (f); and

(B) provide mechanisms to ensure that funding is made available to government, nongovernment, and academic entities to carry out eligible activities at the county and local level.

(3) APPROVAL OF STATE AND AFFECTED TRIBAL PLANS.—

(A) **IN GENERAL.**—Plans required under paragraph (2) must be submitted to and approved by the Secretary.

(B) **PUBLIC INPUT AND COMMENT.**—In determining whether to approve such plans, the Secretary shall provide opportunity for, and take into consideration, public input and comment on the plans from stakeholders and the general public.

(5) **ENERGY PLANNING GRANTS.**—For each of the fiscal years 2011 through 2015, the Secretary may use funds allocated for grants under this subsection to make grants to coastal States and affected tribes under section 320 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended by this Act.

(6) **USE OF FUNDS.**—Any amounts provided as a grant under this subsection, other than as a grants under paragraph (5), may only be used for activities described in subsection (f).

(c) OCEAN AND COASTAL COMPETITIVE GRANTS PROGRAM.—

(1) **ESTABLISHMENT.**—The Secretary shall use amounts allocated under subsection (a)(3)(A)(I)(II) to make competitive grants for conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources.

(2) OCEAN, COASTAL, AND GREAT LAKES REVIEW PANEL.—

(A) **IN GENERAL.**—The Secretary shall establish an Ocean, Coastal, and Great Lakes Review Panel (in this subsection referred to as the “Panel”),

which shall consist of 12 members appointed by the Secretary with expertise in the conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources. In appointing members to the Council, the Secretary shall include a balanced diversity of representatives of relevant Federal agencies, the private sector, nonprofit organizations, and academia.

- (B) FUNCTIONS.—The Panel shall—
- (i) review, in accordance with the procedures and criteria established under paragraph (3), grant applications under this subsection;
 - (ii) make recommendations to the Secretary regarding which grant applications should be funded and the amount of each grant; and
 - (iii) establish any specific requirements, conditions, or limitations on a grant application recommended for funding.
- (3) PROCEDURES AND ELIGIBILITY CRITERIA FOR GRANTS.—
- (A) IN GENERAL.—The Secretary shall establish—
- (i) procedures for applying for a grant under this subsection and criteria for evaluating applications for such grants; and
 - (ii) criteria, in consultation with the Panel, to determine what persons are eligible for grants under the program.
- (B) ELIGIBLE PERSONS.—Persons eligible under the criteria under subparagraph (A)(ii) shall include Federal, State, affected tribal, and local agencies, fishery or wildlife management organizations, nonprofit organizations, and academic institutions.
- (4) APPROVAL OF GRANTS.—In making grants under this subsection the Secretary shall give the highest priority to the recommendations of the Panel. If the Secretary disapproves a grant recommended by the Panel, the Secretary shall explain that disapproval in writing.
- (5) USE OF GRANT FUNDS.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).
- (d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—
- (1) GRANT AUTHORITY.—The Secretary may use amounts allocated under subsection (a)(3)(A)(iii) to make grants to Regional Ocean Partnerships.
 - (2) ELIGIBILITY.—In order to be eligible to receive a grant, a Regional Ocean Partnership must prepare and annually revise a plan that—
 - (A) identifies regional science and information needs, regional goals and priorities, and mechanisms for facilitating coordinated and collaborative responses to regional issues;
 - (B) establishes a process for coordinating and collaborating with the Regional Coordination Councils established under section 602 to address regional issues and information needs and achieve regional goals and priorities; and
 - (C) demonstrates that activities to be carried out with such funds are eligible uses of the funds identified in subsection (f).
 - (3) APPROVAL BY SECRETARY.—Such plans must be submitted to and approved by the Secretary.
 - (4) PUBLIC INPUT AND COMMENT.—In determining whether to approve such plans, the Secretary shall provide opportunity for, and take into consideration, input and comment on the plans from stakeholders and the general public.
 - (5) USE OF FUNDS.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).
- (e) LONG-TERM OCEAN AND COASTAL OBSERVATIONS.—
- (1) IN GENERAL.—The Secretary shall use the amounts allocated under subsection (a)(3)(A)(ii) to build, operate, and maintain the system established under section 12304 of Public Law 111–11 (33 U.S.C. 3603), in accordance with the purposes and policies for which the system was established.
 - (2) ADMINISTRATION OF FUNDS.—The Secretary shall administer and distribute funds under this subsection based upon comprehensive system budgets adopted by the Council referred to in section 12304(c)(1)(A) of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603(c)(1)(A)).
 - (f) ELIGIBLE USE OF FUNDS.—Any funds made available under this section may only be used for activities that contribute to the conservation, protection, maintenance, and restoration of ocean, coastal, and Great Lakes ecosystems in a manner that is consistent with Federal environmental laws and that avoids environmental degradation, including—
 - (1) activities to conserve, protect, maintain, and restore coastal, marine, and Great Lakes ecosystem health;
 - (2) activities to protect marine biodiversity and living marine and coastal resources and their habitats, including fish populations;

(3) the development and implementation of multiobjective, science- and ecosystem-based plans for monitoring and managing the wide variety of uses affecting ocean, coastal, and Great Lakes ecosystems and resources that consider cumulative impacts and are spatially explicit where appropriate;

(4) activities to improve the resiliency of those ecosystems;

(5) activities to improve the ability of those ecosystems to become more resilient, and to adapt to and withstand the impacts of climate change and ocean acidification;

(6) planning for and managing coastal development to minimize the loss of life and property associated with sea level rise and the coastal hazards resulting from it;

(7) research, assessment, monitoring, and dissemination of information that contributes to the achievement of these purposes;

(8) research of, protection of, enhancement to, and activities to improve the resiliency of culturally significant areas and resources; and

(9) activities designed to rescue, rehabilitate, and recover injured marine mammals, marine birds, and sea turtles.

(g) DEFINITIONS.—In this section:

(1) ORCA FUND.—The term “ORCA Fund” means the Ocean Resources Conservation and Assistance Fund established by this section

(2) SECRETARY.—Notwithstanding section 3, the term “Secretary” means the Secretary of Commerce.

SEC. 606. WAIVER.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Regional Coordination Councils established under section 602.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED ROYALTY RELIEF FOR THE OIL AND GAS INDUSTRY.

(a) PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking “and in the Planning Areas offshore Alaska” after “West longitude”.

(b) PROVISIONS RELATING TO NAVAL PETROLEUM RESERVE IN ALASKA.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as transferred, redesignated, moved, and amended by section 347 of the Energy Policy Act of 2005 (119 Stat. 704)) is amended—

(1) in subsection (i) by striking paragraphs (2) through (6); and

(2) by striking subsection (k).

SEC. 702. CONSERVATION FEE.

(a) ESTABLISHMENT.—The Secretary shall, within 180 days after the date of enactment of this Act, issue regulations to establish an annual conservation fee for all oil and gas leases on Federal onshore and offshore lands.

(b) AMOUNT.—The amount of the fee shall be, for each barrel or barrel equivalent produced from land that is subject to a lease from which oil or natural gas is produced in a calendar year, \$2 per barrel of oil and 20 cents per million BTU of natural gas in 2010 dollars.

(c) ASSESSMENT AND COLLECTION.—The Secretary shall assess and collect the fee established under this section.

(d) REGULATIONS.—The Secretary may issue regulations to prevent evasion of the fee under this section.

(e) SUNSET.—This section and the fee established under this section shall expire on December 31, 2021.

SEC. 703. LEASING ON INDIAN LANDS.

Nothing in this Act modifies, amends, or affects leasing on Indian lands as currently carried out by the Bureau of Indian Affairs.

SEC. 704. OFFSHORE AQUACULTURE CLARIFICATION.

(a) NO AUTHORITY.—The Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, or the Regional Fishery Management Councils shall not develop or approve a fishery management plan or fishery management plan amendment to permit or regulate offshore aquaculture.

(b) PERMITS INVALID.—Any permit issued for the conduct of offshore aquaculture, including the siting or operation of offshore aquaculture facilities, under the Magnu-

son-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall be invalid upon enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) OFFSHORE AQUACULTURE.—The term “offshore aquaculture” means all activities related to—

(A) the placement of any installation, facility, or structure in the exclusive economic zone for the purposes of propagation or rearing, or attempting to propagate or rear, any species; or

(B) the operation of offshore aquaculture facilities in the exclusive economic zone involved in the propagation or rearing, or attempted propagation or rearing, of species.

(2) OFFSHORE AQUACULTURE FACILITY.—The term “offshore aquaculture facility” means—

(A) a structure, installation, or other complex used, in whole or in part, for offshore aquaculture; or

(B) an area of the seabed or the subsoil used for offshore aquaculture.

SEC. 705. OUTER CONTINENTAL SHELF STATE BOUNDARIES.

(a) GENERAL.—Not later than 2 years after the date of enactment of this Act, the President, acting through the Secretary of the Interior, shall publish a final determination under section 4(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)) of the boundaries of coastal States projected seaward to the outer margin of the Outer Continental Shelf.

(b) NOTICE AND COMMENT.—In determining the projected boundaries specified in subsection (a), the Secretary shall comply with the notice and comment requirements under chapter 5 of title 5, United States Code.

(c) SAVINGS CLAUSE.—The determination and publication of projected boundaries under subsection (a) shall not be construed to alter, limit, or modify the jurisdiction, control, or any other authority of the United States over the Outer Continental Shelf.

SEC. 706. LIABILITY FOR DAMAGES TO NATIONAL WILDLIFE REFUGES.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following new subsection:

“(p) DESTRUCTION OR LOSS OF, OR INJURY TO, REFUGE RESOURCES.—

“(1) LIABILITY.—

“(A) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any refuge resource is liable to the United States for an amount equal to the sum of—

“(i) the amount of the response costs and damages resulting from the destruction, loss, or injury; and

“(ii) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

“(B) LIABILITY IN REM.—Any instrumentality, including a vessel, vehicle, aircraft, or other equipment, that destroys, causes the loss of, or injures any refuge resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subparagraph (A).

“(C) DEFENSES.—A person is not liable under this paragraph if that person establishes that—

“(i) the destruction or loss of, or injury to, the refuge resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

“(ii) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

“(iii) the destruction, loss, or injury was negligible.

“(D) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or section 30706 of title 46, United States Code, shall limit the liability of any person under this section.

“(2) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, refuge resources, or to minimize the imminent risk of such destruction, loss, or injury.

“(3) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—

“(A) IN GENERAL.—The Attorney General, upon request of the Secretary, may commence a civil action against any person or instrumentality who may be liable under paragraph (1) for response costs and damages. The Secretary, acting as trustee for refuge resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

“(B) JURISDICTION AND VENUE.—An action under this subsection may be brought in the United States district court for any district in which—

“(i) the defendant is located, resides, or is doing business, in the case of an action against a person;

“(ii) the instrumentality is located, in the case of an action against an instrumentality; or

“(iii) the destruction of, loss of, or injury to a refuge resource occurred.

“(4) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this subsection shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)) and used as follows:

“(A) RESPONSE COSTS.—Amounts recovered by the United States for costs of response actions and damage assessments under this subsection shall be used, as the Secretary considers appropriate—

“(i) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

“(ii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any refuge resource.

“(B) OTHER AMOUNTS.—All other amounts recovered shall be used, in order of priority—

“(i) to restore, replace, or acquire the equivalent of the refuge resources that were the subject of the action, including the costs of monitoring the refuge resources;

“(ii) to restore degraded refuge resources of the refuge that was the subject of the action, giving priority to refuge resources that are comparable to the refuge resources that were the subject of the action; and

“(iii) to restore degraded refuge resources of other refuges.

“(5) DEFINITIONS.—In this subsection, the term—

“(A) ‘damages’ includes—

“(i) compensation for—

“(I)(aa) the cost of replacing, restoring, or acquiring the equivalent of a refuge resource; and

“(bb) the value of the lost use of a refuge resource pending its restoration or replacement or the acquisition of an equivalent refuge resource; or

“(II) the value of a refuge resource if the refuge resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

“(ii) the cost of conducting damage assessments;

“(iii) the reasonable cost of monitoring appropriate to the injured, restored, or replaced refuge resource; and

“(iv) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a refuge resource;

“(B) ‘response costs’ means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, refuge resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability, or to monitor ongoing effects of incidents causing such destruction, loss, or injury under this subsection; and

“(C) ‘refuge resource’ means any living or nonliving resource of a refuge that contributes to the conservation, management, and restoration mission of the System, including living or nonliving resources of a marine national monument that may be managed as a unit of the System.”.

SEC. 707. STRENGTHENING COASTAL STATE OIL SPILL PLANNING AND RESPONSE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended adding at the end the following new section:

“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RESPONSE AND PLANNING.

“(a) GRANTS TO STATES.—The Secretary may make grants to eligible coastal states—

“(1) to revise management programs approved under section 306 (16 U.S.C. 1455) to identify and implement new enforceable policies and procedures to ensure sufficient response capabilities at the state level to address the environmental, economic and social impacts of oil spills or other accidents resulting from Outer Continental Shelf energy activities with the potential to affect any land or water use or natural resource of the coastal zone; and

“(2) to review and revise where necessary applicable enforceable policies within approved state management programs affecting coastal energy activities and energy to ensure that these policies are consistent with—

“(A) other emergency response plans and policies developed under Federal or State law; and

“(B) new policies and procedures developed under paragraph (1); and

“(3) after a State has adopted new or revised enforceable policies and procedures under paragraphs (1) and (2)—

“(A) the State shall submit the policies and procedures to the Secretary; and

“(B) the Secretary shall notify the State whether the Secretary approves or disapproves the incorporation of the policies and procedures into the State’s management program pursuant to section 306(e).

“(b) ELEMENTS.—New enforceable policies and procedures developed by coastal states with grants awarded under this section shall consider, but not be limited to—

“(1) other existing emergency response plans, procedures and enforceable policies developed under other Federal or State law that affect the coastal zone;

“(2) identification of critical infrastructure essential to facilitate spill or accident response activities;

“(3) identification of coordination, logistics and communication networks between Federal and State government agencies, and between State agencies and affected local communities, to ensure the efficient and timely dissemination of data and other information;

“(4) inventories of shore locations and infrastructure and equipment necessary to respond to oil spills or other accidents resulting from Outer Continental Shelf energy activities;

“(5) identification and characterization of significant or sensitive marine ecosystems or other areas possessing important conservation, recreational, ecological, historic, or aesthetic values;

“(6) inventories and surveys of shore locations and infrastructure capable of supporting alternative energy development; and

“(7) other information or actions as may be necessary.

“(c) GUIDELINES.—The Secretary shall, within 180 days after the date of enactment of this section and after consultation with the coastal states, publish guidelines for the application for and use of grants under this section.

“(d) PARTICIPATION.—A coastal state shall provide opportunity for public participation in developing new enforceable policies and procedures under this section pursuant to sections 306(d)(1) and 306(e), especially by relevant Federal agencies, other coastal state agencies, local governments, regional organizations, port authorities, and other interested parties and stakeholders, public and private, that are related to, or affected by Outer Continental Shelf energy activities.

“(e) ANNUAL GRANTS.—

“(1) IN GENERAL.—For each of fiscal years 2011 through 2015, the Secretary may make a grant to a coastal state to develop new enforceable policies and procedures as required under this section.

“(2) GRANT AMOUNTS AND LIMIT ON AWARDS.—The amount of any grant to any one coastal State under this section shall not exceed \$750,000 for any fiscal year. No coastal state may receive more than two grants under this section.

“(3) NO STATE MATCHING CONTRIBUTION REQUIRED.—As it is in the national interest to be able to respond efficiently and effectively at all levels of government to oil spills and other accidents resulting from Outer Continental Shelf energy activities, a coastal state shall not be required to contribute any portion of the cost of a grant awarded under this section.

“(4) SECRETARIAL REVIEW AND LIMIT ON AWARDS.—After an initial grant is made to a coastal state under this section, no subsequent grant may be made to that coastal state under this section unless the Secretary finds that the coastal state is satisfactorily developing revisions to address offshore energy impacts. No coastal state is eligible to receive grants under this section for more than 2 fiscal years.

“(f) APPLICABILITY.—The requirements of this section shall only apply if appropriations are provided to the Secretary to make grants under this section. This section shall not be construed to convey any new authority to any coastal state, or repeal or supersede any existing authority of any coastal state, to regulate the siting, licensing, leasing, or permitting of energy facilities in areas of the Outer Continental Shelf under the administration of the Federal Government. Nothing in this section repeals or supersedes any existing coastal state authority.

“(g) ASSISTANCE BY THE SECRETARY.—The Secretary as authorized under section 310(a) and to the extent practicable, shall make available to coastal states the resources and capabilities of the National Oceanic and Atmospheric Administration to

provide technical assistance to the coastal states to prepare revisions to approved management programs to meet the requirements under this section.”.

SEC. 708. INFORMATION SHARING.

Section 388(b) of the Energy Policy Act of 2005 (43 U.S.C. 1337 note) is amended by adding at the end the following:

“(4) AVAILABILITY OF DATA AND INFORMATION.—All heads of departments and agencies of the Federal Government shall, upon request of the Secretary, provide to the Secretary all data and information that the Secretary deems necessary for the purpose of including such data and information in the mapping initiative, except that no department or agency of the Federal Government shall be required to provide any data or information that is privileged or proprietary.”.

SEC. 709. REPEAL OF FUNDING.

Effective October 1, 2010, section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended—

- (1) by striking subsections (a), (b), (c), and (f);
- (2) by redesignating subsections (d) and (e) as subsections (a) and (b), respectively;
- (3) in subsection (a), as so redesignated, by striking “obligated from the Fund under subsection (a)(1)” and inserting “available under this section”; and
- (4) in subsection (b), as so redesignated, by striking “In addition to other amounts that are made available to carry out this section, there” and inserting “There”.

SEC. 710. LIMITATION ON USE OF FUNDS.

None of the funds authorized or made available by this Act may be used to carry out any activity or pay any cost for which a responsible party (as such term is defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) is liable under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or other law.

SEC. 711. ADDITIONAL PUBLIC-RIGHT-TO-KNOW REQUIREMENTS.

The Secretary of the Interior shall make publicly available in a database that is accessible by the public through the Internet information regarding judicial actions filed against the Department of the Interior regarding leasing, production, exploration, or any related activities under the Outer Continental Shelf Lands Act, the Mineral Leasing Act, the Geothermal Steam Act of 1970, including any action under any amendment to any of those laws made by this Act. The database shall include a list the full amount of attorney’s fees required to be paid in such actions by court order or settlement agreement.

SEC. 712. FEDERAL RESPONSE TO STATE PROPOSALS TO PROTECT STATE LANDS AND WATERS.

Any State shall be entitled to timely decisions regarding permit applications or other approvals from any Federal official, including the Secretary of the Interior or the Secretary of Commerce, for any State or local government response activity to protect State lands and waters that is directly related to the discharge of oil determined to be a spill of national significance. Within 48 hours of the receipt of the State application or request for approval, the Federal official shall provide a clear determination on the permit application or approval request to the State, or provide a definite date by which the determination shall be made to the State. If the Federal official fails to meet either of these deadlines, the permit application is presumed to be approved or other approval granted.

TITLE VIII—GULF OF MEXICO RESTORATION

SEC. 801. GULF OF MEXICO RESTORATION PROGRAM.

(a) PROGRAM.—There is established a Gulf of Mexico Restoration Program for the purposes of coordinating Federal, State, and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity and ecosystem functions in the Gulf of Mexico.

(b) GULF OF MEXICO RESTORATION TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to be known as the Gulf of Mexico Restoration Task Force (in this section referred to as the “Restoration Task Force”).

(2) MEMBERSHIP.—The Restoration Task Force shall consist of the Governors of each of the Gulf coast States and the heads of appropriate Federal agencies selected by the President. The chairperson of the Restoration Task Force (in this subsection referred to as the “Chair”) shall be appointed by the President.

The Chair shall be a person who, as the result of experience and training, is exceptionally well-qualified to manage the work of the Restoration Task Force. The Chair shall serve in the Executive Office of the President.

(3) ADVISORY COMMITTEES.—The Restoration Task Force may establish advisory committees and working groups as necessary to carry out its duties under this Act.

(c) GULF OF MEXICO RESTORATION PLAN.—

(1) IN GENERAL.—Not later than nine months after the date of enactment of this Act, the Restoration Task Force shall issue a proposed comprehensive plan for long-term restoration of the Gulf of Mexico. Not later than 12 months after the date of enactment and after notice and opportunity for public comment, the Restoration Task Force shall publish a final plan. The Plan shall be updated every five years in the same manner.

(2) ELEMENTS OF RESTORATION PLANS.—The Plan shall—

(A) identify processes and strategies for coordinating Federal, State, and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity and ecosystem functions in the Gulf of Mexico region;

(B) identify mechanisms for scientific review and input to evaluate the benefits and long-term effectiveness of restoration programs and projects;

(C) identify, using the best science available, strategies for implementing restoration programs and projects for natural resources including—

(i) restoring species population and habitat including oyster reefs, sea grass beds, coral reefs, tidal marshes and other coastal wetlands and barrier islands and beaches;

(ii) restoring fish passage and improving migratory pathways for wildlife;

(iii) research that directly supports restoration programs and projects;

(iv) restoring the biological productivity and ecosystem function in the Gulf of Mexico region; and

(v) improving the resilience of natural resources to withstand the impacts of climate change and ocean acidification to ensure the long-term effectiveness of the restoration program.

(3) REPORT.—The Task Force shall annually provide a report to Congress about the progress in implementing the Plan.

(d) DEFINITIONS.—For purposes of this section, the term—

(1) “Gulf coast State” means each of the States of Texas, Louisiana, Mississippi, Alabama, and Florida; and

(2) “restoration programs and projects” means activities that support the restoration, rehabilitation, replacement, or acquisition of the equivalent, of injured or lost natural resources including the ecological services and benefits provided by such resources.

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section affects the ability or authority of the Federal Government to recover costs from a person determined to be a responsible party pursuant to the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or other law.

TITLE IX—GEOTHERMAL PRODUCTION EXPANSION

SEC. 901. SHORT TITLE.

This title may be cited as the “Geothermal Production Expansion Act”.

SEC. 902. FINDINGS.

The Congress finds the following:

(1) It is in the best interest of the United States to develop clean renewable geothermal energy.

(2) Development of such energy should be promoted on appropriate Federal lands.

(3) Under the Energy Policy Act of 2005, the Bureau of Land Management is authorized to issue three different types of non-competitive leases for production of geothermal energy on Federal lands, including non-competitive geothermal leases to mining claim holders that have a valid operating plan, direct use leases, and leases on parcels that do not sell at a competitive auction.

(4) Federal geothermal energy leasing activity should be directed towards those seeking to develop the land as opposed to those seeking to speculate on

geothermal resources and thereby artificially raising the cost of legitimate geothermal energy development.

(5) Developers of geothermal energy on Federal lands that have invested substantial capital and made high risk investments should be allowed to secure a discovery of geothermal energy resources.

(6) Successful geothermal development on Federal lands will provide increased revenue to the Federal Government, with the payment of production royalties over decades.

SEC. 903. NONCOMPETITIVE LEASING OF ADJOINING AREAS FOR DEVELOPMENT OF GEOTHERMAL RESOURCES.

(a) IN GENERAL.—Section 4(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1003(b)) by adding at the end the following:

“(4) ADJOINING LANDS.—

“(A) IN GENERAL.—An area of qualified Federal lands that adjoins other lands for which a qualified lessee holds a legal right to develop geothermal resources may be available for noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—

“(i) the area of qualified Federal lands—

“(I) consists of not less than 1 acre, and not more than 640 acres; and

“(II) is not already leased under this Act or nominated to be leased under subsection (a);

“(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under subclause (I) of clause (iii); and

“(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the relevant Federal land management agency that would engender a belief in individuals who are experienced in the subject matter that—

“(I) there is a valid discovery of geothermal resources on the lands for which the qualified lessee holds the legal right to develop geothermal resources; and

“(II) such thermal feature extends into the adjoining areas.

“(B) DETERMINATION OF FAIR MARKET VALUE.—

“(i) IN GENERAL.—The Secretary shall—

“(I) publish a notice of any request to lease land under this paragraph;

“(II) determine fair market value for purposes of this paragraph in accordance with procedures for making such determinations that are established by regulations issued by the Secretary;

“(III) provide to a qualified lessee and publish any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph;

“(IV) provide to such qualified lessee the opportunity to appeal such proposed determination within the 30-day period after it is provided to the qualified lessee; and

“(V) provide to any interested member of the public the opportunity to appeal such proposed determination in accordance with the process set forth in parts 4, 1840, and 3200.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of the Geothermal Production Expansion Act) within the 30-day period after it published.

“(ii) LIMITATION ON NOMINATION.—After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.

“(iii) REGULATIONS: DEADLINE; PUBLICATION OF PROPOSED REGULATIONS.—The regulations required under clause (i) shall be issued by not later than 90 days after the date of enactment of this Act, and after publication of, and an opportunity for public comment on, the proposed regulations.

“(C) DEFINITIONS.—In this paragraph—

“(i) the term ‘fair market value per acre’ means a dollar amount per acre that—

“(I) except as provided in this clause, shall be equal to the market value per acre as determined by the Secretary under regulations under this paragraph;

“(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later than the end of the 90-day period beginning on the date the Secretary receives an application for the lease; and

“(III) shall be not less than the greater of—

“(aa) four times the median amount paid per acre for all lands leased under this Act in the preceding year; or

“(bb) \$50;

“(ii) the term ‘industry standards’ means the standards by which a qualified geothermal professional assesses whether downhole or flowing temperature measurements with indications of permeability are sufficient to produce energy from geothermal resources as determined through flow or injection testing or measurement of lost circulation while drilling;

“(iii) the term ‘qualified Federal lands’ means lands that are otherwise available for leasing under this Act;

“(iv) the term ‘qualified geothermal professional’ means an individual who is an engineer or geoscientist in good professional standing with at least five years of experience in geothermal exploration, development, project assessment, or any combination of the foregoing;

“(v) the term ‘qualified lessee’ means a person that may hold a geothermal lease under part 3202.10 of title 43, Code of Federal Regulations, as in effect on the date of enactment of the Geothermal Production Expansion Act; and

“(vi) the term ‘valid discovery’ means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability sufficient to meet industry standards.”.

(b) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations to implement the amendment made by subsection (a), by not later than 6 months after the date of the enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 3534, the Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act of 2010, as ordered reported, is to promote energy policy reforms and public accountability, improve the safety of offshore drilling, coordinate restoration activities in the Gulf of Mexico, provide for better management of renewable energy on public lands, create a new planning process for oceans, coastal zones, and the Great Lakes, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3534 is fiscally responsible legislation which addresses the nation’s needs for a more sound energy policy with regard to public lands and natural resources. The bill reorganizes the Department of the Interior to provide for better management of energy resources on federal lands and waters, and to eliminate the conflicts that can arise between the missions of leasing, inspection and enforcement, and revenue collection. In response to the *Deepwater Horizon* tragedy of April 20, 2010, and the subsequent spilling of 94 million to 184 million gallons of oil into the Gulf of Mexico over the following three months, the bill also substantially amends the Outer Continental Shelf Lands Act to require significantly stronger safety standards and increased environmental reviews of offshore drilling activities. To address the environmental devastation caused by the spill, the bill creates a Gulf of Mexico Restoration Task Force to help coordinate recovery efforts. In order to ensure that American taxpayers receive their fair share from companies that extract resources from public lands, the bill includes numerous fis-

cal accountability provisions that close royalty loopholes and increase penalties on violators.

This legislation is the culmination of more than three dozen hearings conducted by the full Committee and its subcommittees since January of 2007. The legislation was initially introduced on September 8, 2009, and was substantially amended in the aftermath of the *Deepwater Horizon* incident, which highlighted the need for enhanced safety standards on the Outer Continental Shelf. Key provisions included in H.R. 3534 as reported by the Committee will:

Create three separate agencies within the Department of the Interior for the management of energy and mineral resources on federal lands and waters: the Bureau of Energy and Resource Management, which will be responsible for leasing and permitting; the Bureau of Safety and Environmental Enforcement, which will be responsible for safety and environmental inspections; and the Office of Natural Resources Revenue, which will be responsible for all revenue collection from energy and mineral-related activities. The duties for all three agencies extend to onshore and offshore activities.

Require more stringent safety regulations for oil and gas operations on the Outer Continental Shelf, including determinations that lessees are able to immediately effectively respond to worst-case oil spills, independent third-party certifications of crucial safety components, the adoption of safety cases and safety and environmental management systems, stiffer penalties for regulatory violations, certifications from operators of safe practices, more frequent and thorough inspections, and enhanced requirements to use best-available technologies.

Forbid companies with egregious safety and environmental records from obtaining new leases on the Outer Continental Shelf.

Impose supplemental ethics requirements on Department of the Interior employees who have regular, direct contact with lessees, and impose new revolving-door restrictions to prevent individuals from moving back and forth from the Department to the energy industry.

Establish a Gulf of Mexico Restoration Task Force, made up of federal agencies and Gulf state governors, to develop a long-term restoration plan for the Gulf Coast.

Provide for new standards to ensure that federal energy lessees are diligently developing their leases.

Reform the onshore oil and gas leasing system to eliminate non-competitive oil and gas leasing, allow for auctions with sealed bids, increase the minimum bid and yearly rentals, allow the Secretary of the Interior to ensure that the American people are receiving the appropriate value for the mineral leasing rights, and reduce the mandated number of lease sales.

Require companies that are producing oil or gas from the Gulf of Mexico royalty-free because of a lack of price thresholds in their leases to renegotiate those leases to include price thresholds before they can obtain new leases. Because of a lawsuit brought against the government by the Kerr-McGee Corporation (now Anadarko), companies are currently paying no royalties on production from leases issued between 1996 and 2000. The Government Account-

ability Office has calculated that this could cost American taxpayers up to \$53 billion over the life of the leases.

Permanently eliminate the scandal-ridden Royalty-in-Kind Program.

Eliminate the categorical exclusions that were statutorily included in the Energy Policy Act of 2005, and which the Government Accountability Office has found “may have thwarted [the National Environmental Policy Act’s] twin aims of ensuring that the Bureau of Land Management (BLM) and the public are fully informed of the environmental consequences of BLM’s actions.”

Make uranium a leasable mineral, subject to rental and royalty rates, which will increase predictability of where and when development occurs, and help protect national treasures such as the Grand Canyon.

Fully fund the Land and Water Conservation Fund and the Historic Preservation Fund with \$900 million and \$150 million each year, respectively, taken from offshore drilling revenues.

Create a new Ocean Resources Conservation and Assistance (ORCA) Fund, which will receive 10% of offshore drilling revenues each year, and would provide grants to coastal states and Regional Ocean Partnerships for activities that contribute to the protection, maintenance, and restoration of ocean, coastal and Great Lakes ecosystems.

COMMITTEE ACTION

H.R. 3534 was introduced by Natural Resources Committee Chairman Nick J. Rahall II (D-WV) on September 8, 2009. The bill was referred to the Committee on Natural Resources. Full committee hearings were held on September 16 and 17, 2009, and again on June 30, 2010 on a new discussion draft revised in order to address the impacts and issues associated with the *Deepwater Horizon* oil spill.

In addition, 14 hearings were held by the full Committee or its subcommittees on topics related to H.R. 3534 during the 111th Congress:

- February 11, 2009, Full Committee oversight hearing on “Off-shore Drilling: Environmental and Commercial Perspectives.” This was the first of a three-part series of full committee hearings held to examine the question of what comes next on the Outer Continental Shelf (OCS) in the aftermath of the expiration of the Congressional moratorium and the revocation of the Presidential withdrawal, which had both protected large swaths of the Atlantic and Pacific coasts from oil and gas drilling. In this hearing, the Committee heard from representatives of environmental groups, tourist bureaus, and fishing groups, who argued that an expansion of off-shore drilling into areas previously under a moratorium could lead to environmental and economic damage.

- February 24, 2009, Full Committee oversight hearing on “Off-shore Drilling: State Perspectives.” This was the second of the three-part series on the future of the OCS in the post-moratorium landscape, and the Committee heard testimony from two Members of Congress from California, as well as state witnesses from California, Maine, Virginia, and Louisiana. The witnesses from Virginia and Louisiana were supportive of additional oil and gas drill-

ing off their coasts, while the witnesses from California and Maine were opposed to additional drilling.

- February 25, 2009, Full Committee oversight hearing on “Off-shore Drilling: Industrial Perspectives.” This was the final hearing of the three-part series. During this hearing the Committee heard testimony from top executives from BP, Shell, ExxonMobil, Chevron, and Devon, who testified about their ability to expand oil and gas drilling into new areas in a safe and environmentally protective manner.

- March 5, 2009, Subcommittee on Energy and Mineral Resources oversight hearing on “Energy Outlooks, and the Role of Federal Onshore and Offshore Resources in Meeting Future Energy Demand.” The Subcommittee heard testimony from the acting head of the Energy Information Administration (EIA), the chief economist of the International Energy Agency (IEA), and the coordinator of the U.S. Geological Survey’s Energy Resource Program, on their outlooks for future energy supply and demand, and how federal lands and the OCS fit into this picture. The EIA previewed their Annual Energy Outlook 2009, in which they calculated that restoring the moratorium on the Atlantic and Pacific coasts would result in a roughly 540,000 barrel/day reduction in domestic production by 2030, a 7.4% decrease, which translates to a 3-cent increase in the price of a gallon of gasoline.

- March 17, 2009, Subcommittee on Energy and Mineral Resources oversight hearing on “Leasing and Development of Oil and Gas Resources on the Outer Continental Shelf.” This hearing focused largely on the question of whether companies were diligently developing their leases on the OCS. The Department of the Interior’s Acting Inspector General (IG) testified that companies that own federal drilling leases “have little obligation to actually produce,” and that the Department of the Interior, “has no formal policy to compel companies to bring these leases into production.” The IG also testified that BLM and the Minerals Management Service (MMS) employed “inconsistent procedures and definitions and that BLM’s records are often incomplete and inaccurate, all of which call into question both the integrity and usefulness of their data.” The Government Accountability Office testified that “Interior does less to encourage development of federal oil and gas leases than some state and private landowners,” and that the U.S. “receives one of the lowest shares of revenue for oil and gas resources compared with other countries.”

- March 24, 2009, Subcommittees on Energy and Mineral Resources and Insular Affairs, Oceans & Wildlife joint oversight hearing on “Energy Development on the Outer Continental Shelf and the Future of our Oceans.” The subcommittees heard testimony from state and local government officials, academics, environmental groups, and representatives of the private sector regarding recommendations on how to have offshore energy development co-exist with healthy, productive oceans. Many of the witnesses stressed the need to conduct marine spatial planning to determine the most effective and protective ways to site activities in the oceans. Two witnesses also testified about the impacts of offshore energy development—in particular chemical discharges and seismic surveys—on marine life.

- May 11, 2009, Subcommittee on Energy and Mineral Resources oversight field hearing on “Solar Energy Development on Federal Lands: The Road To Consensus.” The subcommittee met in Palm Desert, California, to hear testimony regarding efforts to build solar energy facilities on federal lands. The California desert is one of the most promising locations for solar energy facilities in the world, but local landowners and environmental groups have expressed concern about a wholesale land rush that would destroy sensitive desert habitats and negatively impact endangered or threatened species. The Bureau of Land Management testified about the large backlog of applications they were processing, while officials from the State of California discussed their Renewable Energy Transmission Initiative (RETI), a stakeholder-driven collaborative process designed to find the best locations for new transmission lines for electricity generated from renewable sources.

- September 9, 2009, Subcommittee on Energy and Mineral Resources legislative hearing on the “American Conservation and Clean Energy Independence Act” (H.R. 2227). The subcommittee met to hear testimony on legislation introduced by Representatives Tim Murphy (R-PA) and Neil Abercrombie (D-HI) that would expand and accelerate leasing on the Outer Continental Shelf, and provide for revenue sharing with coastal states.

- February 24, 2010, Subcommittee on Energy and Mineral Resources legislative hearing on the “Geothermal Production Expansion Act” (H.R. 3709). The subcommittee heard testimony on a bill introduced by Representative Jay Inslee (D-WA) that would provide for noncompetitive geothermal leasing of federal lands in instances where a prospective lessee had made a discovery of geothermal resources on adjacent lands.

- May 26 & 27, 2010, Full Committee oversight hearing on the “Outer Continental Shelf Oil and Gas Strategy and Implications of the *Deepwater Horizon* Rig Explosion.” This two-day hearing investigated the causes and aftermath of the explosion and sinking of the Mobile Offshore Drilling Unit (MODU) *Deepwater Horizon* in the Gulf of Mexico. The Committee questioned the Chairman of BP America and the CEO of TransOcean, LLC about the circumstances leading up to the disaster and their companies’ respective responsibilities with respect to the cleanup. The Committee also heard from Secretary of the Interior Ken Salazar about his plans to reorganize the Minerals Management Service, and how this incident would impact future oil and gas activity on the OCS. In addition, the Acting Inspector General of the Department of the Interior presented the results of her office’s latest report, which detailed ethical issues within the offshore inspection program. In particular, the IG highlighted problems with the “revolving door” that exists between MMS and the oil and gas industry.

- June 10, 2010, Subcommittee on Insular Affairs, Oceans and Wildlife oversight hearing on “Our Natural Resources at Risk: The Short and Long Term Impacts of the *Deepwater Horizon* Oil Spill.” This hearing explored short and long term impacts to trust resources, including fisheries, birds and other wildlife, marine mammals, tribal resources, and protected fish and wildlife habitat and other natural areas as a result of the *Deepwater Horizon* oil spill. It also examined the implications for local communities who depend on many of those resources for their livelihoods. The National

Oceanic and Atmospheric Administration and the Department of Interior both testified on the need for more resources to provide oil spill trajectory models to guide response and recovery activities and to conduct accurate and legally defensible natural resource damage assessments.

The Committee also heard from the Louisiana Department of Wildlife and Fisheries, the Marine Mammal Commission, the United Houma Nation, and representatives from the commercial and recreational fishing industries, seafood industry, tourism industry, scientific community, and environmental organizations, all of whom testified as to on-the-ground social and environmental impacts of the oil spill and the critical need for up-to-date, transparent, and consistent lines of communication with state and federal government officials regarding response and recovery activities.

- June 15, 2010, Subcommittee on Insular Affairs, Oceans and Wildlife oversight hearing on “Ocean Science and Data Limits in a Time of Crisis: Do NOAA and the Fish and Wildlife Service (FWS) Have the Resources to Respond?” This hearing explored what we know and do not know about the environment to guide oil spill response and recovery activities in the Gulf of Mexico. In particular, it examined the gaps and limits in our understanding of the complex estuarine, coastal, and marine environments of the Gulf, and especially, how limited investments in coastal science programs and ocean observation systems have affected the capability of federal agencies to provide timely and accurate scientific information to target response activities and to assess damages to natural resources.

- June 17, 2010, Subcommittee on Energy and Mineral Resources oversight hearing on “The *Deepwater Horizon* Incident: Are the Minerals Management Service Regulations Doing The Job?” This hearing examined both the existing MMS regulatory structure for offshore drilling, and the plans proposed by the Secretary of the Interior for reorganizing the Minerals Management Service. The Acting Inspector General of the Department of the Interior testified on the problems with MMS’s inspection program: a shortage of regulations covering the program, difficulty in recruiting and retaining inspectors due to competition with industry, out-of-date inspector training programs, and an inadequate number of inspectors to cover all offshore facilities. The Government Accountability Office testified about their investigations into the shortcomings of the inspection and enforcement program, including high turnover rates, inconsistent procedures between BLM and MMS, and inappropriate relationships between Interior Department staff and the oil and gas industry.

The committee also heard from a whistleblower about a potential shortage of technical documentation for another offshore drilling rig, the *BP Atlantis* production platform; from an international regulatory expert about how safety cases are implemented to other countries to improve offshore drilling safety; from the American Petroleum Institute about how the industry develops standards and recommended practices; from the Project on Government Oversight about the need for strong new ethics requirements; and from the Pew Environment Group about recommended changes to the Outer Continental Shelf Lands Act.

- June 24, 2010, Subcommittee on Insular Affairs, Oceans and Wildlife oversight hearing on “State Planning for Offshore Energy Development: Standards for Preparedness.” This hearing explored coastal state planning for offshore energy development and examined whether current planning efforts and requirements under existing law were sufficient to ensure a coordinated and effective response to major spills. The hearing also examined whether coastal states have adequate emergency response infrastructure in place, and if their capabilities to inform and mobilize networks of potentially affected communities are sufficient.

The Committee heard from the Chair of the Gulf of Mexico Alliance, who testified on the significant role played by this regional ocean partnership to respond to the research, monitoring, and remediation needs brought on by the *Deepwater Horizon* disaster. The Executive Director of the Coastal States Organization testified on the need for further guidance and funding to coastal states to strengthen their federally-approved state coastal management plans for oil spill response and planning. A Jackson County, Mississippi Supervisor testified on the need to build local capacity, both in personnel and infrastructure, to increase communication and coordination in the event of another oil spill. The Executive Director from the National Estuarine Research Reserve (NERR) Association testified on the necessary role that NERRs play in collecting long-term baseline data that can help serve as a foundation for natural resource damage assessments. The Executive Vice President of the Ocean Conservancy testified on the need for industry to fund research to increase understanding of the fate of oil and dispersant in the ocean environment and to increase capacity in responding to and recovering from oil spills.

FULL COMMITTEE MARKUP ACTION

On Wednesday, July 14, and Thursday, July 15, 2010, the Natural Resources Committee met in open session to consider H.R. 3534. Natural Resources Committee Chairman Nick J. Rahall, II (D-WV) offered an amendment in the nature of a substitute.

Rep. George Miller (D-CA) offered an amendment.184 to section 206 of the amendment in the nature of a substitute to disqualify companies from bidding on leases or drilling wells if they have certain violations of health, safety, and environmental laws in the preceding 7 years, which was agreed to by voice vote.

Ranking Member Doc Hastings (R-WA) offered an amendment.110 to the amendment in the nature of a substitute to strike Titles II, III, IV, V, VI, and VII (except sections 703 and 710), which was not agreed to by a roll call vote of 17 yeas and 21 nays, as follows:

Rep. Miller offered an amendment.009 to the amendment in the nature of a substitute to require consultation with the Secretary of Labor to address worker safety and health, which was withdrawn.

Rep. Miller offered an amendment.002 to the amendment in the nature of a substitute to amend Title VII to extend whistleblower and anti-retaliation protections to workers on the Outer Continental Shelf, which was withdrawn.

Rep. Bill Cassidy (R-LA) offered an amendment.010 to the amendment in the nature of a substitute to establish a National Commission on Oil Spill Prevention in the legislative branch, which was agreed to by voice vote.

Rep. Edward Markey (D-MA) offered an amendment.090 to the amendment in the nature of a substitute to prohibit the issuance of new leases to any company holding a lease issued from 1996–2000 and has not renegotiated that lease to add price thresholds, which was agreed to by voice vote.

Rep. Jeff Flake (R-AZ) offered an amendment.241 to the amendment in the nature of a substitute to strike section 242, which was not agreed to by a roll call vote of 18 yeas and 22 nays, as follows:

Rep. Markey offered an amendment.091 to the amendment in the nature of a substitute to establish a pilot leasing program for wind and solar energy on federal lands and a National Academy of Sciences study examining competitive versus noncompetitive leasing systems for wind and solar projects, which was not agreed to by a roll call vote of 15 yeas and 28 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by **Mr. Markey.091** to the amendment in the nature of a substitute was **NOT AGREED TO** by a roll call vote of 15 yeas and 28 nays.

Recorded Vote # 3

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA			
Mr. Hastings, WA		✓		Mr. Sablan, MP		✓	
Mr. Miller, CA	✓			Mr. Paul Broun, GA		✓	
Mr. Young, AK		✓		Mr. Heinrich, NM	✓		
Mr. Markey, MA	✓			Mr. Fleming, LA		✓	
Mr. Gallegly, CA		✓		Mr. Lujan, NM		✓	
Mr. Kildee, MI	✓			Mr. Coffman, CO			
Mr. Duncan, TN		✓		Mr. Hinchey, NY			
Mr. DeFazio, OR	✓			Mr. Chaffetz, UT		✓	
Mr. Flake, AZ		✓		Mrs. Christensen, VI	✓		
Mr. Faleomavaega, AS				Mrs. Lummis, WY			
Mr. Henry Brown, SC		✓		Ms. DeGette, CO		✓	
Mr. Pallone, NJ	✓			Mr. McClintock, CA		✓	
Mrs. McMorris Rodgers, WA		✓		Mr. Kind, WI	✓		
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA		✓	
Mr. Gohmert, TX		✓		Mrs. Capps, CA	✓		
Mr. Holt, NJ	✓			Mr. Inslee, WA	✓		
Mr. Bishop, UT		✓		Mr. Baca, CA	✓		
Mr. Grijalva, AZ		✓		Ms. Herseeth Sandlin, SD		✓	
Mr. Shuster, PA		✓		Mr. Sarbanes, MD			
Ms. Bordallo, GU		✓		Ms. Shea-Porter, NH	✓		
Mr. Lamborn, CO		✓		Ms. Tsongas, MA	✓		
Mr. Costa, CA		✓		Mr. Kratovil, Jr., MD		✓	
Mr. Smith, NE		✓		Mr. Pierluisi, PR	✓		
Mr. Boren, OK		✓					
				Total	15	28	

Markups - 1/3 to meet (16). 25 to report
July 20, 2010 (9:59am)

Rep. Hastings offered an amendment.120 to the amendment in the nature of a substitute to strike Title V, which was withdrawn.

Rep. Ben Ray Lujan offered an amendment.059 to the amendment in the nature of a substitute to require the Secretary of the Interior to promulgate regulations that discourage speculation in acquisition of leases for wind and solar energy development, which was agreed to by voice vote.

Rep. Jason Chaffetz (R-UT) offered an amendment.121 to the amendment in the nature of a substitute to strike the funding described in section 207, Title V, and section 605, which was not agreed to by a roll call vote of 16 yeas and 25 nays, as follows:

COMMITTEE ON NATURAL RESOURCES

U.S. House of Representatives

111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by **Mr. Chaffetz, 121** to the amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 16 yeas and 25 nays.

Recorded Vote # 4

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA		✓	
Mr. Hastings, WA	✓			Mr. Sablan, MP			
Mr. Miller, CA		✓		Mr. Paul Broun, GA	✓		
Mr. Young, AK				Mr. Heinrich, NM		✓	
Mr. Markey, MA		✓		Mr. Fleming, LA	✓		
Mr. Gallegly, CA				Mr. Luján, NM		✓	
Mr. Kildee, MI		✓		Mr. Coffman, CO	✓		
Mr. Duncan, TN	✓			Mr. Hinchey, NY			
Mr. DeFazio, OR		✓		Mr. Chaffetz, UT	✓		
Mr. Flake, AZ	✓			Mrs. Christensen, VI			
Mr. Faleomavaega, AS				Mrs. Lummis, WY	✓		
Mr. Henry Brown, SC	✓			Ms. DeGette, CO		✓	
Mr. Pallone, NJ		✓		Mr. McClintock, CA	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Kind, WI		✓	
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA	✓		
Mr. Gohmert, TX	✓			Mrs. Capps, CA		✓	
Mr. Holt, NJ		✓		Mr. Inslee, WA		✓	
Mr. Bishop, UT	✓			Mr. Baca, CA			
Mr. Grijalva, AZ		✓		Ms. Herseth Sandlin, SD		✓	
Mr. Shuster, PA				Mr. Sarbanes, MD		✓	
Ms. Bordallo, GU		✓		Ms. Shea-Porter, NH		✓	
Mr. Lamborn, CO	✓			Ms. Tsongas, MA		✓	
Mr. Costa, CA		✓		Mr. Kratovil, Jr., MD		✓	
Mr. Smith, NE	✓			Mr. Pierluisi, PR		✓	
Mr. Boren, OK		✓					
				Total	16	25	

Markups - 1/3 to meet (16), 25 to report
July 20, 2010 (9:59am)

Rep. Heinrich (D-NM) offered an amendment.049 to the amendment in the nature of a substitute to strengthen surface owner protections and notice requirements in cases of split estate, which was withdrawn.

Rep. Fleming (R-LA) offered an amendment.108 to the amendment in the nature of a substitute to strike section 239, which was not agreed to by a roll call vote of 19 yeas and 25 nays, as follows:

Rep. Jay Inslee (D-WA) offered an en bloc amendment.136 and .137 to the amendment in the nature of a substitute to establish risk assessment standards for blowout preventers and other best available technologies, which was agreed by voice vote.

Rep. Inslee offered a further amendment.140 to the amendment in the nature of a substitute to require the consideration of the availability of oil spill response infrastructure in developing a 5-year leasing plan, which was agreed to by voice vote.

Rep. Don Young (R-AK) offered an amendment.069 to the amendment in the nature of a substitute to allow activities that rescue and rehabilitate marine mammals, turtles and sea birds to compete for funding under section 605, which was agreed to by voice vote.

Rep. Raul Grijalva (D-AZ) offered an amendment.089 to section 503 of the amendment in the nature of a substitute to waive rental fees for lands already adversely impacted by prior use when leased and redeveloped for renewable energy, which was agreed to by voice vote.

Rep. Grijalva offered a further amendment.084 to section 501 of the amendment in the nature of a substitute to require the issuing of guidance for evaluation and approval of those wind and solar projects on public lands which are grandfathered under the right of way authorization process in that section, which was withdrawn.

Rep. Grijalva offered a further amendment.090 to the amendment in the nature of a substitute to amend sections 208 and 215 to require Environmental Impact Statements for exploration or development plans when they involve frontier areas or new technologies, which was withdrawn.

Rep. Chaffetz offered an amendment.004 to the amendment in the nature of a substitute to prohibit earmarking of funds authorized under Title IV or section 605, which was not agreed to by a roll call vote of 20 yeas and 25 nays, as follows:

COMMITTEE ON NATURAL RESOURCES

U.S. House of Representatives

111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by **Mr. Chaffetz.004** to the amendment in the nature of a substitute was **NOT AGREED TO** by a roll call vote of 20 yeas and 25 nays.

Recorded Vote # 6

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA	✓		
Mr. Hastings, WA	✓			Mr. Sablan, MP		✓	
Mr. Miller, CA		✓		Mr. Paul Broun, GA	✓		
Mr. Young, AK				Mr. Heinrich, NM		✓	
Mr. Markey, MA		✓		Mr. Fleming, LA	✓		
Mr. Gallegly, CA				Mr. Luján, NM		✓	
Mr. Kildee, MI		✓		Mr. Coffman, CO	✓		
Mr. Duncan, TN	✓			Mr. Hinchey, NY		✓	
Mr. DeFazio, OR		✓		Mr. Chaffetz, UT	✓		
Mr. Flake, AZ	✓			Mrs. Christensen, VI		✓	
Mr. Faleomavaega, AS				Mrs. Lummis, WY	✓		
Mr. Henry Brown, SC	✓			Ms. DeGette, CO		✓	
Mr. Pallone, NJ		✓		Mr. McClintock, CA	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Kind, WI	✓		
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA	✓		
Mr. Gohmert, TX	✓			Mrs. Capps, CA		✓	
Mr. Holt, NJ		✓		Mr. Inslee, WA		✓	
Mr. Bishop, UT	✓			Mr. Baca, CA		✓	
Mr. Grijalva, AZ		✓		Ms. Herseith Sandlin, SD			
Mr. Shuster, PA	✓			Mr. Sarbanes, MD		✓	
Ms. Bordallo, GU		✓		Ms. Shea-Porter, NH		✓	
Mr. Lamborn, CO	✓			Ms. Tsongas, MA		✓	
Mr. Costa, CA		✓		Mr. Kratovil, Jr., MD	✓		
Mr. Smith, NE	✓			Mr. Pierluisi, PR		✓	
Mr. Boren, OK		✓					
				Total	20	25	

Markups - 1/3 to meet (16), 25 to report
 July 20, 2010 (9:59am)

Rep. John Sarbanes (D-MD) offered an amendment to the amendment in the nature of a substitute to require the promulgation of regulations to calculate royalty payments without deductions for transportation or processing costs, which was withdrawn.

Rep. Sarbanes offered a further amendment.042 to the amendment in the nature of a substitute to require CEO certification that oil spill response plans are able to respond to a worst-case scenario, which was withdrawn.

Rep. Paul Broun (R-GA) offered an amendment.119 to the amendment in the nature of a substitute to require free and open access of the media to oil spill cleanup activities, which was ruled out of order as non-germane.

Rep. Lujan offered an en bloc amendment.060 and .063 to the amendment in the nature of a substitute to amend sections 211 and 242, which was agreed to by voice vote.

Rep. Louie Gohmert (R-TX) offered an amendment.013 to the amendment in the nature of a substitute to prohibit Interior Department inspectors from going on strike, which was not agreed to by a roll call vote of 19 yeas and 26 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by Mr. Gohmert.013 to the amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 19 yeas and 26 nays.

Recorded Vote # 7

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA	✓		
Mr. Hastings, WA	✓			Mr. Sablan, MP		✓	
Mr. Miller, CA		✓		Mr. Paul Broun, GA	✓		
Mr. Young, AK				Mr. Heinrich, NM		✓	
Mr. Markey, MA				Mr. Fleming, LA	✓		
Mr. Gallegly, CA				Mr. Luján, NM		✓	
Mr. Kildee, MI		✓		Mr. Coffman, CO	✓		
Mr. Duncan, TN	✓			Mr. Hinchey, NY		✓	
Mr. DeFazio, OR		✓		Mr. Chaffetz, UT	✓		
Mr. Flake, AZ	✓			Mrs. Christensen, VI		✓	
Mr. Faleomavaega, AS				Mrs. Lummis, WY	✓		
Mr. Henry Brown, SC	✓			Ms. DeGette, CO		✓	
Mr. Pallone, NJ		✓		Mr. McClintock, CA	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Kind, WI		✓	
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA	✓		
Mr. Gohmert, TX	✓			Mrs. Capps, CA		✓	
Mr. Holt, NJ		✓		Mr. Inslee, WA		✓	
Mr. Bishop, UT	✓			Mr. Baca, CA		✓	
Mr. Grijalva, AZ		✓		Ms. Herseth Sandlin, SD	✓		
Mr. Shuster, PA	✓			Mr. Sarbanes, MD		✓	
Ms. Bordallo, GU		✓		Ms. Shea-Porter, NH		✓	
Mr. Lamborn, CO	✓			Ms. Tsongas, MA		✓	
Mr. Costa, CA		✓		Mr. Kratovil, Jr., MD		✓	
Mr. Smith, NE	✓			Mr. Pierluisi, PR		✓	
Mr. Boren, OK		✓					
				Total	19	26	

Markups - 1/3 to meet (16), 25 to report
July 20, 2010 (9:59am)

Rep. Inslee offered an amendment.138 to section 501 of the amendment in the nature of a substitute to allow all solar and wind projects with applications submitted before July 1, 2010, to be permitted using the existing process, which was agreed to by voice vote.

Rep. Inslee offered a further amendment.141 to the amendment in the nature of a substitute to create a renewable energy development office within the Bureau of Energy and Resource Management, and establish renewable energy permit coordination offices, which was withdrawn.

Rep. Inslee offered a further amendment.142 to the amendment in the nature of a substitute to add an additional title providing for non-competitive geothermal leases when a geothermal discovery is made adjacent to federal lands, which was agreed to by a roll call vote of 26 yeas and 19 nays, as follows:

COMMITTEE ON NATURAL RESOURCES

U.S. House of Representatives

111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by Mr. Inslee.142 to the amendment in the nature of a substitute was AGREED TO by a roll call vote of 26 yeas and 19 nays.

Recorded Vote # 8

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV	✓			Mr. Wittman, VA		✓	
Mr. Hastings, WA		✓		Mr. Sablan, MP	✓		
Mr. Miller, CA	✓			Mr. Paul Brown, GA		✓	
Mr. Young, AK				Mr. Heinrich, NM	✓		
Mr. Markey, MA				Mr. Fleming, LA		✓	
Mr. Gallegly, CA				Mr. Lujan, NM	✓		
Mr. Kildee, MI	✓			Mr. Coffman, CO		✓	
Mr. Duncan, TN		✓		Mr. Hinchey, NY	✓		
Mr. DeFazio, OR	✓			Mr. Chaffetz, UT		✓	
Mr. Flake, AZ		✓		Mrs. Christensen, VI	✓		
Mr. Faleomavaega, AS				Mrs. Lummis, WY		✓	
Mr. Henry Brown, SC		✓		Ms. DeGette, CO	✓		
Mr. Pallone, NJ	✓			Mr. McClintock, CA		✓	
Mrs. McMorris Rodgers, WA		✓		Mr. Kind, WI	✓		
Mrs. Napolitano, CA	✓			Mr. Cassidy, LA		✓	
Mr. Gohmert, TX		✓		Mrs. Capps, CA	✓		
Mr. Holt, NJ	✓			Mr. Inslee, WA	✓		
Mr. Bishop, UT		✓		Mr. Baca, CA	✓		
Mr. Grijalva, AZ	✓			Ms. Herseth Sandlin, SD	✓		
Mr. Shuster, PA		✓		Mr. Sarbanes, MD	✓		
Ms. Bordallo, GU	✓			Ms. Shea-Porter, NH	✓		
Mr. Lamborn, CO		✓		Ms. Tsongas, MA	✓		
Mr. Costa, CA	✓			Mr. Kratovil, Jr., MD	✓		
Mr. Smith, NE		✓		Mr. Pierluisi, PR	✓		
Mr. Boren, OK		✓					
				Total	26	19	

Markups - 1/3 to meet (16), 25 to report
July 20, 2010 (9:59am)

Rep. Tom McClintock (R-CA) offered an amendment.105 to the amendment in the nature of a substitute to strike section 238, which was not agreed to by a roll call vote of 21 yeas and 24 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Amendment offered by Mr. McClintock.105 to the amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 21 yeas and 24 nays.

Recorded Vote # 9

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		Mr. Wittman, VA	✓		
Mr. Hastings, WA	✓			Mr. Sablan, MP		✓	
Mr. Miller, CA		✓		Mr. Paul Broun, GA	✓		
Mr. Young, AK				Mr. Heinrich, NM		✓	
Mr. Markey, MA				Mr. Fleming, LA	✓		
Mr. Gallegly, CA				Mr. Luján, NM		✓	
Mr. Kildee, MI		✓		Mr. Coffman, CO	✓		
Mr. Duncan, TN	✓			Mr. Hinchey, NY		✓	
Mr. DeFazio, OR		✓		Mr. Chaffetz, UT	✓		
Mr. Flake, AZ	✓			Mrs. Christensen, VI		✓	
Mr. Faleomavaega, AS				Mrs. Lummis, WY	✓		
Mr. Henry Brown, SC	✓			Ms. DeGette, CO		✓	
Mr. Pallone, NJ		✓		Mr. McClintock, CA	✓		
Mrs. McMorris Rodgers, WA	✓			Mr. Kind, WI		✓	
Mrs. Napolitano, CA		✓		Mr. Cassidy, LA	✓		
Mr. Gohmert, TX	✓			Mrs. Capps, CA		✓	
Mr. Holt, NJ		✓		Mr. Inslee, WA		✓	
Mr. Bishop, UT	✓			Mr. Baca, CA		✓	
Mr. Grijalva, AZ		✓		Ms. Herseth Sandlin, SD	✓		
Mr. Shuster, PA	✓			Mr. Sarbanes, MD		✓	
Ms. Bordallo, GU		✓		Ms. Shea-Porter, NH		✓	
Mr. Lamborn, CO	✓			Ms. Tsongas, MA		✓	
Mr. Costa, CA	✓			Mr. Kratovil, Jr., MD		✓	
Mr. Smith, NE	✓			Mr. Pierluisi, PR		✓	
Mr. Boren, OK	✓						
				Total	21	24	

Markups - 1/3 to meet (16), 25 to report
July 20, 2010 (9:59am)

Rep. Frank Pallone, Jr. (D-NJ) offered an amendment.049 to the amendment in the nature of a substitute to institute a moratorium on all new leasing on the OCS in the event of another spill of greater than 5,000 barrels of oil, which was withdrawn.

Rep. Pallone offered a further amendment.051 to the amendment in the nature of a substitute to prohibit oil and gas leasing in certain areas of the OCS, which was withdrawn.

Rep. Robert Wittman (R-VA) offered an en bloc amendment.047 and .109 to the amendment in the nature of a substitute to address impacts of the Gulf oil spill on the fishing and seafood industries, and to expedite offshore wind development off the coast of Virginia, which was withdrawn.

Rep. Wittman offered a further amendment.106 to the amendment in the nature of a substitute to strike section 704, which was not agreed to by a roll call vote of 21 yeas and 26 nays, as follows:

Rep. Inslee offered an amendment.135 to the amendment in the nature of a substitute to delay the implementation of competitive leasing requirements for renewable energy sources until those sources become cost-competitive with non-renewables, which was withdrawn.

Rep. Doug Lamborn (R-CO) offered an amendment.061 to the amendment in the nature of a substitute to amend section 231, which was agreed to (as modified) by voice vote.

Rep. Wittman offered an amendment.043 to the amendment in the nature of a substitute to require an Environmental Impact Statement and seismic study for Virginia Lease Sale 220 no later than one year after enactment, which was not agreed to by voice vote.

Rep. Cynthia Lummis (R-WY) offered an amendment.007 to the amendment in the nature of a substitute to apply new ethics requirements described in section 104 to all employees of the Department of the Interior, which was agreed to by voice vote.

Rep. Lummis offered a further amendment.020 to the amendment in the nature of a substitute to reallocate 40% of the appropriations under the Land and Water Conservation Fund for state purposes, which was withdrawn.

Rep. Lummis offered a further amendment.021 to the amendment in the nature of a substitute to amend Title VII to impose additional public-right-to-know requirements, which was agreed to by voice vote.

Rep. Lummis offered a further amendment.111 to the amendment in the nature of a substitute to strike Title II, Subtitle B, which was not agreed to by a roll call vote of 20 yeas and 28 nays, as follows:

Rep. Hastings offered an amendment.117 to the amendment in the nature of a substitute to remove "hydropower" from the definition of "renewable energy resources," which was agreed to by voice vote.

Rep. Hastings offered a further amendment.122 to the amendment in the nature of a substitute to require timely responses to state requests for activities related to oil spills of national significance, which was agreed to (as modified) by voice vote.

Rep. Cassidy offered an amendment.006 to section 702 of the amendment in the nature of a substitute to provide for federal and state revenue sharing, which was not agreed to by a roll call vote of 18 yeas and 30 nays, as follows:

Rep. Cassidy offered a further amendment.032 to the amendment in the nature of a substitute to terminate the Secretary of the Interior's July 12, 2010 moratorium of offshore drilling activities on the OCS, and prohibit future moratoria, which was not agreed to by a roll call vote of 22 yeas and 26 nays, as follows:

Rep. Cassidy offered a further amendment.115 to the amendment in the nature of a substitute to delay the effective date of the bill's provisions until certification that they will not have certain economic impacts, which was not agreed to by a roll call vote of 21 yeas and 27 nays, as follows:

The amendment in the nature of a substitute, as amended, was then agreed to by voice vote. The bill, as amended, was then favorably reported to the House of Representatives by a roll call vote of 27 yeas and 21 nays, as follows:

COMMITTEE ON NATURAL RESOURCES

U.S. House of Representatives

111th Congress

Date: July 14 and July 15, 2010

Convened:

Adjourned:

Meeting on: HR 3534 - Favorably reported to the House of Representatives, as amended, by a roll call vote of 27 yeas and 21 nays.

Recorded Vote # 15

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV	✓			Mr. Wittman, VA		✓	
Mr. Hastings, WA		✓		Mr. Sablan, MP	✓		
Mr. Miller, CA	✓			Mr. Paul Brown, GA		✓	
Mr. Young, AK				Mr. Heinrich, NM	✓		
Mr. Markey, MA	✓			Mr. Fleming, LA		✓	
Mr. Gallegly, CA		✓		Mr. Luján, NM	✓		
Mr. Kildee, MI	✓			Mr. Coffman, CO		✓	
Mr. Duncan, TN		✓		Mr. Hinchey, NY	✓		
Mr. DeFazio, OR	✓			Mr. Chaffetz, UT		✓	
Mr. Flake, AZ		✓		Mrs. Christensen, VI	✓		
Mr. Faleomavaega, AS	✓			Mrs. Lummis, WY		✓	
Mr. Henry Brown, SC		✓		Ms. DeGette, CO	✓		
Mr. Pallone, NJ	✓			Mr. McClintock, CA		✓	
Mrs. McMorris Rodgers, WA		✓		Mr. Kind, WI	✓		
Mrs. Napolitano, CA	✓			Mr. Cassidy, LA		✓	
Mr. Gohmert, TX		✓		Mrs. Capps, CA	✓		
Mr. Holt, NJ	✓			Mr. Inslee, WA	✓		
Mr. Bishop, UT		✓		Mr. Baca, CA	✓		
Mr. Grijalva, AZ	✓			Ms. Herseeth Sandlin, SD		✓	
Mr. Shuster, PA		✓		Mr. Sarbanes, MD	✓		
Ms. Bordallo, GU	✓			Ms. Shea-Porter, NH	✓		
Mr. Lamborn, CO		✓		Ms. Tsongas, MA	✓		
Mr. Costa, CA	✓			Mr. Kratovil, Jr., MD	✓		
Mr. Smith, NE		✓		Mr. Pierluisi, PR	✓		
Mr. Boren, OK		✓					
				Total	27	21	

Markups - 1/3 to meet (16). 25 to report
July 20, 2010 (9:59am)

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

Section 1 provides that this Act may be cited as the “Consolidated Land, Energy, and Aquatic Resources Act of 2010.”

Sec. 2. Definitions

Section 2 provides definitions for key terms used in this Act.

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR AGENCIES

Sec. 101. Bureau of Energy and Resource Management

Section 101 establishes within the Department of the Interior a Bureau of Energy and Resource Management (BERM), with a mandate to manage the leasing and permitting for renewable energy, non-renewable energy, and mineral resources on all onshore and offshore federal lands in the United States; however, leasing on Indian lands would not be handled by BERM. The BERM Director is to be appointed by the President and subject to Senate confirmation. Subsection (d) provides additional authority and direction to the Secretary of the Interior (Secretary) for conducting studies and collecting data that are necessary to fulfill the Secretary’s environmental responsibilities under the Outer Continental Shelf Lands Act; a separate office within BERM is to be responsible for managing the Bureau’s environmental studies and analysis activities.

Under subsection (e), the Bureau of Land Management and the U.S. Forest Service retain their authorities as the multiple-use managers of lands under their jurisdiction. The Committee believes this language clearly indicates that there is to be no reduction in the authority of the Forest Service and the Bureau of Land Management to manage the lands under their respective jurisdictions as a result of the creation of BERM. The Committee intends for the Forest Service and the Bureau of Land Management to identify lands through the land use planning process that are appropriate for energy and mineral development, establish best management practices for energy development on their lands, review surface land use plans and inspect areas of operation to ensure that operations are being conducted in compliance with those plans and best management practices, establish and enforce financial assurance and reclamation requirements, determine and enforce conditions for surface occupancy, establish stipulations for leases and authorize or reject any requested modifications to those stipulations, and do all other necessary activities to ensure that energy development on their managed lands is accomplished in a manner that is protective of natural ecosystems and the human environment. The Committee does not intend for BERM to be able to lease any lands for energy exploration or development over the objections of the appropriate land management agency, and believes the language of section 101 makes this clear.

Having one agency in charge of land management and another responsible for leasing describes the current situation on Forest Service lands, on which the Bureau of Land Management acts as the leasing agent. Although the Committee does not believe that BLM’s management of oil and gas leasing has been exemplary,

whether on Forest Service lands or its own, the current system does provide a parallel that illustrates how the Committee intends the BERM–BLM and BERM-Forest Service interaction to function.

Sec. 102. Bureau of Safety and Environmental Enforcement

Section 102 establishes within the Department of the Interior a Bureau of Safety and Environmental Enforcement (BSEE), with a mandate to carry out all the safety and environmental regulatory activities, including inspections, on all onshore and offshore federal lands in the United States. The BSEE Director is to be appointed by the President and subject to Senate confirmation. Subsection (d) gives BSEE the following responsibilities: oversight of BERM's OCS National Environmental Policy Act (NEPA) reviews; suspension or cancellation of leases in the event that activities under those leases threatens health or the environment; development of health, safety, and environmental regulations for operations on onshore and offshore federal lands, including mandatory Safety and Environmental Management programs; conducting investigations; and implementing the new Offshore Technology Research and Risk Assessment Program established under Section 211 of this Act. Subsection (e) requires that BSEE inspectors be highly qualified and well-trained, and establishes a National Oil and Gas Health and Safety Academy for training the national oil and gas inspector workforce. Subsection (e) also allows the Secretary to work with educational institutions and the oil and gas industry to create appropriate training and continuing education programs outside the Academy.

The Committee has for years been receiving reports about inadequacies in the Department of the Interior's Oil and Gas Inspection program. A June 2005 report (GAO-05-418, "Increased Permitting Activity Has Lessened BLM's Ability to Meet Its Environmental Protection Responsibilities") indicated that increases in permit workload were preventing BLM from meeting its environmental requirements. In testimony before the Subcommittee on Energy and Mineral Resources in March, 2008 (GAO-08-560T, "Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk"), GAO reported that neither BLM nor MMS were meeting inspection targets. And a GAO report issued in March, 2010 (GAO-10-313, "Oil and Gas Management: Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volume") detailed difficulties that the Department of the Interior faces "in hiring, retaining, and training staff in key oil and gas oversight positions", as well as problems with inconsistent inspection policies between BLM and MMS.

The Committee believes that combining the onshore and offshore inspection forces and establishing an academy to train both will be a major step towards addressing many of these problems. The Academy will ensure that new inspectors are fully trained and that experienced inspectors are kept up-to-date with the latest technologies and procedures; it will also ensure that onshore and offshore inspections are conducted using standardized procedures. The Committee believes that a combined inspection force would allow for greater specialization of inspectors, and could also result

in decreased turnover by providing additional opportunities for inspectors to transfer between work locations.

Sec. 103. Office of Natural Resources Revenue

Section 103 establishes within the Department of the Interior an Office of Natural Resources Revenue (ONRR), which would be responsible for collecting and disbursing all royalties and other revenues from energy and mineral related activities on onshore and offshore federal lands, auditing such collections, and promulgating regulations relevant to revenue collection and management. Subsection (d) creates an independent program within ONRR to carry out auditing and oversight of revenue collection. The ONRR is to be headed by a Director appointed by the President and subject to Senate confirmation.

Sec. 104. Ethics

Section 104 requires that the Secretary of the Interior certify that all Department of the Interior employees that interact with oil and gas companies are in full compliance with all federal employee ethics laws and regulations, as well as supplemental guidance that would be issued by the Secretary.

Sec. 105. References

Section 105 provides that all references to functions that previously existed in the Minerals Management Service or in the Bureau of Land Management energy program are transferred to the appropriate new entities created in this Act.

Sec. 106. Abolishment of Minerals Management Service

Section 106 formally abolishes the Minerals Management Service (MMS), and ensures that all completed administrative proceedings, pending administrative proceedings, and pending civil actions related to MMS are not affected by this abolishment.

Sec. 107. Conforming amendment

Section 107 adds the titles of the heads of the new agencies to the appropriate pay scale section of the U.S. Code.

Sec. 108. Outer Continental Shelf safety and environmental advisory board

Section 108 creates a new safety and advisory board under the Federal Advisory Committee Act. This board would be composed of a balance of industry and non-industry members, and tasked with providing to the Secretary advice on safety and environmental issues surrounding energy and mineral development issues on the Outer Continental Shelf.

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

Section 201 provides that this subtitle may be cited as the “Outer Continental Shelf Lands Act Amendments of 2010.”

Sec. 202. Definitions

Section 202 amends the Outer Continental Shelf Lands Act (OCSLA) to add a definition for “safety case”. A safety case is defined as a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment, and requirements for its use in offshore drilling operations have been adopted by a number of countries around the world, including Norway and the United Kingdom.

Sec. 203. National policy for the Outer Continental Shelf

Section 203 amends Section 3 of the OCSLA to require a more balanced approach to energy development that acknowledges the other resources of the OCS, and to emphasize that energy-related activities should be conducted in a manner that minimizes impacts to the marine, coastal, and human environments.

Sec. 204. Jurisdiction of laws on the Outer Continental Shelf

Section 204 amends Section 4 of the OCSLA to ensure that the laws of the United States also apply to renewable energy facilities on the OCS. Currently, the language of Section 4(a)(1) of the OCSLA could be interpreted to extend the laws of the United States only to offshore installations that are installed for the purpose of oil, natural gas, or other mineral exploration, development, and production. This is due to the specific way that the terms “exploration”, “development”, and “production” are defined in the OCSLA to refer to minerals.

Legislative history makes it amply clear that previous Congresses intended the language of Section 4 to apply broadly. The conference report for the OCSLA Amendments of 1978 changed the language of Section 4 from “fixed structures” to “all installations and other devices permanently or temporarily attached to the seabed” in order to clarify what the conferees stated was the original intent of the OCSLA: that “Federal law is to be applicable to all activities on all devices in contact with the seabed for exploration, development, and production.” The Committee believes that the operative part of that phrase is, “to all activities on all devices in contact with the seabed,” and that federal law should apply to renewable energy facilities, such as windmills or hydrokinetic devices, which are attached to the seabed. However, because neither Section 4 nor the definitions of “exploration”, “development”, and “production” were amended in 2005 to reflect the concurrent expansion of the OCSLA to cover renewable energy development, the current text of Section 4 can be read to imply that federal laws do not apply to non-mineral facilities that are attached to the seabed. The Committee rejects this implication, and the amendments to Section 4 are designed to ensure that federal law applies to renewable energy facilities sited on the Outer Continental Shelf.

Sec. 205. Outer Continental Shelf Leasing Standard

Section 205 amends Section 5 of the OCSLA to clarify the authority of the Secretary to issue regulations related to operational safety and environmental protection on the OCS, and would require the Secretary to issue regulations mandating: independent third-party certification of crucial pieces of safety equipment (such as blowout preventers); new requirements for subsea testing and

secondary activation of blowout preventers; independent third-party certification of the well casing and cementing procedures; adoption of safety and environmental management systems by operators on the OCS; and compliance with other environmental and natural resource conservation laws. The Secretary would also be required to consult with the Secretary of Commerce on any regulation that may affect the marine or coastal environment. This section would also require that the Secretary provide to the public, free of charge, any documents incorporated by reference into any OCS-related regulations.

Sec. 206. Leases, easements, and rights-of-way

Section 206 amends Section 8 of the OCSLA by adding three new subsections related to royalties and financial assurances. New subsection 8(q) requires the Secretary to conduct a bonding study at least once every five years to determine if financial assurance levels are adequate for operations on the OCS. New subsection 8(r) requires the Secretary to conduct a fiscal system review at least once every three years that would outline in-place royalty and rental rates and indicate whether the Secretary intended to modify those rates. New subsection 8(s) requires the Secretary to conduct a comparative fiscal review at least once every five years, to assess the overall oil and gas fiscal system of the United States and compare it to systems in place in other countries.

Subsection (b) of Section 206 forbids companies from obtaining new leases or permits to drill unless the Secretary can certify that the company is meeting safety and environmental requirements on its existing leases, does not have outstanding obligations under the Oil Pollution Act of 1990, and over the preceding seven years: has not had an excessive rate of violations of the Occupational Health and Safety Act; has not been convicted of a criminal violation for a fatality or serious bodily injury in connection with oil-related activities; did not have more than 10 fatalities as a result of violating health, safety, or environmental laws; and was not assessed over \$10 million in fines under the Clean Water Act or the Clean Air Act.

Subsection (c) amends the alternative energy leasing subsection of OCSLA (43 U.S.C. 1337(p)) to delete ambiguous language that could be interpreted to allow non-energy development under the Secretary's offshore alternative energy leasing authority. The section also provides for non-competitive authorizations if an applicant were seeking to carry out short-term meteorological or marine testing.

The Committee believes that deletion of the reference to "other applicable law" in Section 8(p) of the OCSLA helps to clarify that the intent of Congress in originally enacting Section 8(p) was that the Department of the Interior would have exclusive jurisdiction with regard to the production, transportation, or transmission of energy from non-hydrokinetic (such as wind or solar) and hydrokinetic (such as tidal, wave, or current) renewable energy projects on the Outer Continental Shelf. However, including the phrase "other applicable law" created some confusion as to which laws were, in fact, applicable on the OCS, leading to a situation where the process for siting and licensing non-hydrokinetic projects and hydrokinetic projects is different. This creates the potential for

considerable amounts of confusion in the future, particularly if hybrid projects that combine non-hydrokinetic and hydrokinetic technologies are proposed.

The Committee further believes that the language of Presidential Proclamation Number 5928, issued on December 27, 1988, which extended the territorial sea of the United States to 12 nautical miles from the baseline, is unambiguous when it states that, “[n]othing in this Proclamation . . . extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interest, or obligations derived therefrom . . .”. Such language makes it clear that the jurisdiction of laws in existence prior to the Proclamation were not extended outwards beyond the prior 3-mile territorial sea. As such, the Federal Power Act does not apply on the Outer Continental Shelf. Although the Committee believes that removing “other applicable law” is unnecessary, as the Federal Power Act is not an applicable law on the OCS, the Committee also believes that this small change makes the original Congressional intent clear.

Subsection (d) requires the Secretary to request a review by the Secretary of Commerce of any proposed lease sale. Subsection (e) eliminates the authority of the Secretary to lease a tract greater than 5,760 acres. Subsection (g) prohibits the issuance of leases if the Secretary determines that such leases would likely result in harm to life, property, or the marine, coastal, or human environments.

Sec. 207. Disposition of revenues

Section 207 amends Section 9 of the OCSLA to provide for yearly mandatory funding of \$900 million for the Land and Water Conservation Fund, \$150 million for the Historic Preservation Fund, and 10% of total offshore revenues for a new Ocean Resources Conservation and Assistance (ORCA) Fund, as created by Section 605 of this Act.

Sec. 208. Exploration plans

Section 208 amends Section 11 of the OCSLA to strengthen and create new requirements for exploration plans and eliminate the 30-day deadline for approval of those plans. Exploration plans would be required to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Categorical exclusions would no longer be allowed for approving plans, and plans and permits could only be approved if the applicant will be using best-available technology for drilling the well and responding to spills, and has demonstrated capability and technology to respond immediately to a worst-case-scenario oil spill.

The Committee intends for worst-case-scenarios to be far more realistic and robust than they have been in the past. As illustrated by the *Deepwater Horizon* incident, simply stating that a potential worst-case blowout could lead to several hundred thousand barrels of oil per day being released for 30 days may not remotely address the actual complexity of a real-world incident. A failure of imagination leading up to the *Deepwater Horizon* explosion resulted in a number of response strategies that were developed on-the-fly which were inadequate to deal with the reality of the situation. The Com-

mittee believes that it is incumbent upon all offshore operators to truly prepare for the worst potential scenario prior to drilling a well, and that any plan to deal with such a scenario should factor in: the maximum potential time that a blowout could continue; the water depth of the well site and the ability of response equipment to operate at that depth; the potential for inclement weather, such as hurricanes, to complicate response activities; potential instability of the seafloor at the well site; methane hydrate formation; contingency planning for the failure of early attempts to stop the blowout; the possibility of debris around the well site preventing access to the well or to well control equipment; and any other eventuality that could complicate efforts to stop the blowout and recover the released oil. The Department should provide guidance in this process to ensure that such scenarios are truly worst-case, and pursuant to provisions in this section and in other parts of this bill, require that the operator's oil spill response plan is adequate to prevent excessive damage to the marine, coastal, and human environments in the event these scenarios come to pass.

Subsection (d) mandates a full engineering review of the well design and the existence of a safety and environmental management plan before a drilling permit can be issued. New subsection 11(j) provides additional authority for the disapproval of a plan if the exploration activities would probably cause damage to the marine, coastal, or human environments.

Sec. 209. Outer Continental Shelf Leasing program

Section 209 amends Section 18 of the OCSLA to provide for additional consideration of environmental factors in the preparation of 5-year leasing plans. This section also requires consultation with the Secretary of Commerce during the preparation of those plans. In addition, a new subsection 18(i) is added, which establishes a research and development program designed to improve the ability to estimate oil and gas resources and address gaps in environmental data on the OCS.

Sec. 210. Environmental studies

Section 210 amends Section 20 of the OCSLA to require environmental studies, in cooperation with the Secretary of Commerce, at least once every three years of OCS areas where oil and gas lease sales are scheduled. Subsection (b) directs the Secretary to conduct research on the impacts of deepwater oil spills and the use of dispersants.

Sec. 211. Safety regulations

Section 211 amends Section 21 of the OCSLA to require more frequent studies by the Secretaries of Interior and Homeland Security on the adequacy of health and safety regulations relevant to operations on the OCS. This section also broadens the requirement to use best available and safest technologies, and requires the Secretary to publish lists of the best available technologies for key areas of well design and operation, including blowout preventers and oil spill response technologies.

New subsection 21(g) mandates regulations requiring all operators to have safety cases before they can receive new permits to drill, and mandates reviews of the effectiveness of safety case regu-

lations. The Committee believes that the regulations promulgated by the Secretary under this subsection should require that safety cases, at a minimum: provide assurance of compliance with all applicable legal and regulatory requirements; document the commitment of the operator to be prudent in protecting safety, health, and the environment and to maintain a proactive culture dedicated to protecting safety, health, and the environment; document the operator's competency to protect safety, health, and the environment; document the operator's analysis of any risk to safety, health, and the environment and procedures and systems to minimize such risks for each phase of an operation; incorporate international industry best practices, and be periodically improved as necessary to maintain such practices; provide for the active and continuous monitoring of the operation for potential risks to safety, health, and the environment; be updated as necessary to account for changes in the operation, equipment, staffing levels, staffing competencies, or other factors that may change overall risk; demonstrate that the workforce meaningfully participates in the development, revision, and review of the safety case; demonstrate that the workforce is trained to be knowledgeable about the risks and procedures to minimize such risks of each distinct work task, and that their training is updated as needed and the training efficacy is ascertained; and demonstrate that emergency plans and arrangements are in place to provide effective response to all reasonably foreseeable emergencies. The Committee also encourages the Secretary to include in such regulations provisions that would make submitted safety cases available to the public for a comment period prior to final approval, provided that proprietary information is protected; and provisions that require reporting to the Secretary of any incident or change in conditions that was not foreseen in, and that affects the basis for, the safety case.

New subsection 21(h) creates an Offshore Technology Research and Risk Assessment Program designed to research and assess industry trends, new drilling technologies, and oil spill response technologies, among other topics.

Sec. 212. Enforcement of safety and environmental regulations

Section 212 amends Section 22 of the OCSLA to require monthly inspections of drilling rigs, more frequent investigations of safety-related incidents on the OCS, investigations of all allegations brought by employees of operators or contractors, and certifications from operators, operators' Chief Executive Officers, and independent third parties regarding compliance with safety and other regulations. Audits of safety cases and safety and environmental management plans are further authorized.

Sec. 213. Judicial review

Section 213 extends the timeframe for filing petitions against Secretarial actions pursuant to the OCSLA.

Sec. 214. Remedies and penalties

Section 214 amends Section 24 of the OCSLA to increase civil penalties from \$20,000 per day to \$75,000 or \$150,000 per day, depending on the violation. Subsection (b) raises the maximum criminal fine under the Act from \$100,000 to \$10,000,000.

Sec. 215. Uniform planning for Outer Continental Shelf

Section 215 amends Section 25 of the OCSLA to strengthen and create new requirements for development and production plans, and to ensure that such requirements extend to all areas of the OCS (whereas in existing law the Gulf of Mexico is exempt). As with exploration plans, this section requires development and production plans to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Approval of plans through categorical exclusions is no longer allowed. This section also requires applicants to provide a comprehensive survey of the marine and coastal environment within their proposed area of operations, and to use production platforms as observation stations for collecting data for the Integrated Coastal and Ocean Observing System. This section further provides that development and production plans shall not be approved unless the applicant has the demonstrated ability to effectively remediate a worst-case release of oil from activities conducted under the plan.

Sec. 216. Oil and gas information program

Section 216 amends Section 26 of the OCSLA to require lessees to provide additional data on drilling operations to the Secretary, and to provide such in electronic format in real-time, or as quickly as possible if real-time is not feasible. This section also deletes provisions requiring the government to pay for data reproduction costs.

Sec. 217. Limitation on Royalty-in-Kind program

Section 217 amends Section 27 of the OCSLA to eliminate the authority for the Secretary of the Interior to conduct a regular royalty-in-kind (RIK) program for offshore leases. The Committee has been concerned for years about the aggressive expansion of the RIK program during the Bush Administration. The Committee has long viewed the marketing of oil and natural gas as an inherently private sector function, and multiple GAO reports have found that the financial benefits of the RIK program are uncertain at best. The Committee's worst fears were realized with the release of the DOI Inspector General's report in September 2008, which detailed serious ethical problems in the RIK office. The Committee, in one sense, agrees with the RIK marketers who argued that socializing with the industry was a necessary part of being an effective marketer, because it highlights the fact that this is a business the government should not be directly involved in. While the Committee strongly approves of the current Administration's decision to end the RIK program—a decision that was announced during a Committee hearing in September 2009—there is still the concern that future administrations could attempt to revive this deeply flawed program. Section 217 eliminates that possibility, although the intent of the language is not to completely eliminate the authority of the Secretary to take royalties in kind when necessary. The Committee simply wishes to ensure that such authority is exercised sparingly, if at all.

Sec. 218. Restrictions on employment

Section 218 strengthens “revolving door” prohibitions on employees of the Department of the Interior who carry out duties under the OCSLA, by broadening the scope of prohibited activities and adding a 2-year ban on accepting employment with certain companies. This section further adds new recusal requirements and provides stricter penalties for violations.

Sec. 219. Repeal of royalty relief provisions

Section 219 repeals the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAAct) (P.L. 109–58).

Sec. 220. Manning and buy- and build-american requirements

Section 220 amends Section 30 of the OCSLA to clarify that U.S. immigration laws apply to facilities on the OCS, and add an “intention of Congress” section stating that energy development activities on the OCS should be conducted in a way so as to support domestic industry and jobs.

Sec. 221. National Commission on Outer Continental Shelf Oil spill prevention

This section establishes a 10-member bipartisan Commission in the legislative branch to investigate the *Deepwater Horizon* incident, and to make recommendations on how to prevent similar incidents in the future.

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

Sec. 231. Diligent development

Section 231 requires the Secretary of the Interior to promulgate new regulations that would define “diligent development,” to ensure that the public can be confident that federal oil and gas leases are being diligently developed and not held for speculative purposes. This section provides that such rules shall require all new onshore and offshore oil and gas leases to meet certain benchmarks during the primary term of a lease in order to show that energy development is being responsibly pursued. The regulations shall provide for extension of those benchmarks in situations where diligent development is not possible due to environmental or other restrictions beyond a lessee’s control. As amended, this section assures suspension of lease terms during the periods when protests to leases or permits to drill are being resolved.

The Committee has received numerous reports and extensive testimony underscoring the need to improve diligent development requirements. Both the Inspector General of the Department of the Interior and the Government Accountability Office have recommended in testimony before the Committee on Natural Resources and the Subcommittee on Energy and Minerals that the Interior Department develop a strategy to encourage faster and diligent development of oil and gas leases on federal lands (March 17, 2009, September 16, 2009).

A February 2009 report by the Office of the Inspector General of the Department of the Interior (“Oil and Gas Production on Federal

Leases: No Simple Answer,” C–EV–MOA–0009–2008) determined that “the Department [of the Interior] has done little to provide specific guidance to lessees on the ‘due diligence’ production requirements.” The Government Accountability Office (GAO) similarly concluded in 2008 that neither MMS or BLM has precisely defined the activities or time frames that constitute reasonable diligence in the development and production of oil and gas on federal leases (GAO–09–74; “Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development”). GAO’s review of data on 55,000 offshore and onshore federal leases issued from 1987 through 1996—those that have exceed their primary 10 year lease term—found that development occurred only on about 26% of offshore and 6% of onshore leases.

Sec. 232. Reporting requirements

Section 232 requires lessees to report twice a year on the steps that are being taken to develop each of their non-producing leases. This information will be put into an electronic searchable database available to the public. Currently, according to the Department of the Interior’s Inspector General (OIG Evaluation C–EV–MOA–0009–2008, “Oil and Gas Production on Federal Leases: No Simple Answer,” February 2009) the Department does not know exactly what is occurring on non-producing leases.

Sec. 233. Notice requirements

Section 233 requires the Secretary of the Interior to notify surface land owners and holders of commercial use permits (such as outdoor recreation companies and hosts of annual events on public lands) when oil and gas leases are offered on lands which would affect their property or permits—in addition to the general public as currently required under the Mineral Leasing Act.

Approximately 58 million acres of federal minerals underlie privately-owned surface in the United States, and there are roughly 3,500 holders of commercial, competitive use, and special event permits, according to BLM’s “Public Land Statistics 2010.” In 2006, pursuant to Section 1835 of the Energy Policy Act of 2005, BLM reviewed the effects of federal subsurface oil and gas policies on surface owners. This “Split Estate Report to Congress” acknowledged “a need to further inform surface owners and operators of their rights and responsibilities regarding Federal leasing and oil and gas operations on split estate lands” as well as noting the desire of surface owners to be notified at key points in the land use planning process. In response, BLM issued IM No. 2007–165 which directed State and Field Offices to “increase outreach to media and surface owner groups in land use planning processes, to increase media notification to inform public of the availability of leasing information when there is a lease sale planned, and to do more public outreach after the lease sale.” However, there is still a need for specific statutory requirements regarding notice to split estate surface owners—for example, notice prior to leasing.

The Committee expects that this section will address this issue, but notes that notice is only part of the problem facing some surface owners in split estate situations. The Committee urges the Secretary to develop additional protections for private property owners who do not own the oil and gas below their land, including

strengthened rights and abilities to negotiate surface use agreements with operators, reclamation requirements, and assurances of compensation for damages.

Sec. 234. Oil and gas leasing system

Section 234 amends Section 17 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) to assure receipt of fair market value for lands leased for oil and gas, including requirements for sealed bids rather than oral auctions of leases, elimination of non-competitive leasing, and issuance of leases to bidders whose bid is equal to or higher than a national minimum acceptable bid, based on evaluation of the value of the lands proposed for lease.

The Committee notes that Section 234 will make the onshore process of offering leases for bid similar to the proven offshore process, to provide a more fair return to the government. For offshore leases, companies submit written sealed bids to the Minerals Management Service's Office of Energy and Minerals Management (OEEM), and the OEEM compares those bids to its own independent assessment of the value of the potential oil and gas in each lease; the bidder that submits the highest bonus bid that exceeds MMS' estimate of fair market value of a lease is awarded the lease. Currently, BLM relies exclusively on competitors, participating in an oral auction, to determine the leases' market value. If few bidders are present, there is potential for the bidding process to undervalue the lease. In 2009 testimony, the GAO noted that MMS has found that, since 1995, the offshore process of rejecting low bids and reoffering those leases at a later sale has resulted in an overall increase in bonus receipts of \$373 million between 1997 and 2006 (GAO-09-1014T). Furthermore, unlike BLM, MMS does not offer noncompetitively those leases that receive no bids, while BLM issued about 10% of oil and gas leases noncompetitively in FY 2009. This section also gives Secretary 90 days to issue the lease rather than 60 as currently required by the Mineral Leasing Act, to allow additional time for the agency to review the bids for adequacy against fair market valuation of the lease, as this section would require. While BLM does not currently have the expertise that MMS does to appropriately value lease tracts based on geologic factors, this Act's creation of a single entity, the BERM, to handle onshore and offshore leasing will provide access to that expertise for valuing onshore lease tracts.

Section 234 also directs the Secretary to hold a minimum of three lease sales per state per year, rather than the current requirement of four. This change will allow additional time for agency review of parcels proposed for lease sales, consistent with the conclusions of the report to Secretary Salazar by Deputy Secretary of the Interior David Hayes ("Final BLM Review of 77 Oil and Gas Lease Parcels Offered in BLM-Utah's December 2008 Lease Sale," October 2009). The Committee concurs with that report's determination that leasing decisions would benefit from better coordination at the federal and state level and the use of interdisciplinary teams for all proposed lease sales to reduce conflicts, errors, and protests. The Committee also believes that the scaled-back minimum lease sale requirement will also allow field offices more time to balance leasing with their non-leasing work; see, for example, "Oil and Gas Development: Increased Permitting Activity Has

Lessened BLM's Ability to Meet Its Environmental Protection Responsibilities," GAO-05-418, June 2005.

Section 234 further raises the national minimum acceptable bid from \$2 per acre to \$2.50 per acre and raises rentals from the current structure of \$1.50/acre for the first five years and \$2/acre for the remaining years to \$2.50/acre for the first five years and \$3/acre for the remaining years on future leases. Such rates have been unchanged for over 20 years. The Secretary is given explicit authority to increase rental rates if necessary to enhance financial returns to the United States and to promote more efficient management of oil and gas resources on federal lands. Recent reports by the IG and the GAO emphasize that increased rental rates can encourage diligent development and a fair return to taxpayer. See, for example, "Oil and Gas Royalties: The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment," GAO-08-691, September 3, 2008.

Sec. 235. Electronic reporting

Section 235 authorizes the Secretary to inform Congressional committees of large pipeline right-of-way applications and proposed lease reinstatements electronically instead of through a paper copy, if the committee requests, saving the federal government paper and postage costs.

Sec. 236. Best management practices

Section 236 requires oil and gas operators on federal lands to adhere to best management practices (BMPs), with site-specific adjustments allowed to account for special circumstances. The Committee believes that, with appropriate flexibility, adherence to a required set of common-sense BMPs can result in reduced permit processing times, reduced numbers of conditions of approval for permits, reclamation cost savings for industry, and environmental benefits.

Sec. 237. Surface disturbance, reclamation

Section 237 amends Section 18 of the Mineral Leasing Act to require the submission of interim and final reclamation plans along with each application for a permit to drill. Lessees who have not completed reclamation activities on existing leases no longer in production will be unable to obtain new leases.

The Committee believes that this section fills the need for a clear statutory requirement for both interim and final reclamation plans before approval of a permit to drill to minimize permanent impacts on ecosystems and wildlife and encourage prompt restoration. Under current practice, BLM generally does not require interim reclamation in all permits it issues. Yet, typically interim reclamation can be started as soon as a well is drilled. For example, the size of the pad can be reduced to a few acres necessary to service the well, some roads can be removed, and drill fluids pit reclaimed. According to BLM, interim reclamation can reduce costs and increase effectiveness of final reclamation.

Section 237 also requires the Secretary to require financial assurances adequate to ensure complete and timely reclamation of the lease tract and restoration of land and waters adversely affected by the lease can be undertaken if necessary. A March 2010

report by the Government Accountability Office (GAO-10-245, "Oil and Gas Bonds: Bonding Requirements and BLM Expenditures to Reclaim Orphaned Wells") found that the current reclamation and bond requirements have saddled taxpayers with \$3.8 million in cleanup costs between 1988 and 2009 for abandoned oil and gas wells, with at least 144 additional sites still to be evaluated and addressed. Federal minimum required bond amounts were last established five decades ago, and are not based on the expected reclamation costs for a site. Instead, an operator can post a minimum bond of \$10,000 for an individual lease, \$25,000 to cover all the operator's leases in a state, or \$150,000 to cover all leases nationwide. In contrast, federal bonding requirements for the extraction of other resources, such as coal, gold, silver, and copper, require operators to post bonds that cover the full estimated cost of reclamation.

Sec. 238. Wildlife sustainability

Section 238 directs the Secretaries of the Interior and Agriculture to utilize the best available science to plan for and manage areas under their respective jurisdictions in order to maintain sustainable populations of native and desirable non-native species of plants and animals, consistent with the requirements of existing law. The Committee intends that this section provide an unambiguous directive and clear standards to both the BLM and the Forest Service that clarifies their role as wildlife stewards, in addition to other existing resource management responsibilities. The Committee believes this will facilitate greater landscape coordination in the management of wildlife populations among federal agencies and between the federal government, states, and other landowners.

This section further provides that if conditions beyond each Secretary's control prevent sustainability, the Secretary concerned is required to protect the survival of the species and certify that management activities do not increase the likelihood of extirpation. The Secretaries would be required to establish monitoring programs using identified focal species to evaluate sustainability. Finally, this section requires extensive cooperation between federal and state governments and recognizes the vital role played by states in wildlife management.

Sec. 239. Online availability to the public of information relating to oil and gas chemical use

Section 239 requires the list of chemicals (as well as information about those chemicals) used in drilling or completing a well under any Federal Mineral Leasing Law to be posted online within 30 days after completion of drilling the well. Proprietary information is specifically exempted from disclosure. The Committee is not persuaded by arguments that state requirements for disclosure will adequately address the need for public disclosure of chemicals used in drilling on federal lands; only five states currently require disclosure of chemicals used in drilling and completing wells. Furthermore, the Committee believes that disclosure offers a means to demystify industry practices and reduce suspicion of the natural gas industry.

Sec. 240. Limitation on royalty-in-kind program

Section 240 eliminates the authority of the Secretary to establish a regular program of taking royalties in kind from onshore leases. The rationale for this section is the same as that for Section 217, described above.

Sec. 241. Environmental review

Section 241 repeals Section 390 of the Energy Policy Act of 2005 (EPAcT) (P.L. 109–58; 42 U.S.C. 15942), which established five statutory categorical exclusions for onshore oil and gas operations. Section 390 has allowed BLM and industry to bypass environmental reviews for thousands of oil and gas drilling permits across the West.

Section 390 of EPAcT allows BLM to use categorical exclusions under the National Environmental Policy Act of 1969 for individual sites that involve surface disturbance of less than five acres; for a well at a location on which drilling has previously occurred within 5 years; for a well within a developed field that has an approved land use plan “or any environmental document prepared pursuant to NEPA” within the preceding 5 years; for a new pipeline in an approved right-of-way corridor as long as the approval occurred within five years of construction of the pipeline; and for maintenance of a minor activity.

Since 2007, the Committee has heard criticism and calls for repeal of Section 390. In a resolution approved Feb. 27, 2007, the Western Governors’ Association called on Congress to remove the categorical exclusion language for exploration or development of oil and gas in wildlife corridors and crucial wildlife habitat on federal land. Governor Dave Freudenthal and sportsmen and conservationists in Wyoming warned that Section 390 categorical exclusions do not adequately protect big game habitat and migration corridors, particularly in southwest Wyoming. Witnesses at full Committee and Subcommittee hearings in the 110th Congress (April 17, 2007, April 26, 2007) recommended repeal of Section 390 of EPAcT 2005, asserting that without the blanket exemption for oil and gas activities on federal lands, BLM would be able to consider applications for “categorical exclusions” from NEPA review, but all such applications would be subject to the “extraordinary circumstances” criteria of the Department of the Interior’s NEPA rules. In other words, repeal of the provision would allow the BLM some discretion in applying a categorical exclusion to NEPA for oil and gas activities.

In 2009, a report by the Government Accountability Office confirmed concerns that BLM’s use of the Section 390 categorical exclusions was frequently out of compliance, both with the law and with the agency’s own guidelines. The study showed that categorical exclusions were used from 2006–2008 to approve approximately 6,100 of the 22,000 applications for drilling permits, or about a quarter of permits (“Energy Policy Act of 2005: Greater Clarity Needed to Address Concerns with Categorical Exclusions for Oil and Gas Development Under Section 390 of the Act,” GAO–09–872, September 2009). Among those, the GAO review found numerous examples—in 85% of BLM field offices—where officials did not correctly follow the agency’s guidelines, most often by failing to adequately justify the use of categorical exclusions. While some of the violations and noncompliance were acknowledged as technical

in nature, the GAO found that “others are more significant and may have thwarted NEPA’s twin aims of ensuring that BLM and the public are fully informed of the environmental consequences of BLM’s actions.”

Although the Committee appreciates that categorical exclusions can offer efficiency gains, sometimes allowing faster permit processing, the Committee believes the record is clear that faster has not necessarily proven better in the case of special categorical exclusions. In 2010 the Department of the Interior under the leadership of Secretary Salazar reversed the way in which the agency applies Section 390, committing to no longer using categorical exclusions in cases involving “extraordinary circumstances;” however, the Committee believes it is not appropriate to leave Section 390 open to reinterpretation by future administrations in light of the long record of the provision’s failings.

Sec. 242. Federal lands uranium leasing

Section 242 amends the Mineral Leasing Act to make uranium a leasable mineral, subject to rental and royalty rates. Currently, uranium is a “locatable” mineral under the 1872 Mining Law; therefore, no royalties or other production fees are collected by the federal government. Two years are allowed to convert claims to leases, and revenues are dedicated to abandoned uranium mine cleanup and claims filed under the Radiation Exposure Compensation Program (42 U.S.C. § 2210).

The Committee believes that moving uranium to a leasing system will increase predictability as to where and when development occurs; past and current controversies about uranium mining around national treasures like the Grand Canyon underscore how ill-suited the 1872 Mining Law is to govern uranium development, given the lack of explicit authority of a land manager to disapprove a proposed hardrock mine on federal lands that threatens devastating harm to natural or cultural resources.

The Committee notes that all other energy minerals or fuels—coal, oil and gas, tar sands, oil shale, and geothermal resources—are governed by leasing systems, most dating back to 1920. The Committee also notes the Department of Energy already administers a productive leasing system for uranium on 25,000 acres of federal lands in Colorado, pursuant to the Atomic Energy Act of 1954. This program was originally established specifically to ensure adequate supplies of uranium to meet the nation’s defense needs. On the 31 leases in the DOE’s Uranium Leasing Program (ULP), companies pay royalties ranging from 7.57% to 36.2%.

The Committee is not convinced by unsubstantiated industry claims that requiring the leasing of uranium will end uranium mining in the United States or jeopardize the nation’s access to uranium. Uranium prices rebounded from lows of around \$10 a pound in the 1980s to more than \$100 per pound in 2008, and as of July 2010 about \$41 a pound. Market projections are for growing demand for uranium worldwide to supply nuclear power plants—with accordant growth in prices, in turn stimulating uranium exploration and development. In just the past few years, significant increases in the uranium market price and demand have resulted in renewed interest in reopening mines in the U.S. that were closed or on standby. Meanwhile, the government faces an unfunded

multi-billion dollar uranium mine and tailings cleanup problem on western lands, while giving away uranium on public land without royalty payment to the government.

Subtitle C—Royalty Relief for American Consumers

Sec. 251. Short title

Section 251 provides that this subtitle may be cited as the “Royalty Relief for American Consumers Act of 2010.”

Sec. 252. Eligibility for new leases and the transfer of leases

Section 252 prohibits the issuance of new leases to any entity that holds a lease issued between January 1, 1996, and December 31, 2000, unless those leases are renegotiated such that royalties will be owed on them if the price of oil and natural gas is above a certain level.

Sec. 253. Price thresholds for royalty suspension provisions

Section 253 requires the Secretary of the Interior to agree to amend any lease issued in 1996 through 2000 to ensure that royalties are paid on these leases if the price of oil and natural gas rises above a certain level. The section also establishes that existing lease terms, without price thresholds, would be effective through September 30, 2010.

TITLE III—OIL AND GAS ROYALTY REFORM

Sec. 301. Amendments to definitions

Section 301 adds additional detail to the definition of “mineral leasing law” in the Federal Oil and Gas Royalty Management Act of 1982, as amended (FOGRMA) (30 U.S.C. 1701 et seq.); clarifies the definition of “designee” under FOGRMA in order to allow the Secretary to correspond with a designee only, as opposed to having to contact each individual lessee (that has designated a designee) in writing as is required under current law; allows penalties to be assessed for permit violations as opposed to merely for lease violations as is the case in existing law; includes a definition of “compliance review” (increasingly used reviews of royalty payments that are less intensive than audits) in FOGRMA; and modifies a definition of “marketing affiliate” that existed in regulation by no longer requiring that the affiliate’s sole function be the marketing of the lessee’s production.

Sec. 302. Compliance reviews

Section 302 provides statutory authority for the Secretary to conduct compliance reviews of royalty payments, and requires any uncovered discrepancies to be referred to an auditor. The Secretary would have to provide notice to payors that a compliance review was being conducted.

Sec. 303. Clarification of liability for royalty payments

Section 303 clarifies that designees are liable for royalty payments under a lease, and that lease owners and operators are liable for their pro-rated share of payment obligations under a lease.

Sec. 304. Required recordkeeping

Section 304 requires oil and gas records to be kept by payors for seven years instead of the current six, which aligns that timeframe with the statute of limitations for the government established under the Royalty Fairness and Simplification Act of 1995 (P.L. 104-185) to collect unpaid royalties.

Sec. 305. Fines and penalties

Section 305 amends FOGRMA to double fines for underpayment or late payment of royalties, and also doubles the penalty for theft. These penalties have not been increased since 1983. The section further extends the statute of limitations for oil and gas leases held by violators.

Sec. 306. Interest on overpayments

Section 306 eliminates the current requirement that the federal government pay interest on royalty overpayments made by operators. The Committee believes that this would eliminate the incentive that operators have to make errors in their favor on their royalty calculation and receive a guaranteed return of the payment made in error plus interest.

Sec. 307. Adjustments and refunds

Section 307 eliminates the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question, and limits the ability to make adjustments to four years after the date royalties were initially due.

Sec. 308. Conforming amendment

Section 308 repeals Section 114 of FOGRMA, which related to a study on noncompetitive leases that was due in 1983.

Sec. 309. Obligation period

Section 309 establishes that in the case of an adjustment made by a lessee that results in an underpayment, the lessee would be obligated to repay that amount (plus interest) from the date the lessee makes the adjustment, thus extending the statute of limitations on that royalty payment.

Sec. 310. Notice regarding tolling agreements and subpoenas

Section 310 allows the Secretary to correspond only with the lease designee in the case of subpoenas or agreements to pause the statute of limitations, as opposed to having to contact each lessee individually.

Sec. 311. Appeals and final agency action

Section 311 extends the timeframe for the Secretary to issue final decisions on any appeals on demands or orders to pay royalties or penalties to 48 months, from the current 33 months.

Sec. 312. Assessments

Section 312 repeals Section 116 of FOGRMA, which prohibited the Secretary from imposing assessments on payors who chronically submit erroneous royalty reports.

Sec. 313. Collection and production accountability

Section 313 establishes a pilot project for the automated transmission of electronic data from offshore wellheads and meters to the federal government, in order to improve the accuracy and efficiency of data and royalty collection.

Sec. 314. Natural gas reporting

Section 314 requires the Secretary to implement the steps necessary to ensure accurate reporting of heat content values of natural gas.

Sec. 315. Penalty for late or incorrect reporting of data

Section 315 establishes a penalty for companies that file late or incorrect data, to be set at a level the Secretary determines is sufficient to ensure that companies file correct data on time, but no less than \$10 per incorrect line of data.

Sec. 316. Required recordkeeping

Section 316 requires the Secretary to amend existing regulations to encompass the full authority granted under FOGRMA Section 103 to require lessees, operators, or anyone involved in developing, producing, transporting, purchasing, or selling oil or natural gas from federal lands to provide records to the federal government upon request, if the Secretary implements such authority by rule. The current regulations promulgated under section 103 apply only to lessees and operators, ignoring the federal government's authority to audit natural gas purchasers.

Sec. 317. Shared civil penalties

Section 317 amends Section 206 of FOGRMA to eliminate a disincentive for states and tribes to diligently pursue royalty violators. Under current law, any civil penalties that are collected under FOGRMA due to the work of state or tribal auditors are divided evenly between the states or tribes and the federal government. The amount the state or tribe receives from the civil penalty is then subtracted from the amount of money they would have received under their cooperative agreements with MMS. This means that, currently, state and tribal auditors receive no benefit for any work they do in identifying royalty violators.

Sec. 318. Applicability to other minerals

Section 318 extends the civil and criminal enforcement authority in FOGRMA to coal and other solid minerals on federal lands, as well as to solid mineral mining or alternative energy development on the Outer Continental Shelf.

Sec. 319. Entitlements

Section 319 requires the Secretary to publish final regulations regarding procedures for reporting royalties on entitled shares of production from unitized leases when lessees do not actually sell their share of production from that lease.

TITLE IV—FULL FUNDING FOR THE LAND AND WATER
CONSERVATION FUND

Subtitle A—Land and Water Conservation Fund

Pursuant to the Land and Water Conservation Fund (LWCF) Act of 1965 (16 U.S.C. 4601–4 et seq.) \$900,000,000 is deposited into the Land and Water Conservation Fund annually. The vast majority of that funding is derived from miscellaneous receipts under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

The LWCF Act specifies that not less than 40% of the money allocated from the Fund shall be available for federal purposes which include acquisition of land, waters, or interests in land or waters within National Parks, within or near National Forests, or related to important fish and wildlife habitat.

The LWCF Act further authorizes matching grants to States for planning, acquisition of land, waters, or interests in land or waters, or development, related to recreation. A percentage of the funding awarded to the States is apportioned equally while the remainder is awarded based on need, with need determined based on population and the demand placed on existing recreation facilities. The LWCF Act does not specify a percentage for the state program.

Currently, the amount of funding provided for actual expenditure under the LWCF Act is determined through the annual appropriations process. While the full \$900,000,000 is credited to the Fund each year, only a fraction of that amount is expended for the programs and purposes included in the Act. As a result, a balance of more than \$17 billion has accrued in the Fund over the years.

This Subtitle amends the LWCF Act to make the full \$900,000,000 available annually to the federal and stateside programs, without further appropriation. Further, the Subtitle amends the LWCF Act to extend authorization for the LWCF through September 30, 2040. Subtitle A leaves in place all other existing provisions of the LWCF, including the 40% minimum requirement for the federal program. It is the Committee's expectation that LWCF funding will be allocated equitably between the federal and state programs.

Since its passage in 1965, deposits into the LWCF, and the expenditure of these funds on critical conservation projects, have been part of federal policy governing energy development in the Outer Continental Shelf. LWCF expenditures have not kept pace with OCS development, however, and the Committee intends that Subtitle A will correct this imbalance.

Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965

Section 401 establishes that all language in this subtitle amends the Land and Water Conservation Fund (LWCF) Act of 1965 (16 U.S.C. 4601–4 et seq.).

Sec. 402. Extension of the Land and Water Conservation Fund

Section 402 extends the authorization of the LWCF until 2040.

Sec. 403. Permanent funding

Section 403 provides for \$900 million to be available to the LWCF each year out of OCS receipts without further appropriation.

Subtitle B—National Historic Preservation Fund

Sec. 411. Permanent funding

Pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.), \$150,000,000 is deposited in the Historic Preservation Fund (HPF) annually for the purposes of that Act. These funds are also derived from revenue due and payable to the United States under the Outer Continental Shelf Lands Act.

As with LWCF funding, expenditures from the HPF are subject to appropriations; the HPF currently has a balance of \$2.8 billion. Section 411 amends the National Historic Preservation Act to make the full \$150,000,000 available annually, without further appropriation. This section also extends authorization for the HPF through 2040.

Payment into the HPF, and expenditure of those funds for preservation of historic and cultural resources, has also been part of federal OCS policy for decades but will only be fully realized with enactment of full, mandatory funding.

TITLE V—ALTERNATIVE ENERGY DEVELOPMENT

Sec. 501. Commercial wind and solar leasing program

Section 501 establishes a leasing program for wind and solar projects on federal lands, in contrast to the special use permits and rights-of-way authorizations that are currently used. The Secretary is no longer authorized to lease Forest Service lands for renewable energy over the objections of the Secretary of Agriculture. This section further provides that final regulations establishing a leasing program be published within 18 months after the date of enactment, and leasing commence no later than 90 days after issuance of the regulations.

The Committee believes a leasing system for wind and solar energy on federal lands is the simplest and fairest way to ensure responsible development. Most other forms of energy development (oil and gas, coal, renewable energy on the OCS, geothermal energy) have competitive leasing systems. In the absence of the direct statutory guidance this Act provides, BLM has elected to approve renewable energy projects through right-of-way authorizations (ROW) established by the Federal Land Policy and Management Act of 1976 (FLPMA). ROW authorizations are traditionally used by BLM to locate power lines, pipelines, and communications towers and lines on federal land. They are intended for linear uses of lands, rather than commercial development of a resource from the land. Even BLM's implementing regulations for FLPMA indicate that renewable energy development is more appropriately handled by leasing: 30 CFR 2920.1-1(a) states, "Leases shall be used to authorize uses of public lands involving substantial construction, development, or land improvement and the investment of large amounts of capital which are to be amortized over time."

The Committee is not persuaded by industry assertions that competitive leasing is inappropriate because the solar industry is not mature, and competitive leasing will result in little or no solar development on public lands. BLM has identified 23 million acres of public lands with utility-scale solar energy potential and already over 200 right of way applications have been submitted to BLM.

Importantly, BLM data shows that of those applications for solar projects, 35% are for overlapping areas; about 10% of wind applications overlap. Clearly, there is strong interest in prime, valuable parcels of sun and wind-rich public lands, as well as a need for a competitive lease process as a simple way to ensure that sites are awarded to companies with the best project proposal—those that have the financial and technical expertise to bring a project to fruition.

Subsection (d) eliminates the ability to site commercial solar or wind projects on BLM or Forest Service land using a right-of-way or special use permit. However, subsection (f), as amended, allows rights-of-way or special use permits to be issued for projects that have submitted an application for a solar or wind right of way permit, or for a permit for a meteorological tower or to construct a wind farm, or have already installed a data collection device, prior to the date of enactment.

Subsection (e) allows for the issuance of noncompetitive leases for noncommercial testing purposes, and gives the Secretary the authority to award preference to holders of noncompetitive leases during a commercial lease sale. Subsection (g) requires the Secretary to promulgate diligent development requirements for solar and wind leases and, as amended, regulations to ensure that leases are not obtained for speculative purposes.

The Committee emphasizes its support for the Administration's priority of dramatically increasing the nation's clean energy capacity, and the Department of the Interior's efforts to permit 34 wind and solar "fast-track" projects on public lands by the end of 2010. However, the Committee is concerned that a lack of clear guidance for siting these projects has caused permitting and development delays. To remedy the situation and expedite projects currently under consideration (including those that will be grandfathered under the ROW process by this Act) the Committee urges the Department of the Interior to promptly issue clear and specific interim guidance on project siting and the environmental review process. Interim guidance will provide important benefits until BLM completes its Programmatic Solar Environmental Impact Study; it would help BLM staff meet legal requirements and achieve federal and state priorities, provide consistency in documents and authorizations for conditions of use, and enable more efficient, coordinated and expeditious permitting by Renewable Energy Coordination Offices.

At a minimum, the Committee believes that interim guidance for renewable energy development on federal lands should ensure that the permitting process complies with all applicable federal environmental laws; guides development to complement forthcoming programmatic plans; and, ultimately, expedites the approval and development of environmentally-sound renewable energy projects.

Sec. 502. Land management

Section 502 requires the Secretary to issue regulations for solar and wind leasing, establishing the lease terms, bonding requirements, and land reclamation requirements. Section 502 also ensures that solar and wind lease terms would be for no less than 30 years.

Sec. 503. Revenues

Section 503 requires the Secretary to set rates for rentals, royalties, fees, bonus bids and other payments at a level to ensure a fair return to the United States and encourage development of wind and solar energy on federal lands. Section 503 also allows the Secretary to waive the rental payment for the development of renewable energy projects on lands that have already been adversely impacted by significant prior use.

The Office of the Inspector General of the Department of the Interior testified in support of obtaining fair market value for revenues from solar and wind projects (Mary L. Kendall, Acting Inspector General, House Committee on Natural Resources Hearing on H.R. 3534, September 16, 2009). In response to concerns that charging royalties will put solar at a competitive disadvantage compared to mature electricity sources, the Committee notes that this section gives the Secretary both discretion and direction to establish royalties and other payments that “encourage development of solar and wind on federal lands” which could include phased in royalties, royalties tied to production volumes or prices, or other measures that provide a fair return to the government but also facilitate viable renewable energy projects on public lands.

The Committee does not accept the assertion that solar and wind developers should pay only minimal rentals and no royalty because they are not “removing” a commodity from the land. The Committee notes that commercial scale solar projects will make large-scale landscape changes and prevent other uses of those lands during the lease terms, as well as the fact that some wet-cooled technologies could use substantial amounts of water.

Equally importantly, the key consideration is not whether solar or wind development removes a resource from public lands, it is whether solar and wind developers pay fair market value or a fair return for use of the public’s lands. Many prime sites for solar and wind have considerable value that the current ROW structure, which is based on agricultural use values, does not capture, nor can it distinguish among the most promising sites with the maximum potential for electricity generation, and value them accordingly. Among the well-established statutory goals of payments for federal lands by a variety of users are realizing a fair return to the taxpayer for the use the lands, offsetting damage caused by the permitted uses, and obtaining funds to compensate for the reduction or loss of other uses of the lands. Royalties are a key means of capturing the added value of land—or the loss of the value of that land—beyond the direct physical occupation of the land.

With regard to those lands already adversely impacted by development, the Committee believes multiple benefits can be achieved by waiving rental fees for renewable energy projects on those areas. Reuse of already developed or contaminated parcels for renewable energy can provide energy and jobs, and relieve development pressure on undeveloped “green” spaces. As an added benefit, an old mine site, decommissioned landfill, or gravel pit may already be located near transmission capacity. The Committee encourages the Secretary to consider other ways to provide incentives for reuse of previously impacted sites for renewable energy, including expedited processing and permitting of renewable energy projects on those lands

Sec. 504. Recordkeeping and reporting requirements

Section 504 requires lessees, permit holders, or renewable energy operators to maintain records for seven years, in order to allow for future audits or compliance reviews of renewable energy production on federal lands.

Sec. 505. Audits

Section 505 authorizes the Secretary to conduct audits of onshore wind and solar leases.

Sec. 506. Trade secrets

Section 506 allows confidential or proprietary information to be made available by the Secretary to other federal agencies if necessary to carry out the provisions of this Act or other federal law.

Sec. 507. Interest and substantial underreporting assessments

Section 507 allows interest to be charged on late royalty payments for wind and solar leases, and also establishes a civil penalty of up to 25% for underpayments, in addition to making royalty violators subject to the civil penalty provisions of FOGRMA. The Secretary is authorized to waive penalties if the underpayment is corrected before the payor receives a notice from the Secretary of that underpayment, and for other reasons. This section also establishes joint and several liability for royalty payments on a lease.

Sec. 508. Indian savings provision

Section 508 provides that the rights and interests of Indian tribes are not affected by this Title.

Sec. 509. Transmission savings provision

Section 509 clarifies that the renewable energy leasing authorities of the Bureau of Energy and Resource Management do not affect the authority of other federal agencies with respect to the permitting of electric transmission facilities.

TITLE VI—COORDINATION AND PLANNING

Sec. 601. Regional coordination

Section 601 addresses the need for long-term coordination and planning amongst federal agencies with authorities for ocean, coastal, and Great Lakes management and between those federal agencies and states, and establishes nine Coordination Regions in the Pacific, Gulf of Mexico, North Atlantic, Mid Atlantic, South Atlantic, Alaska, Pacific Islands, and the Caribbean.

Sec. 602. Regional Coordination Councils

Section 602 establishes Regional Coordination Councils, designated by the Chairman of the Council on Environmental Quality, which are to include representatives of relevant federal agencies, coastal states, Regional Fishery Management Councils, interstate fisheries commissions, Regional Ocean Partnerships, affected Tribes, and county and local governments. This section also requires each Regional Coordination Council to establish an Advisory Committee with balanced representation to give advice during the

development of Regional Assessments and Regional Strategic Plans.

Sec. 603. Regional Strategic Plans

Section 603 authorizes the Regional Coordination Councils to prepare and complete Strategic Plans, within 3 years after completion of an initial regional assessment, to foster comprehensive, integrated, and sustainable development and use of ocean, coastal, and Great Lakes resources, while protecting marine ecosystem health and sustaining the long-term economic and ecosystem values of the oceans.

Sec. 604. Regulations

Section 604 authorizes the Chair of the Council on Environmental Quality to issue regulations necessary to administer this Title.

Sec. 605. Ocean Resources Conservation and Assistance Fund

Section 605 establishes an Ocean Resources Conservation and Assistance (ORCA) Fund. A percentage of all OCS revenues would be deposited into the ORCA Fund, which would provide grants to coastal states and Regional Ocean Partnerships for activities that contribute to the protection, maintenance, and restoration of ocean, coastal and Great Lakes ecosystems including: the development and implementation of comprehensive, science-based plans for monitoring and managing the wide variety of uses affecting the oceans, coasts and Great Lakes ecosystems; activities to improve the ability of those ecosystems to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification; planning for and managing coastal development to minimize the loss of life and property associated with sea-level rise and the coastal hazards resulting from it; research, assessment and monitoring that contribute to these purposes; strengthened planning for coastal State oil spill response; and the build-out and operation and maintenance of an Integrated Ocean Observation System as authorized under Public Law 111-11 to continuously provide quality-controlled environmental data and information on current and future conditions of the U.S. ocean and coastal environment.

With so much revenue being generated by energy development in the outer Continental Shelf, the Committee believes it is sensible to reinvest some of those revenues back into the conservation and management of the oceans and coasts that yield these benefits, and so many others. The *Deepwater Horizon* disaster highlighted how little is known about the Gulf of Mexico ecosystem and how little planning has been conducted to manage and protect these resources in the event of a catastrophic oil spill. As noted in testimony before the Subcommittee on Insular Affairs, Oceans and Wildlife, during hearings on the spill, federal regulatory and trustee agencies lack baseline information on the Gulf of Mexico ecosystem and the necessary in-house capacity to properly assess the impacts of this unprecedented oil spill now and into the future. In addition, strategic and contingency planning for this worst-case scenario was revealed to be wholly inadequate, by both industry and by federal and state government agencies. The Subcommittee also received testimony that suggested that the costs of prepared-

ness planning should be born largely by the industry that is the source of the risk.

Sec. 606. Waiver

Section 606 exempts the Regional Coordination Councils from the Federal Advisory Committee Act.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry

Section 701 repeals the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAc) (P.L. 109–58). Subsection (c) repeals language from EPAc that provided for leases extensions and royalty relief in the National Petroleum Reserve-Alaska.

Sec. 702. Conservation fee

Section 702 imposes a fee of \$2 per barrel of oil, or 20 cents per million Btu of natural gas, for production from all new and existing Federal onshore and offshore leases. This section provides that the fee will be deposited in the Land and Water Conservation Fund, the Historic Preservation Fund, the ORCA Fund, and the U.S. Treasury, and will expire on December 31, 2021.

Sec. 703. Leasing on Indian lands

Section 703 provides that nothing in this Act would amend or modify leasing as it is currently carried out on Indian lands by the Bureau of Indian Affairs.

Sec. 704. Offshore aquaculture clarification

Section 704 clarifies that the Secretary of Commerce and the Regional Fishery Management Councils do not have the authority to develop or approve fishery management plans for the purposes of permitting or regulating aquaculture in the U.S. Exclusive Economic Zone. The Committee believes that a national aquaculture policy and a regulatory program with consistent standards and environmental protections is a more appropriate route for the development of offshore aquaculture in the United States.

Offshore aquaculture is a new, emerging ocean use and if poorly sited could conflict with existing ocean uses, including offshore oil and gas activities. The National Oceanic and Atmospheric Administration (NOAA) assumes that the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) gives that agency the authority to regulate offshore aquaculture, but the Committee believes that it was never the intent of Congress to provide this authority. The Committee further believes that use of the law for this purpose sets a dangerous precedent where offshore aquaculture would be regulated on a case-by-case basis, with an inconsistent application of regulations and standards.

Sec. 705. Outer Continental Shelf State Boundaries

Section 705 directs the Secretary to carry out the OCSLA Section 4(a)(2)(A) mandate to determine the seaward boundaries of the states to the outer margin of the OCS. The Committee notes that

the mandate was originally included in 1953, when the OCSLA was first passed. The 1977 Committee Report from the Ad Hoc Select Committee on the Outer Continental Shelf (report No. 95-590) states, “[t]he committee, although concerned that such determinations have still not yet been completed, has left the section untouched . . . the committee strongly believes that the President should promptly determine and publish such lines and establish procedures, if necessary, for the settling of any disputes relating to the projection of such lines, prior to such determination.”

Although the Outer Continental Shelf and the resources therein are entirely federal, rendering such lines not strictly necessary, the Department of the Interior has in recent years increasingly moved towards planning within what it considers to be the administrative boundaries of certain states on the OCS. For example, the area chosen for Lease Sale 220 in the Atlantic Region was based on administrative lines published in 2006 by the Minerals Management Service (71 Fed. Reg. 127; January 3, 2006). The Committee does not believe that the 2006 administrative lines adequately fulfill the mandate of Section 4 of the OCSLA. These lines are drawn purely based on equidistance principles, and do not take “special circumstances”, as referred to in Article 12 of the United Nations Convention on the Territorial Sea and the Contiguous Zone, into account. Along the Atlantic seaboard in particular, the concavity and convexity of state coastlines creates large, and potentially inequitable, disparities between the amount of the OCS deemed to be within the administrative planning area of each state. Certain states, such as Virginia, have already protested the amount of the OCS that is deemed to be within their administrative boundaries. Given that these boundaries may become increasingly important in planning future activities on the OCS, it is unacceptable that the Department of the Interior has not conducted a formal, open process to establish the boundaries mandated in Section 4 of the OCSLA, and the Committee intends that this section will rectify that situation.

Sec. 706. Liability for damages to National Wildlife Refuges

Section 706 amends the National Wildlife Refuge System Administration Act of 1966 to hold any person or instrumentality which destroys, causes the loss of, or injures a refuge resource, or any living or nonliving resource of the refuge system or marine national monument, liable to the United States for such damages. This section further authorizes the Secretary to use the amounts recovered for costs of response actions and damage assessments and to recover, restore, or when necessary, replace damaged resources. This authority does not apply in those instances when the activity is permitted by federal or state law, is caused by an act of God or an act of war, or results in damage that was negligible. This section establishes a three-year statute of limitation for response costs and damages beginning on the date the Secretary completes a damage assessment and recovery for actions.

The Committee notes that there are 36 National Wildlife Refuges in the Gulf of Mexico region at risk from the *Deepwater Horizon* disaster, but the organic act for the National Wildlife Refuge System contains no liability for natural resource damages. These liability provisions occur in other statutes, including the Park Sys-

tem Resource Protection Act (16 U.S.C. 19jj) and the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.). These authorities have been used judiciously to enable the federal government to hold responsible parties accountable when trust resources are damaged or destroyed, and to recover compensation for these losses on behalf of the American taxpayer. The Committee believes that the nation's wildlife refuges deserve no less consideration than other federal recreation lands, and this section provides that the same liability standard applies.

Sec. 707. Strengthening coastal State oil spill planning and response

Section 707 amends Section 306 of the Coastal Zone Management Act of 1972 to provide grants, not to exceed \$750,000, to eligible coastal states to revise management programs to develop and implement new enforceable policies and procedures to ensure sufficient oil spill response capabilities. Coastal states would be eligible to receive a maximum of two grants in different fiscal years under this section.

Under the Coastal Zone Management Act, eligible coastal states were required to provide a planning process and enforceable policies for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of impacts resulting from such facilities. Responding to oil spills requires planning at various scales and integration of these efforts to ensure the coordination and effectiveness of response and recovery activities. Various plans were in place before the *Deepwater Horizon* incident and while response and recovery activities have adhered to these plans, these actions have been insufficient and ineffective due to unprecedented complexity and magnitude of this oil spill.

Sec. 708. Information sharing

Section 708 amends Section 388(b) of the Energy Policy Act of 2005 (P.L. 109-58) to require other federal agencies to provide data and information to the Secretary of the Interior in support of the Coordinated OCS Mapping Initiative.

Sec. 709. Repeal of funding

Section 709 amends Section 999H of the Energy Policy Act of 2005 (P.L. 109-58) to eliminate the automatic \$50 million in funding from offshore revenues that the Ultra-deepwater and Unconventional Onshore Natural Gas and Other Petroleum Research and Development Program receives each year. Such research has been primarily focused on new methods of extracting hydrocarbons, and the Committee believes it is more appropriately funded by the oil and gas industry.

Sec. 710. Savings clause

Section 710 provides that no funds from this Act would be able to pay any cost for which any responsible party is liable under the Oil Pollution Act of 1990.

Sec. 711. Additional public right-to-know requirements

Section 711 requires the Secretary of the Interior to maintain a public database listing all lawsuits filed against the Department pursuant to the OCSLA, Mineral Leasing Act, and Geothermal Steam Act of 1970. This section also requires attorney's fees to be included in this database.

Sec. 712. Federal response to state proposals to protect lands and waters

Section 712 requires that when states apply for a permit to undertake a project in response to an oil spill of national significance, federal agencies must either decide on the application within 48 hours or provide a definitive date by which the application will be decided by. Failure by the federal agency to meet deadlines under this section results in the application being deemed approved.

TITLE VIII—GULF OF MEXICO RESTORATION

Sec. 801. Gulf of Mexico restoration program

Section 801 establishes a Gulf of Mexico Restoration Task Force, composed of the heads of the relevant federal agencies and the governors of the Gulf coast states, to develop and publish a long-term restoration plan within one year after the date of enactment. The Plan would identify processes and strategies for coordinating and implementing federal, state, and local restoration programs and projects, using the best-available science. The Committee recognizes that significant resources will be spent by federal, state and local entities to restore the Gulf ecosystem, and it is very important that the efforts of those entities is coordinated to maximize their effectiveness, to eliminate redundant activities, and to ensure that responsible parties fulfill their obligations and are held accountable under any future settlements for natural resource damages.

TITLE IX—GEOTHERMAL PRODUCTION EXPANSION

Sec. 901. Short title

Section 901 provides that this title may be cited as the "Geothermal Production Expansion Act."

Sec. 902. Findings

Section 902 provides that Congress makes certain findings related to geothermal energy.

Sec. 903. Noncompetitive leasing of adjoining areas for development of geothermal resources committee

Section 903 amends the Geothermal Steam Act of 1970 to provide an opportunity for the noncompetitive leasing of up to 1 square mile of federal land when a geothermal discovery has been made immediately adjacent to those lands. Such leases would be available at the fair market value as determined by the Secretary, but not less than \$50 per acre, or four times the median amount paid per acre for all geothermal leases issued in the preceding year, whichever is greater. This section also requires that any potential noncompetitive geothermal leases be publicly noticed, and that pro-

spective lessees and the public be able to appeal the determination of fair market value.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is satisfied when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the committee report and is included in the report. The Committee has not yet received a cost estimate for H.R. 3534 from the Director of the Congressional Budget Office. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the Committee Cost Estimate, included below.

2. **Congressional Budget Act.** With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, a cost estimate from the Director of the Congressional Budget Office is not available.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the general performance goal and objective of this legislation is to provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources, and for other purposes.

COMMITTEE COST ESTIMATE

H.R. 3534, as ordered reported, would reform the regulation of energy development on and within federal land and waters. The bill would also establish a federal framework to protect natural resources affected by federal energy development and provide for a fair return to the federal government for the use of public resources. To achieve this, H.R. 3534 would create new Department of the Interior agencies to regulate federal energy development; provide safety, environmental and financial reform of offshore and

onshore federal energy development; end unwarranted royalty relief for the oil and gas industry and reform the federal oil and gas royalty program; provide full funding for the Land and Water Conservation and Historic Preservation Funds; provide for rational alternative energy development on federal land and waters; establish coordination and planning on the development and use of federal renewable and nonrenewable resources affecting the ocean, coastal, and Great Lakes environments; and authorize a program for the restoration of the Gulf of Mexico.

H.R. 3534 would authorize increases in discretionary spending to carry out necessary reforms of the federal offshore and onshore energy programs and protect important resources. The Committee believes these discretionary increases are necessary to achieve the safety, environmental, and financial benefits provided by the bill. In addition, the bill would affect revenue and direct spending by establishing a new conservation fee, providing for renegotiation of certain royalty-free leases, repealing existing mandatory spending programs, and providing funding for the Land and Water Conservation Fund (LWCF), the Historic Preservation Fund (HPF), and the Ocean Resources Conservation and Assistance (ORCA) Fund established by section 605 of the reported bill.

The conservation fee established by section 702 and the renegotiation of leases and subsequent collection of royalties provided for by Subtitle C of Title II have previously been considered and passed by the House of Representatives. Although the exact amount of revenue to be raised by the fee and lease renegotiation are uncertain, the Committee believes these provisions would generate significant revenue. A previous estimate provided by the Congressional Budget Office for H.R. 6 in the 110th Congress estimated that a similar conservation fee would generate \$6.1 billion over a 10-year period.

The other provisions significantly affecting direct spending involve full funding for the LWCF (\$900 million annually) and HPF (\$150 million annually), and funding for the newly established ORCA Fund (10 percent of qualified OCS leasing revenue annually). For more than three decades, revenues generated by oil and gas leasing in the Outer Continental Shelf (OCS) have been credited to the LWCF and HPF. Providing direct spending for the LWCF and HPF will fulfill the longstanding premise behind these two funds; namely that as we deplete one natural resource (oil and gas in the OCS) we should dedicate a portion of the revenues to the preservation of the natural, historical and recreational resources of the United States. Further, it is the view of the Committee that we should dedicate a portion of the revenues generated from our oceans to the preservation of our ocean resources.

COMPLIANCE WITH PUBLIC LAW 104-4

The Committee has not received an estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (UMRA) (Public Law 104-4). The Committee estimates that H.R. 3534 contains private-sector mandates as defined in UMRA because it would impose new safety standards and other requirements on offshore and onshore federal energy development. The Committee estimates that the aggregate cost of complying with the private-sector

mandates in the bill could be significant, and may exceed the annual threshold established in UMRA (\$141 million, adjusted annually for inflation).

EARMARK STATEMENT

H.R. 3435 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

* * * * *

Director, Bureau of Mines, Department of the Interior.

Director, Bureau of Energy and Resource Management, Department of the Interior.

Director, Bureau of Safety and Environmental Enforcement, Department of the Interior.

Director, Office of Natural Resources Revenue, Department of the Interior.

* * * * *

OUTER CONTINENTAL SHELF LANDS ACT

* * * * *

SEC. 2. DEFINITIONS.—When used in this Act—

(a) * * *

* * * * *

(r) The term “safety case” means a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment.

SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—

It is hereby declared to be the policy of the United States that—

(1) * * *

* * * * *

ε(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, that should be managed in a manner that—

(A) recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources;

(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

(C) acknowledges the long-term economic value to the United States of the balanced and orderly management of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;

(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

(A) * * *

* * * * *

(C) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelfε. ;

(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means

as regulation of land, air, and water uses, of safety, and of related development and activity *should be* *shall be* considered and recognized; *and*

(6) *exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that minimizes—*

(A) *harmful impacts to life (including fish and other aquatic life) and health;*

(B) *damage to the marine, coastal, and human environments and to property; and*

(C) *harm to other users of the waters, seabed, or subsoil; and*

(7) *operations in the outer Continental Shelf should be* *shall be* conducted in a safe manner by well-trained personnel using *best available* technology, precautions, and techniques sufficient to prevent *or minimize* the likelihood of blowouts, loss of well control, fires, spillage, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a)(1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom *or producing or supporting production of energy from sources other than oil and gas*, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources *or transmitting such energy*, to the same extent as if the outer Continental shelf were an area of exclusive Federal jurisdiction located within a state: *Provided, however*, That mineral *and other energy* leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

* * * * *

SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. *The Secretary may at any time* *The Secretary shall* prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for *operational safety, the protection of the marine and coastal environment, and the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein*, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall re-

quest and give due consideration to the views of the Attorney General with respect to matters which may affect competition *and the Secretary of Commerce with respect to matters that may affect the marine and coastal environment.* In considering any regulations and in preparing any such views the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

- (1) * * *
- (2) with respect to cancellation of any lease or permit—
 - (A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—
 - (i) * * *
 - (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within ζ a reasonable period of time 30 days; and

* * * * *

(7) for the prompt and efficient exploration and development of a lease area *in a manner that minimizes harmful impacts to the marine and coastal environment;* ζ and

(8) *for independent third-party certification requirements of safety systems related to well control, such as blowout preventers;*

(9) *for performance requirements for blowout preventers, including quantitative risk assessment standards, subsea testing, and secondary activation methods;*

(10) *for independent third-party certification requirements of well casing and cementing programs and procedures;*

(11) *for the establishment of mandatory safety and environmental management systems by operators on the Outer Continental Shelf;*

ζ (8) (12) *for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this Act significantly affect the air quality of any State ζ . ; and*

(13) *ensuring compliance with other applicable environmental and natural resource conservation laws.*

* * * * *

(k) *DOCUMENTS INCORPORATED BY REFERENCE.—Any documents incorporated by reference in regulations promulgated by the Secretary pursuant to this Act shall be made available to the public, free of charge, on a website maintained by the Secretary.*

* * * * *

SEC. 8. LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—(a)(1) * * *

* * * * *

(3)(A) * * *

(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude ζ and in the Planning Areas offshore Alaska , the Secretary may, in order to—

(i) * * *

* * * * *

(9) *At least 60 days prior to any lease sale, the Secretary shall request a review by the Secretary of Commerce of the proposed sale with respect to impacts on the marine and coastal environment. The Secretary of Commerce shall complete and submit in writing the results of that review within 60 days after receipt of the Secretary of the Interior's request.*

(b) *An oil and gas lease issued pursuant to this section shall be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit ;*

* * * * *

(d) *No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.*

(d) *REQUIREMENT FOR CERTIFICATION OF RESPONSIBLE STEWARDSHIP.—*

(1) *CERTIFICATION REQUIREMENT.—No bid or request for a lease, easement, or right-of-way under this section, or for a permit to drill under section 11(d), may be submitted by any person unless the person certifies to the Secretary that the person (including any related person and any predecessor of such person or related person) meets each of the following requirements:*

(A) *The person is meeting due diligence, safety, and environmental requirements on other leases, easements, and rights-of-way.*

(B) *In the case of a person that is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702), the person has met all of its obligations under that Act to provide compensation for covered removal costs and damages.*

(C) *In the 7-year period ending on the date of certification, the person, in connection with activities in the oil industry (including exploration, development, production, transportation by pipeline, and refining)—*

(i) *was not found to have committed willful or repeated violations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (including State plans approved under section 18(c) of such Act (29 U.S.C. 667(c))) at a rate that is higher than five times the rate determined by the Secretary to be the oil industry average for such violations for such period;*

(ii) *was not convicted of a criminal violation for death or serious bodily injury;*

(iii) *did not have more than 10 fatalities at its exploration, development, and production facilities and re-*

fineries as a result of violations of Federal or State health, safety, or environmental laws;

(iv) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including State programs approved under sections 402 and 404 of such Act (33 U.S.C. 1342 and 1344)) in a total amount that is equal to more than \$10,000,000; and

(v) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Clean Air Act (42 U.S.C. 7401 et seq.) (including State plans approved under section 110 of such Act (42 U.S.C. 7410)) in a total amount that is equal to more than \$10,000,000.

(2) ENFORCEMENT.—If the Secretary determines that a certification made under paragraph (1) is false, the Secretary shall cancel any lease, easement, or right of way and shall revoke any permit with respect to which the certification was required under such paragraph.

(3) DEFINITION OF RELATED PERSON.—For purposes of this subsection, the term “related person” includes a parent, subsidiary, affiliate, member of the same controlled group, contractor, subcontractor, a person holding a controlling interest or in which a controlling interest is held, and a person with substantially the same board members, senior officers, or investors.

* * * * *

(i) In order to meet the urgent need allow for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

* * * * *

(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), or the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

(A) * * *

* * * * *

∫(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

(D) use, for energy-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

* * * * *

∫(3) COMPETITIVE OR NONCOMPETITIVE BASIS.— Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

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

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

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

(i) is for the placement and operation of a meteorological or marine data collection facility; and

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

(C) the Secretary determines, after providing public notice of a proposed lease, easement, right-of-way, or other authorization, that no competitive interest exists.

(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

(A) * * *

* * * * *

(E) ∫coordination *in consultation* with relevant Federal agencies;

* * * * *

(J) consideration of—

(i) * * *

(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, *a potential site for an alternative energy facility,* or navigation;

* * * * *

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

(r) *PERIODIC FISCAL REVIEW AND REPORT.*—

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

(A)(i) the royalty and rental rates included in new offshore oil and gas leases; and

(ii) the rationale for the rates;

(B) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) will yield a fair return to the public while promoting the production of oil and gas resources in a timely manner;

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

(ii) the rationale for the minimum amounts;

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

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

(2) *PUBLIC PARTICIPATION.*—In carrying out a review and preparing a report under paragraph (1), the Secretary shall provide to the public an opportunity to participate.

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

(A) the Committee on Energy and Natural Resources of the Senate; and

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

(s) *COMPARATIVE REVIEW OF FISCAL SYSTEM.*—

(1) *IN GENERAL.*—Not later than 2 years after the date of enactment of this subsection and every 5 years thereafter, the Secretary shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements for—

(A) bonus bids;

(B) rental rates;

(C) royalties; and

(D) oil and gas taxes.

(2) *REQUIREMENTS.*—

(A) *CONTENTS; SCOPE.*—A review under paragraph (1) shall include—

(i) the information and analyses necessary to compare the offshore bonus bids, rents, royalties, and taxes of the Federal Government to the offshore bonus bids, rents, royalties, and taxes of other resource owners, including States and foreign countries; and

(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

(B) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under paragraph (1), the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

(3) REPORT.—

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

(i) the contents and results of the review carried out under paragraph (1) for the period covered by the report; and

(ii) any recommendations of the Secretary based on the contents and results of the review.

(B) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes a report under paragraph (1), the Secretary shall transmit copies of the report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

§ SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 9. DISPOSITION OF REVENUES.

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

(b) LAND AND WATER CONSERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, \$900,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Land and Water Conservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

(c) HISTORIC PRESERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, \$150,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Historic Preservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the National Historic Preservation Fund Act of 1966 (16 U.S.C. 470 et seq.).

(d) OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.—Effective for each fiscal year 2011 and thereafter, 10 percent of the amounts referred to in subsection (a) shall be deposited in the

Treasury of the United States and credited to the Ocean Resources Conservation and Assistance Fund established by the Consolidated Land, Energy, and Aquatic Resources Act of 2010. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of section 605 of the Consolidated Land, Energy, and Aquatic Resources Act of 2010.

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

* * * * *

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—(a)(1) Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not *likely to harm* aquatic life in such area.

* * * * *

(c)(1)(A) Except as otherwise provided in the Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act, *and the provisions of such lease the provisions of such lease, and other applicable environmental and natural resource conservation laws.* The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. *ε*The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition

(B) The Secretary shall approve such plan, as submitted or modified, within 90 days after its submission and it is made publicly accessible by the Secretary, or within such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews, if the Secretary determines that—

- (i) any proposed activity under such plan is not likely to result in any condition described in section 5(a)(2)(A)(i);*
- (ii) the plan complies with other applicable environmental or natural resource conservation laws; and*
- (iii) the applicant has demonstrated the capability and technology to respond immediately and effectively to a worst-case oil spill in real-world conditions in the area of the proposed activity.* If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B) of this Act, cancel such lease and the lessee shall be entitled to compensation

in accordance with the regulations prescribed under section 5(a)(2)(C) (i) or (ii) of this Act.

* * * * *

¿(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

- ¿(A) a schedule of anticipated exploration activities to be undertaken;
- ¿(B) a description of equipment to be used for such activities;
- ¿(C) the general location of each well to be drilled; and
- ¿(D) such other information deemed pertinent by the Secretary.

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

- (A) *a schedule of anticipated exploration activities to be undertaken;*
- (B) *a detailed and accurate description of equipment to be used for such activities, including—*
 - (i) *a description of each drilling unit;*
 - (ii) *a statement of the design and condition of major safety-related pieces of equipment, including independent third party certification of such equipment; and*
 - (iii) *a description of any new technology to be used;*
- (C) *a map showing the location of each well to be drilled;*
- (D) *a scenario for the potential blowout of the well involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons;*
- (E) *an analysis of the potential impacts of the worst-case-scenario discharge of hydrocarbons on the marine, coastal, and human environments for activities conducted pursuant to the proposed exploration plan; and*
- (F) *such other information deemed pertinent by the Secretary.*

* * * * *

(5) *If the Secretary requires greater than 90 days to review an exploration plan submitted pursuant to any oil and gas lease issued or maintained under this Act, then the Secretary may provide for a suspension of that lease pursuant to section 5 until the review of the exploration plan is completed.*

¿(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

(d) *DRILLING PERMITS.—*

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

(2) *ENGINEERING REVIEW REQUIRED.*—The Secretary may not grant any drilling permit or modification of the permit prior to completion of a full engineering review of the well system, including a determination that critical safety systems, including blowout prevention, will utilize best available technology and that blowout prevention systems will include redundancy and remote triggering capability.

(3) *OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.*—The Secretary shall not grant any drilling permit or modification of the permit prior to completion of a safety and environmental management plan to be utilized by the operator during all well operations.

* * * * *

(g) Any permit for geological explorations authorized by this section shall be issued *may be issued* only if the Secretary determines, in accordance with regulations issued by the Secretary and after consultation with the Secretary of Commerce, that—

(1) * * *

(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

(3) such exploration is *is not likely to harm* aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance; ;

(4) the exploration will be conducted in accordance with other applicable environmental and natural resource conservation laws;

(5) in the case of geophysical surveys, the applicant shall use the best available technologies and methods to minimize impacts on marine life; and

(6) in the case of drilling operations, the applicant has available oil spill response and clean-up equipment and technology that has been demonstrated to be capable of effectively remediating a worst-case release of oil.

* * * * *

(i) *ENVIRONMENTAL REVIEW OF PLANS.*—The Secretary shall treat the approval of an exploration plan, or a significant revision of such a plan, as an agency action requiring preparation of an environmental assessment or environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and shall require that such plan—

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

(2) contain a technical systems analysis of the safety of the proposed activity, the blowout prevention technology, and the blowout and spill response plans.

(j) *DISAPPROVAL OF PLAN.*—

(1) *IN GENERAL.*—*The Secretary shall disapprove the plan if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—*

(A) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

(B) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(C) the advantages of disapproving the plan outweigh the advantages of exploration.

(2) *CANCELLATION OF LEASE FOR DISAPPROVAL OF PLAN.*—*If a plan is disapproved under this subsection, the Secretary may cancel such lease in accordance with subsection (c)(1) of this section.*

* * * * *

SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs *balance national energy needs and the protection of the marine and coastal environment and all the resources in that environment*, for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which *considers gives equal consideration* to economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) *existing the best available scientific information, including at least three consecutive years of data concerning the geographical, geological, and ecological characteristics of such regions;*

* * * * *

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, *potential and existing sites of renewable energy in-*

stallations, and other anticipated uses of the resources and space of the outer Continental Shelf;

* * * * *

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf *including the availability of infrastructure to support oil spill response.*

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between *minimize* the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone. *damage and adverse impacts on the marine, coastal, and human environments, and enhancing the potential for the discovery of oil and gas.*

* * * * *

(b) The leasing program shall include estimates of the appropriations and staff required to—

(1) obtain *environmental, marine, and energy* resource information and any other information needed to prepare the leasing program required by this section;

(2) analyze and interpret the *environmental, marine, and exploratory* data and any other information which may be compiled under the authority of this Act;

(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirement of applicable laws and regulations, and with the terms of the lease. ;

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

(6) *conduct regular and thorough safety reviews and inspections; and*

(7) *enforce all applicable laws and regulations.*

(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including *the National Oceanic and Atmospheric Administration* and the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected

State for review and comment. *The Secretary shall also submit a copy of such proposed program to the head of each Federal agency referred to in, or that otherwise provided suggestions under, paragraph (1).* The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor *or head of a Federal agency* is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and Governor of any affected State, *or between the Secretary and the head of a Federal agency,* together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

* * * * *

(d)(1) * * *

(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General, *the head of a Federal agency,* or a State or local government was not accepted.

* * * * *

(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. *Such information may include existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf.* Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

* * * * *

(i) RESEARCH AND DEVELOPMENT.—*The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally*

responsible manner. Such research and development activities may include activities to provide accurate estimates of energy and mineral reserves and potential on the Outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

* * * * *

SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas or other mineral development in such area or region.

SEC. 20. ENVIRONMENTAL STUDIES.

(a)(1) *The Secretary, in cooperation with the Secretary of Commerce, shall conduct a study no less than once every three years of any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas or other mineral development in such area or region.*

* * * * *

(c) *The Secretary shall conduct research to identify and reduce data gaps related to impacts of deepwater hydrocarbon spills, including—*

- (1) *effects to benthic substrate communities and species;*
- (2) *water column habitats and species;*
- (3) *surface and coastal impacts from spills originating in deep waters; and*
- (4) *the use of dispersants.*

(c) (d) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

(d) (e) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

(e) (f) As soon as practicable after the end of every 3 fiscal years, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect

of activities conducted under this Act on the human, marine, and coastal environments.

(f) (g) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contract or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, *Within 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010 and every three years thereafter*, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of *under this Act*, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies. *Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010 and every 3 years thereafter, the Secretary shall, in consultation with the Outer Continental Shelf Safety and Environmental Advisory Board established under title I of the Consolidated Land, Energy, and Aquatic Resources Act of 2010, identify and publish an updated list of (1) the best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response and (2) technology needs for which the Secretary intends to identify best available technologies in the future.*

* * * * *

(g) SAFETY CASE.—*Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf. Not later than 5 years after the date final regulations promulgated under this subsection go into effect, and not less than every 5 years thereafter, the Secretary shall enter into an arrangement with the National Academy of Engineer-*

ing to conduct a study to assess the effectiveness of these regulations and to recommend improvements in their administration.

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

(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with exploration for, and development and production of, energy and mineral resources on the outer Continental Shelf, with the primary purpose of informing its role relating to safety, environmental protection, and spill response.

(2) SPECIFIC FOCUS AREAS.—The program under this subsection shall include research and development related to—

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

(B) analysis of industry trends in technology, investment, and frontier areas;

(C) reviews of best available technologies, including those associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

(D) oil spill response and mitigation;

(E) risk associated with human factors;

(F) technologies and methods to reduce the impact of geophysical exploration activities on marine life; and

(G) renewable energy operations.

SEC. 22. ENFORCEMENT.—(a) * * *

(b) It shall be the duty of any holder of a lease or permit under this Act to—

(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized uncontrolled hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

* * * * *

(c) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

(c) INSPECTIONS.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any

environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;

(2) scheduled onsite inspection, at least once a month, of each facility on the outer Continental Shelf engaged in drilling operations and which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;

(3) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations; and

(4) periodic audits of each required safety and environmental management plan, and any associated safety case, both with respect to their implementation at each facility on the outer Continental Shelf for which such a plan or safety case is required and with respect to onshore management support for activities at such a facility.

(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage *each major fire, each major oil spillage, each loss of well control, and any other accident that presented a serious risk to human or environmental safety* occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation, *as a condition of the lease or permit.*

(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation *as a condition of the lease or permit.*

(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this Act. *Any such allegation from any employee of the lessee or any subcontractor of the lessee shall be investigated by the Secretary.*

* * * * *

(g) INFORMATION ON CAUSES AND CORRECTIVE ACTIONS.—For any incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken. All data and reports related to any such incident shall be maintained in a data base available to the public.

(h) OPERATOR'S ANNUAL CERTIFICATION.—

(1) The Secretary, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall require all operators of all new and existing drilling and production operations to annually certify that their operations are being conducted in accordance with applicable law and regulations.

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

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

(B) examined and conducted tests to ensure that the emergency equipment has been function-tested and is capable of addressing emergency situations;

(C) reviewed all rig drilling, casing, cementing, well abandonment (temporary and permanent), completion, and workover practices to ensure that well control is not compromised at any point while emergency equipment is installed on the wellhead;

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

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

(i) CEO ANNUAL CERTIFICATION.—Operators of all drilling and production operations shall annually submit to the Secretary a general statement by the operator's chief executive officer that certifies to the operators' compliance with all applicable laws and operating regulations.

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

SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a) * * *

* * * * *
(c)(1) * * *

* * * * *
(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty 90 days after the date of such action, and (D) promptly

transmits copies of the petition to the Secretary and to the Attorney General.

* * * * *

SEC. 24. REMEDIES AND PENALTIES.—(a) * * *

¿(b)(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this Act, or any term of a lease, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than \$20,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

¿(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

(b)(1) Except as provided in paragraph (2), any person who fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, shall be liable for a civil administrative penalty of not more than \$75,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty of not more than \$150,000 shall be assessed for each day of the continuance of the failure.

(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulations or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than ¿\$100,000 \$10,000,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any moni-

toring devise or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully, *or with willful disregard*, authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

* * * * *

SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in any area of the outer Continental Shelf, ζ other than the Gulf of Mexico, or issued or maintained prior to such date of enactment in any area of the outer Continental Shelf, ζ other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a “plan”) to the Secretary, for approval pursuant to this section.

* * * * *

(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, ζ other than the Gulf of Mexico, unless such lease requires that development and production activities be carried out in accordance with a plan which complies with the requirements of this section.

(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

(1) * * *

* * * * *

(5) an expected rate of development and production and a time schedule for performance; ζ and

(6) a detailed and accurate description of equipment to be used for the drilling of wells pursuant to activities included in the development and production plan, including—

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

(B) a statement of the design and condition of major safety-related pieces of equipment, including independent third-party certification of such equipment; and

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

(7) a scenario for the potential blowout of each well to be drilled as part of the plan involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that

technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons;

(8) an analysis of the potential impacts of the worst-case-scenario discharge on the marine, coastal, and human environments for activities conducted pursuant to the proposed development and production plan;

(9) a comprehensive survey and characterization of the coastal or marine environment within the area of operation, including bathymetry, currents and circulation patterns within the water column, and descriptions of benthic and pelagic environments;

(10) a description of the technologies to be deployed on the facilities to routinely observe and monitor in real time the marine environment throughout the duration of operations, and a description of the process by which such observation data and information will be made available to Federal regulators and to the System established under section 12304 of Public Law 111-11 (33 U.S.C. 3603); and

(11) such other relevant information as the Secretary may by regulation require.

* * * * *

¿(e)(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, to be a major Federal action.

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

* * * * *

¿(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

¿(h) (g)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate

provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to ϵ paragraph (8) of section 5(a) of this Act *paragraph (12) of section 5(a) of this Act*. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to ϵ paragraph (8) of section 5(a) of this Act *paragraph (12) of section 5(a) of this Act*;

* * * * *

(2) *The Secretary shall not approve a development and production plan, or a significant revision to such a plan, unless—*

(A) *the plan is in compliance with all other applicable environmental and natural resource conservation laws; and*

(B) *the applicant has available oil spill response and clean-up equipment and technology that has been demonstrated to be capable of effectively remediating the projected worst-case release of oil from activities conducted pursuant to the development and production plan.*

ϵ (2) (3)(A) * * *

* * * * *

ϵ (3) (4) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

ϵ (i) (h) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

ϵ (j) (i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with sections 5 (c) and (d). Termination of a lease because of

failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

§(k) (j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

§(l) The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this Act, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 4(a)(2) of this Act.

SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe. *, provided that such data shall be transmitted in electronic format either in real-time or as quickly as practicable following the generation of such data.*

* * * * *

§(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

§(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business,

the Secretary shall pay the reasonable cost of reproducing such data and information;

 (ii) by a lessee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

 (iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

 (iv) by the permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary, pursuant to such regulations as he may prescribe.

(C) Lessees engaged in drilling operations shall provide to the Secretary all daily reports generated by the lessee, or any daily reports generated by contractors or subcontractors engaged in or supporting drilling operations on the lessee's lease, no more than 24 hours after the end of the day for which they should have been generated.

* * * * *

SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—
(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas. , *except that the Secretary shall not conduct a regular program to take oil and gas lease royalties in oil or gas.*

* * * * *

SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time
SEC. 29. RESTRICTIONS ON EMPLOYMENT.

(a) IN GENERAL.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule shall—

(1) within two years after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent *or advise*, any other person (except the United States) in any formal or informal appearance before;

(B) *with the intent to influence, make act with the intent to influence, directly or indirectly, or make any oral or written communication on behalf of any other person (except the United States) to; or*

* * * * *

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, *inspection or enforcement action*, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; *or*

(2) within one year after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent *or advise*, any other person (except the United States) in any formal or informal appearance before; *or*

(B) *with the intent to influence*, make *act with the intent to influence, directly or indirectly, or make any oral or written communication on behalf of any other person (except the United States) to,*

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest. ;
or

(3) *during the 2-year period beginning on the date on which the employment of the officer or employee ceased at the Department, accept employment or compensation from any party that has a direct and substantial interest—*

(A) *that was pending under the official responsibility of the officer or employee as an officer at any point during the 2-year period preceding the date of termination of the responsibility; or*

(B) *in which the officer or employee participated personally and substantially as an officer or employee of the Department.*

(b) *PRIOR DEALINGS.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee—*

(1) *the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;*

(2) *any organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee has a financial interest;*

(3) *any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or*

(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee.

(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title 5, Code of Federal Regulations (or successor regulations).

(d) PENALTY.—Any person that violates subsection (a) or (b) shall be punished in accordance with section 216 of title 18, United States Code.

SEC. 30. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which shall issue regulations that shall be supplemental to and complementary with and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the outer Continental Shelf pursuant to section 4(a)(1) of this Act, except insofar as such laws would otherwise apply to individuals who have extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim, and that require that any vessel, rig, platform, or other vehicle or structure—

(1) * * *

* * * * *

(d) BUY AND BUILD AMERICAN.—It is the intention of the Congress that this Act, among other things, result in a healthy and growing American industrial, manufacturing, transportation, and service sector employing the vast talents of America's workforce to assist in the development of energy from the outer Continental Shelf. Moreover, the Congress intends to monitor the deployment of personnel and material on the outer Continental Shelf to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act by good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

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ENERGY POLICY ACT OF 2005

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TITLE III—OIL AND GAS

* * * * *

Subtitle E—Production Incentives

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SEC. 344. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(2) SUSPENSION VOLUMES.—The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(3) DEFINITIONS.— In this subsection:

(A) ULTRA DEEP WELL.—The term “ultra deep well” means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

(B) SIDETRACK.—

(i) IN GENERAL.—The term “sidetrack” means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(ii) INCLUSION.—The term “sidetrack” includes—

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(b) ROYALTY INCENTIVE REGULATIONS FOR DEEP GAS WELLS.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower wa-

ters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

⚭(c) LIMITATIONS.—The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

⚭**SEC. 345. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.**

⚭(a) IN GENERAL.—Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on the date of enactment of this Act shall use the bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

⚭(b) SUSPENSION OF ROYALTIES.—The suspension of royalties under subsection (a) shall be established at a volume of not less than—

- ⚭(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;
- ⚭(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;
- ⚭(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and
- ⚭(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

⚭(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

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Subtitle G—Miscellaneous

* * * * *

SEC. 388. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) * * *

(b) COORDINATED OCS MAPPING INITIATIVE.—

(1) * * *

* * * * *

(4) AVAILABILITY OF DATA AND INFORMATION.—*All heads of departments and agencies of the Federal Government shall, upon request of the Secretary, provide to the Secretary all data and information that the Secretary deems necessary for the purpose of including such data and information in the mapping initiative, except that no department or agency of the Federal*

Government shall be required to provide any data or information that is privileged or proprietary.

* * * * *

SEC. 390. NEPA REVIEW.

(a) NEPA REVIEW.—Action by the Secretary of the Interior in managing the public lands, or the Secretary of Agriculture in managing National Forest System Lands, with respect to any of the activities described in subsection (b) shall be subject to a rebuttable presumption that the use of a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA) would apply if the activity is conducted pursuant to the Mineral Leasing Act for the purpose of exploration or development of oil or gas.

(b) ACTIVITIES DESCRIBED.—The activities referred to in subsection (a) are the following:

(1) Individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.

(2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of spudding the well.

(3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.

(4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.

(5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

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TITLE IX—RESEARCH AND DEVELOPMENT

* * * * *

Subtitle J—Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources

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SEC. 999H. FUNDING.

(a) OIL AND GAS LEASE INCOME.—For each of fiscal years 2007 through 2017, from any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.) which are deposited in the Treasury, and after distribution of any such funds

as described in subsection (c), \$50,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the "Fund"). For purposes of this section, the term "royalties" excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

⚡(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this part without fiscal year limitation, to remain available until expended.

⚡(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

⚡(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

⚡(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

⚡(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

⚡(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

⚡(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

⚡(D) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (as amended by section 384).

⚡(d) (a) ALLOCATION.—Amounts ⚡obligated from the Fund under subsection (a)(1) *available under this section* in each fiscal year shall be allocated as follows:

(1) * * *

* * * * *

⚡(e) (b) AUTHORIZATION OF APPROPRIATIONS.—⚡In addition to other amounts that are made available to carry out this section, there *There* is authorized to be appropriated to carry out this section \$100,000,000 for each of fiscal years 2007 through 2016.

⚡(f) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the "Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund".

* * * * *

MINERAL LEASING ACT

* * * * *

SEC. 17.

⚡(a) All lands subject to disposition under this Act which are known or believed to contain oil or gas deposits may be leased by the Secretary.

⚡(b)(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be

not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

¿(B) The national minimum acceptable bid shall be \$2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

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

(2) Leasing activities under this Act shall be conducted to assure receipt of fair market value for the lands and resources leased and the rights conveyed by the Federal Government.

(b)(1)(A) All lands to be leased shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by sealed bid. Lease sales shall be held for a State on a statewide basis where eligible lands in such States are available no more than 3 times per year per State, unless the Secretary of the Interior determines additional sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary may issue a lease to the responsible qualified bidder with the highest bid that is equal to or greater than the national minimum acceptable bid, with eval-

uation of the value of the lands proposed for lease. The Secretary shall decide whether to accept a bid and issue a lease within 90 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected.

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

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

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

(ii) The proposal or promulgation of any regulation to establish a higher minimum acceptable bid for a State shall not be considered a major Federal action that is subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

* * * * *

⊃(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

⊃(B) An election under this paragraph is effective—

⊃(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

⊃(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

⊃(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

⊃(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

⊃(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

⊃(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

ε(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least \$75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

ε(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

ε(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

ε(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than \$1.50 per acre per year for the first through fifth years of the lease and not less than \$2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

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

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

(B) to promote more efficient management of oil and gas and alternative energy resources on Federal lands.

(2) A minimum royalty in lieu of rental of not less than the rental that otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the land leased.

(e) ε Competitive and noncompetitive leases *Leases issued under this section shall be for a primary term of 10 years: Provided, however, That ε competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land*

on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

¿(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies.

(f)(1) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action to—

(A) the general public by posting such notice in the appropriate local office and on the electronic website of the leasing and land management agencies offering the lands for lease;

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

(C) the holders of special recreation permits for commercial use, competitive events, and other organized activities on the lands being offered for lease.

(2) Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area.

(3) *The requirements of this subsection are in addition to any public notice required by other law.*

¿(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity

has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

(g) *REGULATION OF SURFACE-DISTURBING ACTIVITIES; APPROVAL OF PLAN OF OPERATIONS; BOND OR SURETY; FAILURE TO COMPLY WITH RECLAMATION REQUIREMENTS AS BARRING LEASE; OPPORTUNITY TO COMPLY WITH REQUIREMENTS; STANDARDS; MONITORING.*—

(1) *DEFINITIONS.*—*In this subsection:*

(A) *INTERIM RECLAMATION PLAN.*—*The term “Interim Reclamation Plan” means an ongoing plan specifying reclamation steps to be taken on all disturbed areas covered by any lease issued under this Act which are not needed for active operations. Such Interim Reclamation Plans shall be reviewed by the relevant Secretary at regular intervals and shall be amended as warranted, subject to the approval of the relevant Secretary.*

(B) *FINAL RECLAMATION PLAN.*—*The term “Final Reclamation Plan” includes a detailed description of all reclamation activity to be conducted for all disturbed areas covered by a lease issued under this Act prior to final abandonment. Final Reclamation Plans shall include reclamation of all locations, facilities, trenches, rights-of-way, roads and any other surface disturbance on lands covered by the lease.*

(2) *IN GENERAL.*—*The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources.*

(3) *RECLAMATION PLANS REQUIRED.*—

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

(B) *ANALYSIS AND APPROVAL REQUIRED.*—*No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of both an interim reclamation plan and a final reclamation plan covering proposed surface-disturbing activities within the lease area.*

(C) *PLANS OF OPERATIONS.*—*All Plans of Operations submitted and approved pursuant to this Act shall include an Interim Reclamation Plan.*

(4) *BONDING.*—*The Secretary concerned shall, by regulation, require that an adequate bond, surety, or other financial ar-*

rangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

(5) STANDARDS.—The Secretary of the Interior and the Secretary of Agriculture shall, by regulation, establish uniform standards for all Interim and Final Reclamation Plans. The goal of such plans shall be the restoration of the affected ecosystem to a condition approximating or equal to that which existed prior to the surface disturbance. Such standards shall include, but are not limited to, restoration of natural vegetation and hydrology, habitat restoration, salvage, storage and reuse of topsoils, erosion control, control of invasive species and noxious weeds and natural contouring.

(6) MONITORING.—The Secretary concerned shall not approve final abandonment and shall not release any bond required by this Act until the standards and requirement for final reclamation established pursuant to this Act have been met.

* * * * *

GRANT OF AUTHORITY

SEC. 28. (a) * * *

* * * * *

REPORTS

(w)(1) * * *

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(4) Upon request of a Committee listed under paragraph (2), that Committee may receive notifications under this subsection in electronic format in addition to in writing, or in electronic format alone. The Committee shall designate to the Secretary the appro-

priate individual or individuals on the Committee to receive such electronic notices.

* * * * *
 SEC. 31. (a) * * *
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(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

* * * * *
 (e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

- (1) * * *
- (2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than \$10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary; ;
- (3) (A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16²/₃ percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

ε(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16 $\frac{2}{3}$ percent: *Provided*, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

* * * * *

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement. *Upon request of such a Committee, that Committee may receive notifications under this subsection in electronic format in addition to in writing, or in electronic format alone. The Committee shall designate to the Secretary the appropriate individual or individuals on the Committee to receive such electronic notices.*

ε(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

ε(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

ε(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

ε(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

ε(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

ε(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than \$5 per acre per year;

ε(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

ε(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as εa competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act. *in the same manner as the original lease issued pursuant to section 17.*

ε(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

(3) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of this Act shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this sectionε, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except, , *except that,* upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

* * * * *

SEC. 36. That all royalty accruing to the United States under any oil or gas lease or permit under this Act on demand of the Secretary of the Interior shall be paid in oil or gas, *except that the Secretary shall not conduct a regular program to take oil and gas lease royalties in oil or gas.*

* * * * *

SEC. 44. LEASING OF LANDS FOR URANIUM MINING.

(a) IN GENERAL.—

(1) WITHDRAWAL FROM ENTRY; LEASING REQUIREMENT.—*Effective upon the date of enactment of the Consolidated Land, Energy, and Aquatic Resources Act of 2010, all Federal lands are hereby permanently withdrawn from location and entry under section 2319 of the Revised Statutes (30 U.S.C. 22 et seq.) for uranium. After the end of the 2-year period beginning on*

such date of enactment, no uranium may be produced from Federal lands except pursuant to a lease issued under this Act.

(2) LEASING.—The Secretary—

(A) may divide any lands subject to this Act that are not withdrawn from mineral leasing and that are otherwise available for uranium leasing under applicable law, including lands available under the terms of land use plans prepared by the Federal agency managing the land, into leasing tracts of such size as the Secretary finds appropriate and in the public interest; and

(B) thereafter shall, in the Secretary's discretion, upon the request of any qualified applicant or on the Secretary's own motion, from time to time, offer such lands for uranium leasing and award uranium leases thereon by competitive bidding.

(b) FAIR MARKET VALUE REQUIRED.—

(1) IN GENERAL.—No bid for a uranium lease shall be accepted that is less than the fair market value, as determined by the Secretary, of the uranium subject to the lease.

(2) PUBLIC COMMENT.—Prior to the Secretary's determination of the fair market value of the uranium subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value.

(3) DISCLOSURE NOT REQUIRED.—Nothing in this section shall be construed to require the Secretary to make public the Secretary's judgment as to the fair market value of the uranium to be leased, or the comments the Secretary receives thereon prior to the issuance of the lease.

(c) LANDS UNDER THE JURISDICTION OF OTHER AGENCIES.—Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only—

(1) upon consent of the head of the other Federal agency; and

(2) upon such conditions the head of such other Federal agency may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(d) CONSIDERATION OF EFFECTS OF MINING.—Before issuing any uranium lease, the Secretary shall consider effects that mining under the proposed lease might have on an impacted community or area, including impacts on the environment, on agricultural, on cultural resources, and other economic activities, and on public services.

(e) NOTICE OF PROPOSED LEASE.—No lease sale shall be held for lands until after a notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated, or in electronic format, in accordance with regulations prescribed by the Secretary.

(f) AUCTION REQUIREMENTS.—All lands to be leased under this section shall be leased to the highest responsible qualified bidder—

(1) under general regulations;

(2) in units of not more than 2,560 acres that are as nearly compact as possible; and

(3) by oral bidding.

(g) REQUIRED PAYMENTS.—

(1) *IN GENERAL.*—A lease under this section shall be conditioned upon the payment by the lessee of—

(A) a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold under the lease; and

(B) a rental of—

(i) not less than \$2.50 per acre per year for the first through fifth years of the lease; and

(ii) not less than \$3 per acre per year for each year thereafter.

(2) *USE OF REVENUES.*—Amounts received as revenues under this subsection with respect to a lease may be used by the Secretary of the Interior, subject to the availability of appropriations, for cleaning up uranium mill tailings and reclaiming abandoned uranium mines on Federal lands in accordance with the priorities and eligibility restrictions, respectively, under subsections (c) and (d) of section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a), or may be transferred by the Secretary, subject to the availability of appropriations, to the Attorney General for use by the Attorney General to pay claims filed under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) that the Attorney General determines meet the requirements of that Act.

(h) *LEASE TERM.*—A lease under this section—

(1) shall be effective for a primary term of 10 years; and

(2) shall continue in effect after such primary term for so long as uranium is produced under the lease in paying quantities.

(i) *EXPLORATION LICENSES.*—

(1) *IN GENERAL.*—The Secretary may, under such regulations as the Secretary may prescribe, issue to any person an exploration license. No person may conduct uranium exploration for commercial purposes on lands subject to this Act without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this Act. The issuance of exploration licenses shall not preclude the Secretary from issuing uranium leases at such times and locations and to such persons as the Secretary deems appropriate. No exploration license may be issued for any land on which a uranium lease has been issued. A separate exploration license shall be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall be limited to specific geographic areas in each State as determined by the Secretary, and shall contain such reasonable conditions as the Secretary may require, including conditions to ensure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations. Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

(2) *LIMITATIONS.*—A licensee may not cause substantial disturbance to the natural land surface. A licensee may not remove any uranium for sale but may remove a reasonable amount of uranium from the lands subject to this Act included under the Secretary's license for analysis and study. A licensee must com-

ply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this Act. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(3) SHARING OF DATA.—The licensee shall furnish to the Secretary copies of all data (including geological, geophysical, and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as the Secretary determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

(4) EXPLORATION WITHOUT A LICENSE.—Any person who willfully conducts uranium exploration for commercial purposes on lands subject to this Act without an exploration license issued under this subsection shall be subject to a fine of not more than \$1,000 for each day of violation. All data collected by such person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.

(j) CONVERSION OF MINING CLAIMS TO MINERAL LEASES.—

(1) IN GENERAL.—The owner of any mining claim (in this subsection referred to as a “claimant”) located prior to the date of enactment of the Consolidated Land, Energy, and Aquatic Resources Act of 2010 may, within two years after such date, apply to the Secretary of the Interior to convert the claim to a lease under this section. The Secretary shall issue a uranium lease under this section to the claimant upon a demonstration by the claimant, to the satisfaction of the Secretary, within one year after the date of the application to the Secretary, that the claim was, as of such date of enactment, supported by the discovery of a valuable deposit of uranium on the claimed land. The holder of a lease issued upon conversion from a mining claim under this subsection shall be subject to all the requirements of this section governing uranium leases, except that the holder shall pay a royalty of 6.25 percent on the value of the uranium produced under the lease, until beginning ten years after the date the claim is converted to a lease.

(2) OTHER CLAIMS EXTINGUISHED.—All mining claims located for uranium on Federal lands whose claimant does not apply to the Secretary for conversion to a lease, or whose claimant cannot make such a demonstration of discovery, shall become null and void by operation of law three years after such date of enactment.

SEC. 44. 45. SHORT TITLE.

This Act may be cited as the “Mineral Leasing Act”.

* * * * *

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

* * * * *

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) * * *

* * * * *

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas; including but not limited to the Act of October 20, 1914 (38 Stat. 741); the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); and all Acts heretofore or hereafter enacted that are amendatory of or supplementary to any of the foregoing Acts;

* * * * *

(20) "commence" means—

(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment; Provided, That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to other lessees who may be liable pursuant to section 102(a) of this Act, for the obligation that is the subject of the judicial proceeding; or

(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee (with written notice to the lessee who designated the designee) of the demand;

* * * * *

(23) "demand" means—

(A) an order to pay issued by the Secretary or the applicable delegated State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

* * * * *

(24) "designee" means the person designated by a lessee pursuant to section 102(a) of this Act, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;

(24) "designee" means a person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee must make pursuant to section 102(a);

(25) "obligation" means—

(A) * * *

(B) any duty of a lessee or its designee (subject to the provisions of section 102(a) of this Act) —

(i) * * *

(ii) to pay, offset or credit monies including (but not limited to)—

(I) * * *

* * * * *

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

that arises from or relates to any lease, easement, right-of-way, permit, or other agreement regardless of form administered by the Secretary for, or any mineral leasing law related to, the exploration, production, and development of oil and gas or other energy resource on Federal lands or the Outer Continental Shelf;

* * * * *

(29) "penalty" means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease *or permit* administered by the Secretary;

* * * * *

(32) "underpayment" means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

(33) "United States" means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States . ;

(34) "compliance review" means a full-scope or a limited-scope examination of a lessee's lease accounts to compare one or all elements of the royalty equation (volume, value, royalty rate, and allowances) against anticipated elements of the royalty equation to test for variances; and

(35) "marketing affiliate" means an affiliate of a lessee whose function is to acquire the lessee's production and to market that production.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) * * *

* * * * *

(d) *The Secretary may, as an adjunct to audits of accounts for leases, utilize compliance reviews of accounts. Such reviews shall not constitute nor substitute for audits of lease accounts. Any disparity uncovered in such a compliance review shall be immediately referred to a program auditor. The Secretary shall, before completion of a compliance review, provide notice of the review to designees whose obligations are the subject of the review.*

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102.

§(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this Act to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.

(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease, easement, right-of-way, permit, or other agreement, regardless of form, or under the mineral leasing laws, shall make such payment in the time and manner as may be specified by the Secretary or the applicable delegated State. Any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee must make is the lessee's designee under this Act. Notwithstanding any other provision of this Act to the contrary, a designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease. The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for that person's pro rata share of payment obligations under the lease.

* * * * *

REQUIRED RECORDKEEPING

SEC. 103. (a) * * *

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for §6 7 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

* * * * *

CIVIL PENALTIES

SEC. 109. (a) Any person who—

(1) * * *

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2)

shall be liable for a penalty of up to ζ \$500 $\$1,000$ per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) * * *

(B) after the due notice of violation required in paragraph (1) has been given to such person (i) by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to; and (ii) has not received notice, pursuant to paragraph (1), of more than two prior violations in the current calendar year.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than ζ \$5,000 $\$10,000$ per violation for each day such violation continues, dating from the date of such notice or report.

(c) Any person who—

(1) * * *

(2) fails or refuses to permit lawful entry, inspection, or audit; or, including any failure or refusal to promptly tender requested documents;

* * * * *

shall be liable for a penalty of up to ζ \$10,000 $\$20,000$ per violation for each day such violation continues; ;

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

(5) fails to correctly report and timely provide operations or financial records necessary for the Secretary or any authorized designee of the Secretary to accomplish lease management responsibilities,

(d) Any person who—

(1) * * *

* * * * *

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or ζ by registered mail a common carrier that provides proof of delivery. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

* * * * *

(m)(1) Any determination by the Secretary or a designee of the Secretary that a person has committed a violation under subsection (a), (c), or (d)(1) shall toll any applicable statute of limitations for all oil and gas leases held or operated by such person, until the later of—

(A) the date on which the person corrects the violation and certifies that all violations of a like nature have been corrected for all of the oil and gas leases held or operated by such person; or

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

(2) A person determined by the Secretary or a designee of the Secretary to have violated subsection (a), (c), or (d)(1) shall maintain all records with respect to the person's oil and gas leases until the later of—

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

(B) the expiration of the period during which the records must be maintained under section 103(b).

* * * * *

ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

SEC. 111. (a) * * *

* * * * *

ε(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the sentence following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

ε(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee or its designee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an "excessive overpayment" shall be the amount that any overpayment a lessee or its designee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.

ε(j) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection "estimated payment") that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owed on the underpaid amount. If the estimated payment exceeds the actual royalties due, interest is owed on the overpayment. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.

(h) Interest shall not be allowed nor paid nor credited on any overpayment, and no interest shall accrue from the date such overpayment was made.

(i) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection referred to as the "estimated payment") that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owed on the underpaid amount. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated by the lessee or its designee provided such adjustment, recoupment, or reinstatement is made within the limitation period for which the date royalties were due for that lease.

(k)(1) * * *

* * * * *

(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties due ε or overpaid royalties and associated interest shall be paid ε, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property" means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

* * * * *

SEC. 111A. ADJUSTMENTS AND REFUNDS.

(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

(1) * * *

* * * * *

(3)(A) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

(B) Except as provided in subparagraph (C), no adjustment may be made with respect to an obligation that is the subject of an audit or compliance review after completion of the audit or compliance review, respectively, unless such adjustment is approved by the Secretary or the applicable delegated State, as appropriate.

(C) If an overpayment is identified during an audit, the Secretary shall allow a credit in the amount of the overpayment.

(4) For purposes of this section, the adjustment period for any obligation shall may be the six four-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

(b) REFUNDS.—

(1) IN GENERAL.—A request for refund is sufficient if it—

(A) * * *

* * * * *

(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

(D) provides the reasons why the payment was an overpayment; and

(E) is made within the adjustment period for that obligation.

* * * * *

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on: (a) the exploration, development, or production of oil or gas; and (b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within six months after the date of enactment of this Act.

SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) * * *

* * * * *

(c) OBLIGATION BECOMES DUE.—

(1) * * *

* * * * *

(3) ADJUSTMENTS.—*In the case of an adjustment under section 111A(a) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act the obligation becomes due on the date the lessee or its designee makes the adjustment.*

(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

(2) SUBPOENA.—

(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of subparagraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which (i) the lessee or its designee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or its designee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

* * * * *

(h) APPEALS AND FINAL AGENCY ACTION.—

(1) 33-MONTH PERIOD.—Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 48 months from the date such proceeding was commenced or 33 48 months from the date of such enactment, whichever is later. The 33 48-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 33 48-month period referred to in paragraph (1)—

(A) * * *

* * * * *

SEC. 116. ASSESSMENTS.

Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.

* * * * *

TITLE II—STATES AND INDIAN TRIBES

* * * * *

SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

* * * * *

TITLE III—GENERAL PROVISIONS

* * * * *

RELATION TO OTHER LAWS

SEC. 304. (a) * * *

* * * * *

(e) APPLICABILITY TO OTHER MINERALS.—

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

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

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

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

(3) For the purposes of this subsection, the term "solid mineral" means any mineral other than oil, gas, and geo-pressured-

geothermal resources, that is authorized by an Act of Congress to be produced from public lands (as that term is defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

* * * * *

LAND AND WATER CONSERVATION FUND ACT OF 1965

TITLE I—LAND AND WATER CONSERVATION PROVISIONS

* * * * *

SEC. 2. SEPARATE FUND.—During the period ending September 30, 2015 *September 30, 2040*, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the “fund”, the following revenues and collections:

(a) * * *

* * * * *

(c)(1) OTHER REVENUES.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than \$300,000,000 for fiscal year 1977, and \$900,000,000 for fiscal year 1978 and for each fiscal year thereafter through September 30, 2015 *September 30, 2040*.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): *Provided, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act .*

SEC. 3. APPROPRIATIONS.—Moneys covered into the fund shall be available for expenditure for the purposes of this Act only when appropriated therefor. Such appropriations may be made without fiscal-year limitation. Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act. *Of the moneys covered into the fund, \$900,000,000 shall be available each fiscal year for expenditure for the purposes of this Act without further appropriation. Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.*

* * * * *

SECTION 108 OF THE NATIONAL HISTORIC PRESERVATION ACT OF 1966

SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States.

There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981 and \$150,000,000 for each of fiscal years 1982 through 2015, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation. *To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereinafter referred to as the "fund") in the Treasury of the United States. There shall be covered into the fund \$150,000,000 for fiscal years 1982 through 2040 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338) and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure without further appropriation.*

NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976

* * * * *

TITLE I—NATIONAL PETROLEUM RESERVE IN ALASKA

* * * * *

SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

(a) * * *

* * * * *

(i) TERMS.—

(1) * * *

(2) RENEWAL OF LEASES WITH DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quan-

tities that a prudent operator would hold the lease for potential future development.

⚭(3) RENEWAL OF LEASES WITHOUT DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of \$100 per acre of leased land, and—

⚭(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

⚭(B) all or part of the lease—

⚭(i) is part of a unit agreement covering a lease described in subparagraph (A); and

⚭(ii) has not been previously contracted out of the unit.

⚭(4) APPLICABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

⚭(5) EXPIRATION FOR FAILURE TO PRODUCE.—Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

⚭(6) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

* * * * *

⚭(k) EXPLORATION INCENTIVES.—

⚭(1) IN GENERAL.—

⚭(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

⚭(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005..

⚭(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may direct or assent to the suspension of operations and production on any lease or unit.

ε(3) SUSPENSION OF PAYMENTS.—If the Secretary, in the interest of conservation, shall direct or assent to the suspension of operations and production on any lease or unit, any payment of acreage rental or minimum royalty prescribed by such lease or unit likewise shall be suspended during the period of suspension of operations and production, and the term of such lease shall be extended by adding any such suspension period to the lease.

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**NATIONAL WILDLIFE REFUGE SYSTEM
ADMINISTRATION ACT OF 1966**

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SEC. 4. (a) * * *

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(p) DESTRUCTION OR LOSS OF, OR INJURY TO, REFUGE RESOURCES.—

(1) LIABILITY.—

(A) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any refuge resource is liable to the United States for an amount equal to the sum of—

- (i) the amount of the response costs and damages resulting from the destruction, loss, or injury; and
- (ii) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

(B) LIABILITY IN REM.—Any instrumentality, including a vessel, vehicle, aircraft, or other equipment, that destroys, causes the loss of, or injures any refuge resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subparagraph (A).

(C) DEFENSES.—A person is not liable under this paragraph if that person establishes that—

- (i) the destruction or loss of, or injury to, the refuge resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;
- (ii) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or
- (iii) the destruction, loss, or injury was negligible.

(D) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or section 30706 of title 46, United States Code, shall limit the liability of any person under this section.

(2) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, refuge resources, or to minimize the imminent risk of such destruction, loss, or injury.

(3) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—

(A) IN GENERAL.—The Attorney General, upon request of the Secretary, may commence a civil action against any

person or instrumentality who may be liable under paragraph (1) for response costs and damages. The Secretary, acting as trustee for refuge resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(B) *JURISDICTION AND VENUE.*—An action under this subsection may be brought in the United States district court for any district in which—

- (i) the defendant is located, resides, or is doing business, in the case of an action against a person;
- (ii) the instrumentality is located, in the case of an action against an instrumentality; or
- (iii) the destruction of, loss of, or injury to a refuge resource occurred.

(4) *USE OF RECOVERED AMOUNTS.*—Response costs and damages recovered by the Secretary under this subsection shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)) and used as follows:

(A) *RESPONSE COSTS.*—Amounts recovered by the United States for costs of response actions and damage assessments under this subsection shall be used, as the Secretary considers appropriate—

- (i) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and
- (ii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any refuge resource.

(B) *OTHER AMOUNTS.*—All other amounts recovered shall be used, in order of priority—

- (i) to restore, replace, or acquire the equivalent of the refuge resources that were the subject of the action, including the costs of monitoring the refuge resources;
- (ii) to restore degraded refuge resources of the refuge that was the subject of the action, giving priority to refuge resources that are comparable to the refuge resources that were the subject of the action; and
- (iii) to restore degraded refuge resources of other refuges.

(5) *DEFINITIONS.*—In this subsection, the term—

(A) “damages” includes—

(i) compensation for—

(I)(aa) the cost of replacing, restoring, or acquiring the equivalent of a refuge resource; and

(bb) the value of the lost use of a refuge resource pending its restoration or replacement or the acquisition of an equivalent refuge resource; or

(II) the value of a refuge resource if the refuge resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(ii) the cost of conducting damage assessments;

(iii) the reasonable cost of monitoring appropriate to the injured, restored, or replaced refuge resource; and

(iv) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a refuge resource;

(B) "response costs" means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, refuge resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability, or to monitor ongoing effects of incidents causing such destruction, loss, or injury under this subsection; and

(C) "refuge resource" means any living or nonliving resource of a refuge that contributes to the conservation, management, and restoration mission of the System, including living or nonliving resources of a marine national monument that may be managed as a unit of the System.

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COASTAL ZONE MANAGEMENT ACT OF 1972

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SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RESPONSE AND PLANNING.

(a) GRANTS TO STATES.—The Secretary may make grants to eligible coastal states—

(1) to revise management programs approved under section 306 (16 U.S.C. 1455) to identify and implement new enforceable policies and procedures to ensure sufficient response capabilities at the state level to address the environmental, economic and social impacts of oil spills or other accidents resulting from Outer Continental Shelf energy activities with the potential to affect any land or water use or natural resource of the coastal zone; and

(2) to review and revise where necessary applicable enforceable policies within approved state management programs affecting coastal energy activities and energy to ensure that these policies are consistent with—

(A) other emergency response plans and policies developed under Federal or State law; and

(B) new policies and procedures developed under paragraph (1); and

(3) after a State has adopted new or revised enforceable policies and procedures under paragraphs (1) and (2)—

(A) the State shall submit the policies and procedures to the Secretary; and

(B) the Secretary shall notify the State whether the Secretary approves or disapproves the incorporation of the policies and procedures into the State's management program pursuant to section 306(e).

(b) ELEMENTS.—New enforceable policies and procedures developed by coastal states with grants awarded under this section shall consider, but not be limited to—

(1) other existing emergency response plans, procedures and enforceable policies developed under other Federal or State law that affect the coastal zone;

(2) identification of critical infrastructure essential to facilitate spill or accident response activities;

(3) identification of coordination, logistics and communication networks between Federal and State government agencies, and between State agencies and affected local communities, to ensure the efficient and timely dissemination of data and other information;

(4) inventories of shore locations and infrastructure and equipment necessary to respond to oil spills or other accidents resulting from Outer Continental Shelf energy activities;

(5) identification and characterization of significant or sensitive marine ecosystems or other areas possessing important conservation, recreational, ecological, historic, or aesthetic values;

(6) inventories and surveys of shore locations and infrastructure capable of supporting alternative energy development; and

(7) other information or actions as may be necessary.

(c) **GUIDELINES.**—The Secretary shall, within 180 days after the date of enactment of this section and after consultation with the coastal states, publish guidelines for the application for and use of grants under this section.

(d) **PARTICIPATION.**—A coastal state shall provide opportunity for public participation in developing new enforceable policies and procedures under this section pursuant to sections 306(d)(1) and 306(e), especially by relevant Federal agencies, other coastal state agencies, local governments, regional organizations, port authorities, and other interested parties and stakeholders, public and private, that are related to, or affected by Outer Continental Shelf energy activities.

(e) **ANNUAL GRANTS.**—

(1) **IN GENERAL.**—For each of fiscal years 2011 through 2015, the Secretary may make a grant to a coastal state to develop new enforceable polices and procedures as required under this section.

(2) **GRANT AMOUNTS AND LIMIT ON AWARDS.**—The amount of any grant to any one coastal State under this section shall not exceed \$750,000 for any fiscal year. No coastal state may receive more than two grants under this section.

(3) **NO STATE MATCHING CONTRIBUTION REQUIRED.**—As it is in the national interest to be able to respond efficiently and effectively at all levels of government to oil spills and other accidents resulting from Outer Continental Shelf energy activities, a coastal state shall not be required to contribute any portion of the cost of a grant awarded under this section.

(4) **SECRETARIAL REVIEW AND LIMIT ON AWARDS.**—After an initial grant is made to a coastal state under this section, no subsequent grant may be made to that coastal state under this section unless the Secretary finds that the coastal state is satisfactorily developing revisions to address offshore energy impacts. No coastal state is eligible to receive grants under this section for more than 2 fiscal years.

(f) *APPLICABILITY.*—The requirements of this section shall only apply if appropriations are provided to the Secretary to make grants under this section. This section shall not be construed to convey any new authority to any coastal state, or repeal or supersede any existing authority of any coastal state, to regulate the siting, licensing, leasing, or permitting of energy facilities in areas of the Outer Continental Shelf under the administration of the Federal Government. Nothing in this section repeals or supersedes any existing coastal state authority.

(g) *ASSISTANCE BY THE SECRETARY.*—The Secretary as authorized under section 310(a) and to the extent practicable, shall make available to coastal states the resources and capabilities of the National Oceanic and Atmospheric Administration to provide technical assistance to the coastal states to prepare revisions to approved management programs to meet the requirements under this section.

GEOTHERMAL STEAM ACT OF 1970

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SEC. 4. LEASING PROCEDURES.

(a) * * *

(b) **COMPETITIVE LEASE SALE REQUIRED.**—

(1) * * *

* * * * *

(4) **ADJOINING LANDS.**—

(A) *IN GENERAL.*—An area of qualified Federal lands that adjoins other lands for which a qualified lessee holds a legal right to develop geothermal resources may be available for noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—

(i) the area of qualified Federal lands—

(I) consists of not less than 1 acre, and not more than 640 acres; and

(II) is not already leased under this Act or nominated to be leased under subsection (a);

(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under subclause (I) of clause (iii); and

(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the relevant Federal land management agency that would engender a belief in individuals who are experienced in the subject matter that—

(I) there is a valid discovery of geothermal resources on the lands for which the qualified lessee holds the legal right to develop geothermal resources; and

(II) such thermal feature extends into the adjoining areas.

(B) **DETERMINATION OF FAIR MARKET VALUE.**—

(i) *IN GENERAL.*—The Secretary shall—

(I) publish a notice of any request to lease land under this paragraph;

(II) determine fair market value for purposes of this paragraph in accordance with procedures for making such determinations that are established by regulations issued by the Secretary;

(III) provide to a qualified lessee and publish any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph;

(IV) provide to such qualified lessee the opportunity to appeal such proposed determination within the 30-day period after it is provided to the qualified lessee; and

(V) provide to any interested member of the public the opportunity to appeal such proposed determination in accordance with the process set forth in parts 4, 1840, and 3200.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of the Geothermal Production Expansion Act) within the 30-day period after it published.

(ii) LIMITATION ON NOMINATION.—After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.

(iii) REGULATIONS: DEADLINE; PUBLICATION OF PROPOSED REGULATIONS.—The regulations required under clause (i) shall be issued by not later than 90 days after the date of enactment of this Act, and after publication of, and an opportunity for public comment on, the proposed regulations.

(C) DEFINITIONS.—In this paragraph—

(i) the term “fair market value per acre” means a dollar amount per acre that—

(I) except as provided in this clause, shall be equal to the market value per acre as determined by the Secretary under regulations under this paragraph;

(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later than the end of the 90-day period beginning on the date the Secretary receives an application for the lease; and

(III) shall be not less than the greater of—

(aa) four times the median amount paid per acre for all lands leased under this Act in the preceding year; or

(bb) \$50;

(ii) the term “industry standards” means the standards by which a qualified geothermal professional assesses whether downhole or flowing temperature measurements with indications of permeability are sufficient to produce energy from geothermal resources as deter-

mined through flow or injection testing or measurement of lost circulation while drilling;

(iii) the term "qualified Federal lands" means lands that are otherwise available for leasing under this Act;

(iv) the term "qualified geothermal professional" means an individual who is an engineer or geoscientist in good professional standing with at least five years of experience in geothermal exploration, development, project assessment, or any combination of the forgoing;

(v) the term "qualified lessee" means a person that may hold a geothermal lease under part 3202.10 of title 43, Code of Federal Regulations, as in effect on the date of enactment of the Geothermal Production Expansion Act; and

(vi) the term "valid discovery" means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability sufficient to meet industry standards.

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DISSENTING VIEWS

When it comes to the Gulf oil spill, it couldn't be clearer what the focus of Congress should be right now: making certain the well is permanently capped, the oil is cleaned up, BP is held fully responsible, that the people of the Gulf states get all the support they need, and that we get to the bottom of what happened so we can make the informed and complete reforms needed to ensure American offshore drilling is the safest in the world.

Unfortunately, this bill does not have this focus and does not achieve these priorities. In fact, what this bill actually does is totally ignore efforts to get to the bottom of why this spill happened. And it uses the oil spill as an opportunity to try and pass page after page of new rules and laws on matters totally unrelated to the oil spill or offshore drilling.

This bill makes major rewrites to offshore drilling policies without knowing the results of the numerous ongoing investigations. Reforms are clearly needed, but Congress shouldn't get ahead of the facts. To ensure it makes the right reforms, Congress must first know exactly what caused and contributed to this disaster. There is so much that isn't yet known. For example, the fail safe device of the Deepwater Horizon rig—the blowout preventer—is still a mile under the ocean. Specific changes to the law may be needed relating to blowout preventer devices, but how do we know what changes are needed if the failed equipment hasn't yet been retrieved or examined? Why have a Presidential Commission, and why did the House pass bills giving the Commission subpoena authority and millions of dollars to do its work, if this bill and the Committee aren't willing to consider their findings on what happened? Not to mention the multiple other investigations that are underway.

Even more outrageous is this bill's attempt to use the oil spill tragedy as leverage to enact totally unrelated policies and increase federal spending on unrelated programs by billions of dollars. What does a solar panel in Nevada, a wind turbine in Montana, uranium for nuclear power, or a ban on fish farming have to do with the Gulf spill? Nothing—but the spill is a good excuse to try and pass otherwise stalled or unpopular new laws.

This is precisely the motivation behind the Administration's call to use the oil spill to pass cap-and-trade legislation and this legislation helps accomplish that goal. This is supposedly an oil spill bill, but instead it is loaded up with unrelated programs simply to setup a vehicle to add a job-killing cap-and-trade national energy tax. Where is the assurance and promise that the Waxman-Markey or Kerry-Lieberman national energy tax bills won't ride this legislation over the finish line? There isn't any. What we do have is a prime time Oval Office speech by the President where he outlined his support for just such a plan.

And all of these changes in the bill—those that refuse to wait for the facts on what caused this tragedy, and those that seek to monopolize on the disaster to enact new, unrelated policies and spending—there is no understanding of what impact they will have on jobs and the economy. In these tough economic times and with the Gulf Coast already reeling from the spill, Congress should know what effect proposed new laws would have on American jobs, the economy, and hurting Gulf Coast families and communities. Congress should be acting to improve the situation in the Gulf, not make it worse. Congress must take the care to ensure that reforms, especially the many premature and unrelated ones in this bill, will not cause greater economic damage than what is already being felt in the Gulf and across the nation.

At the Committee markup of this bill, Republicans attempted to refocus this bill on the primary goals of restoring the Gulf and reorganizing the former Minerals Management Service. The restoration of the Gulf is a step that Congress can take now, and the reorganization is a step that Congress can take now. The rest of the original bill are either steps that are premature while the investigations are taking place, or steps that have nothing to do with responding to the Gulf disaster. Congress shouldn't rush ahead of the facts or exploit this oil spill tragedy.

DOC HASTINGS.