

112TH CONGRESS
1ST SESSION

H. R. 909

To expand domestic fossil fuel production, develop more nuclear power, and expand renewable electricity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2011

Mr. NUNES (for himself, Mr. SHIMKUS, Mr. RYAN of Wisconsin, Mr. SIMPSON, Mr. BISHOP of Utah, Mr. McKEON, Mr. DREIER, Mr. LUCAS, Mrs. McMORRIS RODGERS, Mr. ROGERS of Michigan, Mr. ROSKAM, Mr. BACHUS, Mr. BENISHEK, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CANSECO, Mr. COFFMAN of Colorado, Mr. COLE, Mr. CRAVAACK, Mr. CULBERSON, Mr. DUNCAN of Tennessee, Mrs. EMERSON, Mr. FINCHER, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. GRIMM, Mr. HARPER, Mr. HERGER, Mr. HUIZENGA of Michigan, Ms. JENKINS, Mr. KING of Iowa, Mr. LATOURETTE, Mrs. LUMMIS, Mr. MARCHANT, Mr. McCOTTER, Mr. MCHENRY, Mrs. MILLER of Michigan, Mr. PEARCE, Mr. POE of Texas, Mr. REHBERG, Mr. SCHOCK, Mr. SESSIONS, Mr. SHUSTER, Mr. SULLIVAN, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. TIBERI, Mr. TIPTON, Mr. WALBERG, Mr. WESTMORELAND, Mr. WOMACK, Mr. YODER, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Oversight and Government Reform, Ways and Means, Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To expand domestic fossil fuel production, develop more nuclear power, and expand renewable electricity, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as “A
 5 Roadmap for America’s Energy Future”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMERICAN ENERGY

Sec. 100. Findings.

Subtitle A—Outer Continental Shelf

- Sec. 101. Leasing program considered approved.
- Sec. 102. Outer Continental Shelf lease sales.
- Sec. 103. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 104. Determination of Adjacent Zones and OCS Planning Areas.
- Sec. 105. Outer Continental Shelf leasing program.
- Sec. 106. Coordination with Adjacent States.
- Sec. 107. Environmental studies.
- Sec. 108. Outer Continental Shelf incompatible use.
- Sec. 109. Repurchase of certain leases.
- Sec. 110. Offsite environmental mitigation.

Subtitle B—Arctic National Wildlife Refuge

- Sec. 121. Definitions.
- Sec. 122. Leasing program for lands within the Coastal Plain.
- Sec. 123. Lease sales.
- Sec. 124. Grant of leases by the Secretary.
- Sec. 125. Lease terms and conditions.
- Sec. 126. Coastal Plain environmental protection.
- Sec. 127. Expedited judicial review.
- Sec. 128. Federal and State distribution of revenues.
- Sec. 129. Rights-of-way across the Coastal Plain.
- Sec. 130. Conveyance.
- Sec. 131. Local government impact aid and community service assistance.

Subtitle C—Oil Shale

Sec. 141. Oil shale.

Subtitle D—Coal-to-Liquid

- Sec. 151. Development and operation of facilities.
- Sec. 152. Definitions relating to coal-to-liquid fuel and facilities.
- Sec. 153. Repeal.

Subtitle E—Nuclear

- Sec. 161. Findings and policy.
- Sec. 162. 200 operating permits by 2040.
- Sec. 163. Repeal of Office of Civilian Radioactive Waste Management.
- Sec. 164. Radiological material repository.
- Sec. 165. Independent radiological material management.
- Sec. 166. Spent nuclear fuel recycling.
- Sec. 167. Nuclear fuel supply reserve.
- Sec. 168. Public health and safety.
- Sec. 169. Streamlining Combined Construction and Operating License.
- Sec. 170. Reactor design certification.
- Sec. 171. Technology-neutral plant design specifications.
- Sec. 172. Additional funding and personnel resources.
- Sec. 173. National Nuclear Energy Council.
- Sec. 174. Next Generation Nuclear Plant.
- Sec. 175. Uranium mining on Federal lands.
- Sec. 176. Small and modular reactor licensing.
- Sec. 177. Limitation on regulatory time frame.
- Sec. 178. Definition.

TITLE II—AMERICAN-MADE ENERGY TRUST FUND

- Sec. 201. Establishment of American-Made Energy Trust Fund.

TITLE III—REVERSE AUCTION MECHANISM FOR RENEWABLE ENERGY GENERATION AND FOR RENEWABLE FUEL PRODUCTION

- Sec. 301. Reverse auction mechanism for renewable energy generation.

TITLE IV—PROHIBITION OF CONSIDERATION OF GREENHOUSE GAS

- Sec. 401. Clean Air Act regulation.
- Sec. 402. Endangered Species Act regulation.

1 **TITLE I—AMERICAN ENERGY**

2 **SEC. 100. FINDINGS.**

3 The Congress finds the following:

4 (1) The United States contains abundant oil
5 and gas resources located within its lands.

6 (2) Development of domestic oil and gas re-
7 sources can be accomplished in a safe and environ-
8 mentally responsible manner.

9 (3) Increased development of domestic oil and
10 gas resources could significantly boost economic
11 growth, provide permanent well-paying jobs, and

1 serve as a significant revenue source to the Federal
2 Government.

3 (4) The United States Geological Survey esti-
4 mates that the Arctic National Wildlife Refuge con-
5 tains a mean expected value of 10.4 billion barrels
6 of technically recoverable oil.

7 (5) The Minerals Management Service esti-
8 mated there are 85 billion undiscovered, technically
9 recoverable barrels of oil and 420 trillion cubic feet
10 of natural gas in the outer Continental Shelf of the
11 United States.

12 (6) The Minerals Management Service esti-
13 mated that less than 0.001 percent of oil produced
14 on the outer Continental Shelf of the United States
15 since 1980 has been spilled.

16 (7) The National Academy of Sciences has esti-
17 mated that less than 1 percent of petroleum in
18 American waters is from drilling and extraction, and
19 that 63 percent is from natural seepage.

20 **Subtitle A—Outer Continental** 21 **Shelf**

22 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

23 (a) IN GENERAL.—The Draft Proposed Outer Conti-
24 nental Shelf (OCS) Oil and Gas Leasing Program 2010–
25 2015 released by the Secretary of the Interior (referred

1 to in this section as the “Secretary”) in January 2009,
2 under section 18 of the Outer Continental Shelf Lands
3 Act (43 U.S.C. 1344), is considered to have been approved
4 by the Secretary as a final oil and gas leasing program
5 under that section, and is considered to be in full compli-
6 ance with and in accordance with all requirements of the
7 Outer Continental Shelf Lands Act, National Environ-
8 mental Policy Act of 1969, Endangered Species Act of
9 1973, Clean Air Act, Marine Mammal Protection Act of
10 1972, Oil Pollution Act of 1990, and all other applicable
11 laws.

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

19 **SEC. 102. OUTER CONTINENTAL SHELF LEASE SALES.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), not later than 30 days after the date of enactment
22 of this Act and every 270 days thereafter, the Secretary
23 of the Interior (referred to in this section as the “Sec-
24 retary”) shall conduct a lease sale in each outer Conti-
25 nental Shelf area for which the Secretary determines that

1 there is a commercial interest in purchasing Federal oil
2 and gas leases for production on the outer Continental
3 Shelf.

4 (b) SUBSEQUENT DETERMINATIONS AND SALES.—If
5 the Secretary determines that there is not a commercial
6 interest in purchasing Federal oil and gas leases for pro-
7 duction on the outer Continental Shelf in an area under
8 subsection (a), not later than 2 years after the date of
9 such determination, and every 2 years thereafter, the Sec-
10 retary shall—

11 (1) reevaluate whether there is commercial in-
12 terest in purchasing Federal oil and gas leases for
13 production on the outer Continental Shelf in the
14 area; and

15 (2) if the Secretary determines that there is a
16 commercial interest described in paragraph (1), con-
17 duct a lease sale in the area.

18 (c) PROCEEDS OF LEASE SALES FROM NEWLY OPEN
19 AREAS.—Notwithstanding section 9 of the Outer Conti-
20 nental Shelf Lands Act (43 U.S.C. 1338), the Federal
21 share of any proceeds resulting from a lease sale con-
22 ducted under this section with respect to an outer Conti-
23 nental Shelf area that is made open for lease sales pursu-
24 ant to section 101, and that was not open for lease sales
25 prior to the enactment of this Act, shall be deposited in

1 the American-Made Energy Trust Fund established in
2 section 9512 of the Internal Revenue Code of 1986 (as
3 added by title II).

4 **SEC. 103. DEFINITIONS UNDER THE OUTER CONTINENTAL**
5 **SHELF LANDS ACT.**

6 Section 2 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1331) is amended—

8 (1) in the matter preceding subsection (a), by
9 striking “When used in this Act—” and inserting
10 “In this Act.”;

11 (2) in subsection (a), by inserting after “con-
12 trol” the following: “, or lying within the United
13 States exclusive economic zone adjacent to the Terri-
14 tories of the United States”;

15 (3) by amending subsection (f) to read as fol-
16 lows:

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

19 (4) by striking the semicolon at the end of each
20 of subsections (a) through (o) and inserting a pe-
21 riod;

22 (5) by striking “; and” at the end of subsection
23 (p) and inserting a period; and

24 (6) by adding at the end the following:

1 “(r) The term ‘Adjacent State’ means, with respect
2 to any program, plan, lease sale, leased tract, or other ac-
3 tivity, proposed, conducted, or approved pursuant to the
4 provisions of this Act, any State the laws of which are
5 declared, pursuant to section 4(a)(2), to be the law of the
6 United States for the portion of the outer Continental
7 Shelf to which such program, plan, lease sale, or leased
8 tract appertains or on which such activity is, or is pro-
9 posed to be, conducted. For purposes of this paragraph,
10 the term ‘State’ includes the Commonwealth of Puerto
11 Rico, the Commonwealth of the Northern Mariana Is-
12 lands, the Virgin Islands, American Samoa, Guam, and
13 the other Territories of the United States.

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

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

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

1 **SEC. 104. DETERMINATION OF ADJACENT ZONES AND OCS**
2 **PLANNING AREAS.**

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

19 **SEC. 105. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

20 Section 18 of the Outer Continental Shelf Lands Act
21 (43 U.S.C. 1344) is amended—

22 (1) in subsection (a), by adding at the end of
23 paragraph (3) the following: “The Secretary shall, in
24 each 5-Year Program, include lease sales that when
25 viewed as a whole propose to offer for oil and gas
26 leasing at least 75 percent of the available unleased

1 acreage within each OCS Planning Area. Available
2 unleased acreage is that portion of the outer Conti-
3 nental Shelf that is not under lease at the time of
4 the proposed lease sale, and has not otherwise been
5 made unavailable for leasing by law.”;

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

8 “(c)(1) During the preparation of any proposed leas-
9 ing program under this section, the Secretary shall con-
10 sider and analyze leasing throughout the entire outer Con-
11 tinental Shelf without regard to any other law affecting
12 such leasing. During this preparation, the Secretary shall
13 invite and consider suggestions from any interested Fed-
14 eral agency, including the Attorney General, in consulta-
15 tion with the Federal Trade Commission, and from the
16 Governor of any coastal State. The Secretary may also in-
17 vite or consider any suggestions from the executive of any
18 local government in a coastal State that have been pre-
19 viously submitted to the Governor of such State, and from
20 any other person. Further, the Secretary shall consult
21 with the Secretary of Defense regarding military oper-
22 ational needs in the outer Continental Shelf. The Sec-
23 retary shall work with the Secretary of Defense to resolve
24 any conflicts that might arise regarding offering any area
25 of the outer Continental Shelf for oil and gas leasing. If

1 the Secretaries are not able to resolve all such conflicts,
2 any unresolved issues shall be elevated to the President
3 for resolution.

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

1 denying such request in whole or in part, or granting such
2 request in such modified form as the Secretary considers
3 appropriate, and stating the Secretary’s reasons therefor.
4 All such correspondence between the Secretary and the
5 Governor of any affected State, together with any addi-
6 tional information and data relating thereto, shall accom-
7 pany such proposed program when it is submitted to the
8 Congress.”; and

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

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

17 “(1) provide to each Adjacent State a current
18 estimate of proven and potential oil and gas re-
19 sources located within the State’s Adjacent Zone;
20 and

21 “(2) provide to each Adjacent State, and coast-
22 al political subdivisions thereof, a best efforts projec-
23 tion of the OCS Receipts that the Secretary expects
24 will be shared with each Adjacent State, and its
25 coastal political subdivisions, using the assumption

1 that the unleased tracts within the State’s Adjacent
2 Zone are fully made available for leasing, including
3 long-term projected OCS Receipts. In addition, the
4 Secretary shall include a macroeconomic estimate of
5 the impact of such leasing on the national economy
6 and each State’s economy, including investment,
7 jobs, revenues, personal income, and other cat-
8 egories.”.

9 **SEC. 106. COORDINATION WITH ADJACENT STATES.**

10 Section 19 of the Outer Continental Shelf Lands Act
11 (43 U.S.C. 1345) is amended—

12 (1) in subsection (a) in the first sentence by in-
13 serting “, for any tract located within the Adjacent
14 State’s Adjacent Zone,” after “government”; and

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

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

1 of operation is from areas of the Adjacent State's Adja-
2 cent Zone.

3 “(2) No State may prohibit the construction within
4 its Adjacent Zone or its State waters of a natural gas pipe-
5 line that will transport natural gas produced from the
6 outer Continental Shelf. However, an Adjacent State may
7 prevent a proposed natural gas pipeline landing location
8 if it proposes two alternate landing locations in the Adja-
9 cent State, acceptable to the Adjacent State, located with-
10 in 50 miles on either side of the proposed landing loca-
11 tion.”.

12 **SEC. 107. ENVIRONMENTAL STUDIES.**

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

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

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

17 “(2) For all programs, lease sales, leases, and
18 actions under this Act, the following shall apply re-
19 garding the application of the National Environ-
20 mental Policy Act of 1969:

21 “(A) Granting or directing lease suspen-
22 sions and the conduct of all preliminary activi-
23 ties on outer Continental Shelf tracts, including
24 seismic activities, are categorically excluded
25 from the need to prepare either an environ-

1 mental assessment or an environmental impact
2 statement, and the Secretary shall not be re-
3 quired to analyze whether any exceptions to a
4 categorical exclusion apply for activities con-
5 ducted under the authority of this Act.

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

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

21 “(D) Within each OCS Planning Area,
22 after the preparation of the first development
23 and production plan environmental impact
24 statement for a leased tract within the Area, fu-
25 ture development and production plans for

1 leased tracts within the Area shall only require
2 the preparation of an environmental assessment
3 unless the most recent development and produc-
4 tion plan environmental impact statement with-
5 in the Area was finalized more than 10 years
6 prior to the date of the approval of the plan, in
7 which case an environmental impact statement
8 shall be required.”.

9 **SEC. 108. OUTER CONTINENTAL SHELF INCOMPATIBLE**
10 **USE.**

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

20 (b) **EXCEPTIONS.**—Subsection (a) shall not apply to
21 any facility, transportation corridor, or operating area the
22 construction, operation, designation, or maintenance of
23 which is or will be—

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

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

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

9 **SEC. 109. REPURCHASE OF CERTAIN LEASES.**

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

20 (b) **REGULATIONS.**—Not later than 365 days after
21 the date of the enactment of this Act, the Secretary shall
22 publish a final regulation stating the conditions under
23 which a lease referred to in subsection (a) would qualify
24 for repurchase and cancellation, and the process to be fol-
25 lowed regarding such repurchase and cancellation.

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

4 **SEC. 110. OFFSITE ENVIRONMENTAL MITIGATION.**

5 Notwithstanding any other provision of law, any per-
6 son conducting activities under the Mineral Leasing Act
7 (30 U.S.C. 181 et seq.), the Geothermal Steam Act of
8 1970 (30 U.S.C. 1001 et seq.), the Mineral Leasing Act
9 for Acquired Lands (30 U.S.C. 351 et seq.), the Act of
10 March 1, 1911 (commonly known as the Weeks Law) (36
11 Stat. 961; ch. 186), the Act of May 10, 1872 (commonly
12 known as the General Mining Act of 1872) (17 Stat. 91;
13 30 U.S.C. 22 et seq.), the Act of July 31, 1947 (commonly
14 known as the Materials Act of 1947) (61 Stat. 681; 30
15 U.S.C. 601 et seq.), or the Outer Continental Shelf Lands
16 Act (43 U.S.C. 1331 et seq.), may in satisfying any miti-
17 gation requirements associated with such activities pro-
18 pose mitigation measures on a site away from the area
19 impacted, and the Secretary of the Interior shall accept
20 these proposed measures if the Secretary finds that they
21 generally achieve the purposes for which mitigation meas-
22 ures appertained.

1 **Subtitle B—Arctic National Wildlife**
2 **Refuge**

3 **SEC. 121. DEFINITIONS.**

4 In this subtitle:

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

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

11 **SEC. 122. LEASING PROGRAM FOR LANDS WITHIN THE**
12 **COASTAL PLAIN.**

13 (a) **IN GENERAL.**—The Secretary shall take such ac-
14 tions as are necessary—

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

24 (2) to administer the provisions of this subtitle
25 through regulations, lease terms, conditions, restric-

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

14 (b) REPEAL.—

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

18 (2) CONFORMING AMENDMENT.—The table of
19 contents in section 1 of such Act is amended in the
20 item relating to section 1003 by striking “Prohibi-
21 tion on development” and inserting “Repealed”.

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

24 (1) COMPATIBILITY.—For purposes of the Na-
25 tional Wildlife Refuge System Administration Act of

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

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

24 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
25 TIONS.—Before conducting the first lease sale under

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

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

4 (e) SPECIAL AREAS.—

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

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

19 (3) EXCLUSION FROM LEASING OR SURFACE
20 OCCUPANCY.—The Secretary may exclude any Spe-
21 cial Area from leasing. The Secretary may only lease
22 a Special Area, or any part thereof, for purposes of
23 oil and gas exploration, development, production, or
24 related activities, if there is no surface occupancy of
25 the lands comprising the Special Area.

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

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

12 (g) REGULATIONS.—

13 (1) IN GENERAL.—The Secretary shall pre-
14 scribe such regulations as may be necessary to carry
15 out this subtitle, including rules and regulations re-
16 lating to protection of the fish and wildlife, their
17 habitat, the subsistence resources, and the environ-
18 ment of the Coastal Plain, by not later than 15
19 months after the date of enactment of this Act.

20 (2) REVISION OF REGULATIONS.—The Sec-
21 retary shall periodically review and, if appropriate,
22 revise the rules and regulations issued under sub-
23 section (a) to reflect any significant biological, envi-
24 ronmental, or engineering data that come to the Sec-
25 retary's attention.

1 **SEC. 123. LEASE SALES.**

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

6 (b) **PROCEDURES.**—The Secretary shall, by regula-
7 tion, establish procedures for—

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

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

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

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

19 (d) **ACREAGE MINIMUM IN FIRST SALE.**—In the first
20 lease sale under this subtitle, the Secretary shall offer for
21 lease those tracts the Secretary considers to have the
22 greatest potential for the discovery of hydrocarbons, tak-
23 ing into consideration nominations received pursuant to
24 subsection (b)(1), but in no case less than 200,000 acres.

25 (e) **TIMING OF LEASE SALES.**—The Secretary
26 shall—

1 (1) conduct the first lease sale under this sub-
2 title not later than 22 months after the date of the
3 enactment of this Act;

4 (2) evaluate the bids in such sale and issue
5 leases resulting from such sale, not later than 90
6 days after the date of the completion of such sale;
7 and

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

11 **SEC. 124. GRANT OF LEASES BY THE SECRETARY.**

12 (a) IN GENERAL.—The Secretary may grant to the
13 highest responsible qualified bidder in a lease sale con-
14 ducted pursuant to section 123 any lands to be leased on
15 the Coastal Plain upon payment by the lessee of such
16 bonus as may be accepted by the Secretary.

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

23 **SEC. 125. LEASE TERMS AND CONDITIONS.**

24 An oil or gas lease issued pursuant to this subtitle
25 shall—

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

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

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

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

24 (5) provide that the standard of reclamation for
25 lands required to be reclaimed under this subtitle

1 shall be, as nearly as practicable, a condition capable
2 of supporting the uses which the lands were capable
3 of supporting prior to any exploration, development,
4 or production activities, or upon application by the
5 lessee, to a higher or better use as approved by the
6 Secretary;

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

16 (7) prohibit the export of oil produced under
17 the lease; and

18 (8) contain such other provisions as the Sec-
19 retary determines necessary to ensure compliance
20 with the provisions of this subtitle and the regula-
21 tions issued under this subtitle.

22 **SEC. 126. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

23 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
24 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
25 The Secretary shall, consistent with the requirements of

1 section 122, administer the provisions of this subtitle
2 through regulations, lease terms, conditions, restrictions,
3 prohibitions, stipulations, and other provisions that—

4 (1) ensure the oil and gas exploration, develop-
5 ment, and production activities on the Coastal Plain
6 will result in no significant adverse effect on fish
7 and wildlife, their habitat, and the environment;

8 (2) require the application of the best commer-
9 cially available technology for oil and gas explo-
10 ration, development, and production on all new ex-
11 ploration, development, and production operations;
12 and

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

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

21 (1) a site-specific analysis be made of the pos-
22 sible significant adverse effects, if any, that the drill-
23 ing or related activities will have on fish and wildlife,
24 their habitat, subsistence resources, and the environ-
25 ment;

1 (2) if the analysis under paragraph (1) results
2 in a finding that a significant adverse effect prohib-
3 ited by subsection (a)(1) is likely to occur as a result
4 of the proposed drilling or related activity, a plan be
5 developed and implemented to avoid, minimize, and
6 mitigate (in that order and to the extent practicable)
7 the significant adverse effect in order to comply with
8 such subsection; and

9 (3) the development of a plan under paragraph
10 (2) shall occur after consultation with the agency or
11 agencies having jurisdiction over matters covered by
12 the plan.

13 (c) REGULATIONS TO PROTECT COASTAL PLAIN
14 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
15 AND THE ENVIRONMENT.—Before implementing the leas-
16 ing program authorized by this subtitle, the Secretary
17 shall prepare and promulgate regulations, lease terms,
18 conditions, restrictions, prohibitions, stipulations, and
19 other measures designed to ensure that the activities un-
20 dertaken on the Coastal Plain under this subtitle are con-
21 ducted in a manner consistent with the purposes and envi-
22 ronmental requirements of this subtitle.

23 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
24 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
25 proposed regulations, lease terms, conditions, restrictions,

1 prohibitions, and stipulations for the leasing program
2 under this subtitle shall require compliance with all appli-
3 cable provisions of Federal and State environmental law,
4 and shall also require the following:

5 (1) Standards at least as effective as the safety
6 and environmental mitigation measures set forth in
7 items 1 through 29 at pages 167 through 169 of the
8 “Final Legislative Environmental Impact State-
9 ment” (April 1987) on the Coastal Plain.

10 (2) Seasonal limitations on exploration, develop-
11 ment, and related activities, where necessary, to
12 avoid significant adverse effects during periods of
13 concentrated fish and wildlife breeding, denning,
14 nesting, spawning, and migration.

15 (3) That exploration activities, except for sur-
16 face geological studies, be limited to the period be-
17 tween approximately November 1 and May 1 each
18 year and that exploration activities shall be sup-
19 ported, if necessary, by ice roads, winter trails with
20 adequate snow cover, ice pads, ice airstrips, and air
21 transport methods, except that such exploration ac-
22 tivities may occur at other times if the Secretary
23 finds that such exploration will have no significant
24 adverse effect on the fish and wildlife, their habitat,
25 and the environment of the Coastal Plain.

1 (4) Design safety and construction standards
2 for all pipelines and any access and service roads,
3 that—

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

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

10 (5) Prohibitions on general public access and
11 use on all pipeline access and service roads.

12 (6) Stringent reclamation and rehabilitation re-
13 quirements, consistent with the standards set forth
14 in this subtitle, requiring the removal from the
15 Coastal Plain of all oil and gas development and
16 production facilities, structures, and equipment upon
17 completion of oil and gas production operations, ex-
18 cept that the Secretary may exempt from the re-
19 quirements of this paragraph those facilities, struc-
20 tures, or equipment that the Secretary determines
21 would assist in the management of the Arctic Na-
22 tional Wildlife Refuge and that are donated to the
23 United States for that purpose.

24 (7) Appropriate prohibitions or restrictions on
25 access by all modes of transportation.

1 (8) Appropriate prohibitions or restrictions on
2 sand and gravel extraction.

3 (9) Consolidation of facility siting.

4 (10) Appropriate prohibitions or restrictions on
5 use of explosives.

6 (11) Avoidance, to the extent practicable, of
7 springs, streams, and river systems; the protection
8 of natural surface drainage patterns, wetlands, and
9 riparian habitats; and the regulation of methods or
10 techniques for developing or transporting adequate
11 supplies of water for exploratory drilling.

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

14 (13) Treatment and disposal of hazardous and
15 toxic wastes, solid wastes, reserve pit fluids, drilling
16 muds and cuttings, and domestic wastewater, includ-
17 ing an annual waste management report, a haz-
18 ardous materials tracking system, and a prohibition
19 on chlorinated solvents, in accordance with applica-
20 ble Federal and State environmental law.

21 (14) Fuel storage and oil spill contingency plan-
22 ning.

23 (15) Research, monitoring, and reporting re-
24 quirements.

25 (16) Field crew environmental briefings.

1 (17) Avoidance of significant adverse effects
2 upon subsistence hunting, fishing, and trapping by
3 subsistence users.

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

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

9 (20) Reasonable stipulations for protection of
10 cultural and archeological resources.

11 (21) All other protective environmental stipula-
12 tions, restrictions, terms, and conditions deemed
13 necessary by the Secretary.

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

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

23 (2) The environmental protection standards
24 that governed the initial Coastal Plain seismic explo-

1 ration program under parts 37.31 to 37.33 of title
2 50, Code of Federal Regulations.

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

8 (f) FACILITY CONSOLIDATION PLANNING.—

9 (1) IN GENERAL.—The Secretary shall, after
10 providing for public notice and comment, prepare
11 and update periodically a plan to govern, guide, and
12 direct the siting and construction of facilities for the
13 exploration, development, production, and transpor-
14 tation of Coastal Plain oil and gas resources.

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

17 (A) Avoiding unnecessary duplication of fa-
18 cilities and activities.

19 (B) Encouraging consolidation of common
20 facilities and activities.

21 (C) Locating or confining facilities and ac-
22 tivities to areas that will minimize impact on
23 fish and wildlife, their habitat, and the environ-
24 ment.

1 (D) Utilizing existing facilities wherever
2 practicable.

3 (E) Enhancing compatibility between wild-
4 life values and development activities.

5 (g) ACCESS TO PUBLIC LANDS.—The Secretary
6 shall—

7 (1) manage public lands in the Coastal Plain in
8 accordance with subsections (a) and (b) of section
9 811 of the Alaska National Interest Lands Con-
10 servation Act (16 U.S.C. 3121); and

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

14 **SEC. 127. EXPEDITED JUDICIAL REVIEW.**

15 (a) FILING OF COMPLAINT.—

16 (1) DEADLINE.—Subject to paragraph (2), any
17 complaint seeking judicial review of any provision of
18 this subtitle or any action of the Secretary under
19 this subtitle shall be filed—

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

23 (B) in the case of a complaint based solely
24 on grounds arising after such period, within 60
25 days after the complainant knew or reasonably

1 should have known of the grounds for the com-
2 plaint.

3 (2) VENUE.—Any complaint seeking judicial re-
4 view of any provision of this subtitle or any action
5 of the Secretary under this subtitle may be filed only
6 in the United States District Court for the District
7 of Columbia.

8 (3) LIMITATION ON SCOPE OF CERTAIN RE-
9 VIEW.—Judicial review of a Secretarial decision to
10 conduct a lease sale under this subtitle, including
11 the environmental analysis thereof, shall be limited
12 to whether the Secretary has complied with the
13 terms of this subtitle and shall be based upon the
14 administrative record of that decision. The Sec-
15 retary's identification of a preferred course of action
16 to enable leasing to proceed and the Secretary's
17 analysis of environmental effects under this subtitle
18 shall be presumed to be correct unless shown other-
19 wise by clear and convincing evidence to the con-
20 trary.

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

1 **SEC. 128. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**
2

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, of the amount of adjusted bonus, rental, and
5 royalty revenues from Federal oil and gas leasing and op-
6 erations authorized under this subtitle—

7 (1) 50 percent shall be paid to the State of
8 Alaska; and

9 (2) except as provided in section 131(d), the
10 balance shall be transferred to the American-Made
11 Energy Trust Fund established in section 9512 of
12 the Internal Revenue Code of 1986 (as added by
13 title II).

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

16 **SEC. 129. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

20 (1) except as provided in paragraph (2), under
21 section 28 of the Mineral Leasing Act (30 U.S.C.
22 185), without regard to title XI of the Alaska Na-
23 tional Interest Lands Conservation Act (30 U.S.C.
24 3161 et seq.); and

25 (2) under title XI of the Alaska National Inter-
26 est Lands Conservation Act (30 U.S.C. 3161 et

1 seq.), for access authorized by sections 1110 and
2 1111 of that Act (16 U.S.C. 3170 and 3171).

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

12 (c) REGULATIONS.—The Secretary shall include in
13 regulations under section 122(g) provisions regarding the
14 granting of rights-of-way and easements described in sub-
15 section (a) of this section.

16 **SEC. 130. CONVEYANCE.**

17 In order to maximize Federal revenues by removing
18 clouds on title to lands and clarifying land ownership pat-
19 terns within the Coastal Plain, the Secretary, notwith-
20 standing the provisions of section 1302(h)(2) of the Alas-
21 ka National Interest Lands Conservation Act (16 U.S.C.
22 3192(h)(2)), shall convey—

23 (1) to the Kaktovik Inupiat Corporation the
24 surface estate of the lands described in paragraph 1
25 of Public Land Order 6959, to the extent necessary

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

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

14 **SEC. 131. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
15 **NITY SERVICE ASSISTANCE.**

16 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

17 (1) IN GENERAL.—The Secretary may use
18 amounts available from the Coastal Plain Local Gov-
19 ernment Impact Aid Assistance Fund established by
20 subsection (d) to provide timely financial assistance
21 to entities that are eligible under paragraph (2) and
22 that are directly impacted by the exploration for or
23 production of oil and gas on the Coastal Plain under
24 this subtitle.

1 (2) ELIGIBLE ENTITIES.—The North Slope
2 Borough, the city of Kaktovik, and any other bor-
3 ough, municipal subdivision, village, or other com-
4 munity in the State of Alaska that is directly im-
5 pacted by exploration for, or the production of, oil
6 or gas on the Coastal Plain under this subtitle, as
7 determined by the Secretary, shall be eligible for fi-
8 nancial assistance under this section.

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

11 (1) planning for mitigation of the potential ef-
12 fects of oil and gas exploration and development on
13 environmental, social, cultural, recreational, and sub-
14 sistence values;

15 (2) implementing mitigation plans and main-
16 taining mitigation projects;

17 (3) developing, carrying out, and maintaining
18 projects and programs that provide new or expanded
19 public facilities and services to address needs and
20 problems associated with such effects, including fire-
21 fighting, police, water, waste treatment, medivac,
22 and medical services; and

23 (4) establishment of a coordination office, by
24 the North Slope Borough, in the city of Kaktovik,
25 which shall—

1 (A) coordinate with and advise developers
2 on local conditions, impact, and history of the
3 areas utilized for development; and

4 (B) provide to the Committee on Natural
5 Resources of the House of Representatives and
6 the Committee on Energy and Natural Re-
7 sources of the Senate an annual report on the
8 status of coordination between developers and
9 the communities affected by development.

10 (c) APPLICATION.—

11 (1) IN GENERAL.—Any community that is eligi-
12 ble for assistance under this section may submit an
13 application for such assistance to the Secretary, in
14 such form and under such procedures as the Sec-
15 retary may prescribe by regulation.

16 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
17 community located in the North Slope Borough may
18 apply for assistance under this section either directly
19 to the Secretary or through the North Slope Bor-
20 ough.

21 (3) APPLICATION ASSISTANCE.—The Secretary
22 shall work closely with and assist the North Slope
23 Borough and other communities eligible for assist-
24 ance under this section in developing and submitting
25 applications for assistance under this section.

1 (d) ESTABLISHMENT OF FUND.—

2 (1) IN GENERAL.—There is established in the
3 Treasury the Coastal Plain Local Government Im-
4 pact Aid Assistance Fund.

5 (2) USE.—Amounts in the fund may be used
6 only for providing financial assistance under this
7 section.

8 (3) DEPOSITS.—Subject to paragraph (4), there
9 shall be deposited into the fund amounts received by
10 the United States as revenues derived from adjusted
11 bonus, rental, and royalty revenues from Federal oil
12 and gas leasing and operations authorized under this
13 subtitle.

14 (4) LIMITATION ON DEPOSITS.—The total
15 amount in the fund may not exceed \$11,000,000.

16 (5) INVESTMENT OF BALANCES.—The Sec-
17 retary of the Treasury shall invest amounts in the
18 fund in interest-bearing government securities.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
20 vide financial assistance under this section, there is au-
21 thorized to be appropriated to the Secretary from the
22 Coastal Plain Local Government Impact Aid Assistance
23 Fund \$5,000,000 for each fiscal year.

1 **Subtitle C—Oil Shale**

2 **SEC. 141. OIL SHALE.**

3 (a) FINDINGS.—The Congress finds the following:

4 (1) The Office of Naval Petroleum and Oil
5 Shale Reserves at the Department of Energy has es-
6 timated that oil shale resources located on Federal
7 lands hold 2 trillion undiscovered technically recover-
8 able barrels of oil.

9 (2) Oil shale is a strategically important domes-
10 tic resource that should be developed to reduce the
11 growing dependence of the United States on politi-
12 cally and economically unstable sources of foreign oil
13 imports.

14 (3) The development of oil shale for research
15 and commercial development should be conducted in
16 an environmentally sound manner, using practices
17 that minimize impacts.

18 (4) Development of such strategic unconven-
19 tional fuel should occur, with an emphasis on sus-
20 tainability, to benefit the United States while taking
21 into account affected States and communities.

22 (5) Oil shale is one of the best resources avail-
23 able for advancing American technology and creating
24 American jobs.

1 (6) Oil shale will be a critically important com-
2 ponent of the Nation's transportation fuel sector in
3 particular, by providing a secure domestic source of
4 aviation fuel for both commercial and military uses.

5 (b) ADDITIONAL RESEARCH AND DEVELOPMENT
6 LEASE SALES.—The Secretary of the Interior shall hold
7 a lease sale not later than 180 days after the date of en-
8 actment of this Act offering an additional 10 parcels for
9 lease for research, development, and demonstration of oil
10 shale resources, under the terms offered in the solicitation
11 of bids for such leases published on January 15, 2009 (74
12 Fed. Reg. 2611).

13 (c) APPLICATION OF REGULATIONS.—The oil shale
14 management final rules published by the Department of
15 the Interior on November 18, 2008 (73 Fed. Reg. 69414),
16 shall apply to all commercial leasing for the management
17 of federally owned oil shale, and any associated minerals,
18 located on Federal lands.

19 (d) REDUCED PAYMENTS TO ENSURE PRODUC-
20 TION.—The Secretary of the Interior may temporarily re-
21 duce royalties, fees, rentals, bonus bids, or other payments
22 for leases of Federal lands for the development and pro-
23 duction of oil shale resources as necessary to give incen-
24 tives for and encourage development of such resources, if
25 the Secretary determines that the royalties, fees, rentals,

1 bonus bids, and other payments otherwise authorized by
2 law are hindering production of such resources.

3 **Subtitle D—Coal-to-Liquid**

4 **SEC. 151. DEVELOPMENT AND OPERATION OF FACILITIES.**

5 (a) **AUTHORITY.**—The Secretary of Defense shall de-
6 velop, construct, and operate a qualified coal-to-liquid fa-
7 cility, subject to the availability of appropriations provided
8 in advance specifically for that purpose.

9 (b) **CONSIDERATIONS.**—In carrying out subsection
10 (a), the Secretary shall consider land availability, testing
11 opportunities, and proximity to raw materials.

12 **SEC. 152. DEFINITIONS RELATING TO COAL-TO-LIQUID** 13 **FUEL AND FACILITIES.**

14 For purposes of this subtitle:

15 (1) **COAL-TO-LIQUID FUEL.**—The term “coal-to-
16 liquid fuel” means any transportation-grade liquid
17 fuel derived primarily from coal (including peat).

18 (2) **QUALIFIED COAL-TO-LIQUID FACILITY.**—
19 The term “qualified coal-to-liquid facility” means a
20 manufacturing facility that has the capacity to
21 produce at least 10,000 barrels per day of coal-to-
22 liquid fuel from a feedstock that is primarily domes-
23 tic coal (including peat and any property which al-
24 lows for the capture, transportation, or sequestration

1 of byproducts resulting from such process, including
2 carbon emissions).

3 **SEC. 153. REPEAL.**

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

6 **Subtitle E—Nuclear**

7 **SEC. 161. FINDINGS AND POLICY.**

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

9 (1) there are 104 nuclear reactors currently op-
10 erating in the United States, providing 20 percent of
11 the electricity of the United States, slightly less than
12 the electricity generated by natural gas;

13 (2) nuclear energy is the largest provider of
14 clean, low-carbon electricity, almost 8 times larger
15 than all renewable power production combined, ex-
16 cluding hydroelectric power;

17 (3) nuclear power is responsible for 72 percent
18 of emission-free electricity production in the United
19 States and is an essential tool for greenhouse gas re-
20 duction;

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

24 (5) nuclear energy supplies consistent, baseload
25 electricity, independent of environmental conditions;

1 (6) nuclear power is a safe, reliable, efficient,
2 and affordable source of energy;

3 (7) between 1960 and 1980, the Nuclear Regu-
4 latory Commission issued 169 permits to construct
5 nuclear power facilities;

6 (8) even if every nuclear power plant is granted
7 a 20-year extension, all currently operating nuclear
8 power plants will be retired by 2055;

9 (9) long lead times for nuclear power plant li-
10 censing, permitting, and construction indicate that
11 action to stimulate the nuclear power industry
12 should not be delayed;

13 (10) there are 17 combined operating license
14 applications currently pending before the Nuclear
15 Regulatory Commission for 26 new reactors in the
16 United States, with 4 applications inactive due to
17 regulatory uncertainty;

18 (11) those proposed reactors will use the latest
19 in nuclear technology for efficiency and safety, more
20 advanced than the technology of the 1960s and
21 1970s found in the reactors currently operating in
22 the United States;

23 (12) increasing nuclear power threefold will cre-
24 ate 480,000 construction jobs, 140,000 permanent

1 jobs, and \$20,000,000,000 in local, State, and Fed-
2 eral tax revenue each year;

3 (13) increasing nuclear power threefold will re-
4 duce electricity-based carbon dioxide emissions by
5 1,400,000,000 metric tons annually and will reduce
6 carbon emissions by 65 percent from current emis-
7 sions levels by 2050;

8 (14) increasing nuclear power threefold will
9 produce 320 gigawatts of electricity to power
10 237,000,000 households and constitute 52 percent of
11 the United States electricity portfolio by 2030;

12 (15) the Nuclear Waste Policy Act of 1982 re-
13 quires the Federal Government to take ownership of
14 high-level radioactive waste and spent nuclear fuel
15 and build a permanent geologic repository in which
16 to store this waste;

17 (16) the Nuclear Waste Policy Act of 1982, as
18 amended in 1987, selected the Yucca Mountain site
19 to be the sole geologic repository in which to store
20 high-level radioactive waste and spent nuclear fuel;

21 (17) the Congress reaffirmed Yucca Mountain
22 as the sole candidate site for a geologic repository in
23 2001;

24 (18) despite the foregoing laws, the Government
25 has failed to accept high-level radioactive waste and

1 spent nuclear fuel from utilities and has delayed
2 construction of the Yucca Mountain repository;

3 (19) failure to accept high-level radioactive
4 waste and spent nuclear fuel has led to more than
5 74 lawsuits filed by utilities against the Government,
6 \$1 billion in settlements being paid, and an esti-
7 mated \$16.2 billion in potential liabilities to settle
8 remaining lawsuits;

9 (20) each year the Government refuses to ac-
10 cept high-level radioactive waste and spent nuclear
11 fuel adds an estimated \$500,000,000 in additional
12 liabilities associated with future lawsuits;

13 (21) the failure of the Federal Government to
14 accept high-level radioactive waste and spent nuclear
15 fuel from utilities is a significant barrier to the fu-
16 ture development of additional nuclear power;

17 (22) the United States has 58,000 tons of radi-
18 ological material stored at more than 100 sites in 39
19 States;

20 (23) the 104 commercial nuclear reactors oper-
21 ating in the United States produce approximately
22 2,000 tons of spent nuclear fuel every year;

23 (24) the Yucca Mountain repository's capacity
24 is statutorily limited to 70,000 tons of waste but can
25 safely hold 120,000 tons;

1 (25) operators who have paid into the Nuclear
2 Waste Fund have been denied access to permanent
3 storage of radiological material as promised by the
4 Federal Government;

5 (26) permanent geologic storage capacity is a
6 finite resource on which the industry depends; and

7 (27) operators have the technical expertise to
8 develop new and more efficient processes of dis-
9 posing of new radiological material.

10 (b) STATEMENT OF POLICY.—It is the policy of the
11 United States, given the importance of making a transi-
12 tion to a clean energy, low-carbon economy, to facilitate
13 the continued development and growth of a safe and clean
14 nuclear energy industry through reductions in financial,
15 regulatory, and technical barriers to construction and op-
16 eration.

17 **SEC. 162. 200 OPERATING PERMITS BY 2040.**

18 Subject to the requirements of this subtitle and in
19 accordance with existing law, the Nuclear Regulatory
20 Commission shall issue operating permits for 200 new
21 commercial nuclear reactors, enough to triple current
22 megawatt capacity, by 2040, if there are a sufficient num-
23 ber of qualified applicants.

1 **SEC. 163. REPEAL OF OFFICE OF CIVILIAN RADIOACTIVE**
2 **WASTE MANAGEMENT.**

3 Section 304 of the Nuclear Waste Policy Act of 1982
4 (42 U.S.C. 10224) is repealed.

5 **SEC. 164. RADIOLOGICAL MATERIAL REPOSITORY.**

6 (a) **REPOSITORY REQUIRED.**—The Federal Govern-
7 ment shall site and permit at least one radiological mate-
8 rial geologic repository for the disposal of radiological ma-
9 terial.

10 (b) **YUCCA MOUNTAIN.**—

11 (1) **IN GENERAL.**—The repository site at Yucca
12 Mountain shall remain the site for the Nation’s radi-
13 ological material repository unless it is determined
14 unsuitable, based on technical and scientific analysis,
15 by the Nuclear Regulatory Commission following full
16 statutory review of the Department of Energy’s li-
17 cense application to construct the Yucca Mountain
18 repository.

19 (2) **APPLICATION.**—The Nuclear Regulatory
20 Commission shall continue to review the Department
21 of Energy’s pending license application to construct
22 the repository at Yucca Mountain until a determina-
23 tion is made on the merits of the application.

24 (3) **DEADLINES.**—

25 (A) **SUITABILITY DETERMINATION.**—Not
26 later than 90 days after the enactment of this

1 Act, the Nuclear Regulatory Commission shall
2 make a determination regarding the suitability
3 of Yucca Mountain under paragraph (1).

4 (B) ACTION ON APPLICATION.—Not later
5 than 180 days after the enactment of this Act,
6 the Nuclear Regulatory Commission shall ap-
7 prove or deny the application under paragraph
8 (2).

9 (4) LIMITATIONS ON AMOUNT OF RADIO-
10 LOGICAL MATERIAL.—All statutory limitations on
11 the amount of radiological material that can be
12 placed in Yucca Mountain are hereby removed and
13 shall be replaced by the Nuclear Regulatory Com-
14 mission with new limits based on scientific and tech-
15 nical analysis of the full capacity of Yucca Mountain
16 for the storage of radiological material.

17 (c) ALTERNATIVE REPOSITORY.—

18 (1) IN GENERAL.—Should the Nuclear Regu-
19 latory Commission determine under subsection (b)
20 that Yucca Mountain is not a suitable location to
21 place a radiological material repository, the Sec-
22 retary shall be responsible for, not later than 1 year
23 after the date on which such determination is made,
24 locating and submitting an application for an alter-

1 native geologic repository that provides at least
2 120,000 tons of storage capacity.

3 (2) ACTION ON APPLICATION.—Not later than
4 2 years after the date on which an application is
5 submitted under paragraph (1) or (3), the Nuclear
6 Regulatory Commission shall approve or deny such
7 application.

8 (3) FURTHER APPLICATION SUBMISSIONS.—If
9 an application is denied under paragraph (2), the
10 Secretary shall submit a new application in accord-
11 ance with paragraph (1) not later than 1 year after
12 the date of such denial.

13 (4) REQUIREMENTS.—For the purposes of this
14 subtitle and the Nuclear Waste Policy Act of 1982
15 (42 U.S.C. 10101 et seq.), an alternative repository
16 permitted under this subsection shall be subject to
17 the same requirements as Yucca Mountain.

18 **SEC. 165. INDEPENDENT RADIOLOGICAL MATERIAL MAN-**
19 **AGEMENT.**

20 (a) REPORT.—Not later than 180 days after the date
21 of enactment of this Act, the Secretary of Energy shall
22 submit to Congress a report regarding the following:

23 (1) The feasibility of establishing an inde-
24 pendent radiological material management program
25 that would meet the guidelines in subsection (b).

1 (2) Legislative and regulatory action necessary
2 to phase out the fee structure contained in section
3 302 of the Nuclear Waste Policy Act of 1982 (42
4 U.S.C. 10222) in order to allow a fee structure de-
5 scribed in subsection (b)(5)(F) to be implemented if
6 a program meeting the guidelines in subsection (b)
7 is established.

8 (b) GUIDELINES.—

9 (1) IN GENERAL.—Under a program estab-
10 lished in accordance with this subsection, the Sec-
11 retary may award a contract, based on a competitive
12 bidding process, to an eligible entity to manage the
13 Nation’s activities related to one or more radiological
14 material repositories.

15 (2) ELIGIBLE ENTITY.—For the purposes of
16 this subsection, the term “eligible entity” means a
17 non-Federal organization that demonstrates the abil-
18 ity to meet the requirements of a program estab-
19 lished in accordance with this subsection.

20 (3) APPLICATION CONTENTS.—The Secretary
21 may require an eligible entity seeking to be awarded
22 a contract under a program established in accord-
23 ance with this subsection to submit to the Secretary
24 an application containing the following:

1 (A) A complete description of the fee
2 structure the eligible entity will use to fund the
3 maintenance and operation of repositories, in
4 accordance with paragraph (5)(F).

5 (B) Such other materials as the Secretary
6 may require.

7 (4) TRANSFER OF CONTROL.—The Secretary
8 may transfer to an eligible entity awarded a contract
9 under a program established in accordance with this
10 subsection control and ownership of all Nuclear Reg-
11 ulatory Commission-issued licenses, allowances, and
12 responsibilities necessary for the operation of the nu-
13 clear materials repository at Yucca Mountain.

14 (5) RESPONSIBILITIES.—The Secretary may re-
15 quire an eligible entity awarded a contract under a
16 program established in accordance with this sub-
17 section to be responsible for the following:

18 (A) Providing technical and other informa-
19 tion to the Nuclear Regulatory Commission as
20 it reviews the Department of Energy’s permit
21 application for the Yucca Mountain repository.

22 (B) Seeking all other necessary regulatory
23 approvals and permits to construct and operate
24 the Yucca Mountain repository.

1 (C) Managing construction of one or more
2 radiological material repositories upon Nuclear
3 Regulatory Commission approval, including con-
4 ducting all necessary design and engineering
5 work to support construction of the repository.

6 (D) Radiological material repository oper-
7 ations.

8 (E) Undertaking all infrastructure activi-
9 ties necessary to support the construction or
10 operation of the repository or transportation to
11 the site of radiological material, including—

12 (i) safety upgrades;

13 (ii) site preparation;

14 (iii) construction of a rail line to con-
15 nect the repository site with the national
16 rail network, including any facilities to fa-
17 cilitate rail operations; and

18 (iv) construction, upgrade, acquisition,
19 or operation of electrical grids or facilities,
20 other utilities, communication facilities, ac-
21 cess roads, rail lines, and nonnuclear sup-
22 port facilities.

23 (F) Creating a fee structure for the geo-
24 logic storage of radiological material. The fees
25 may not exceed the amount necessary to main-

1 tain and operate repositories and shall be the
2 primary mechanism for accessing repositories,
3 and in setting the fees the eligible entity shall
4 take into consideration multiple variables, in-
5 cluding—

6 (i) volume;

7 (ii) toxicity;

8 (iii) heat load; and

9 (iv) repository operation costs.

10 (c) CONGRESSIONAL AUTHORIZATION REQUIRED.—

11 The Secretary may not establish an independent radio-
12 logical material management program under this section
13 unless authorized by a law enacted after the date of enact-
14 ment of this Act.

15 **SEC. 166. SPENT NUCLEAR FUEL RECYCLING.**

16 (a) PROHIBITION.—The President is prohibited from
17 blocking or hindering spent nuclear fuel recycling activi-
18 ties.

19 (b) RULEMAKING FOR LICENSING OF SPENT NU-
20 CLEAR FUEL RECYCLING FACILITIES.—Not later than 2
21 years after the date of enactment of this Act, the Chair-
22 man of the Nuclear Regulatory Commission shall complete
23 a rulemaking establishing a process for the licensing by
24 the Nuclear Regulatory Commission, under the Atomic

1 Energy Act of 1954, of facilities for the recycling of spent
2 nuclear fuel.

3 **SEC. 167. NUCLEAR FUEL SUPPLY RESERVE.**

4 (a) INVENTORY.—The Secretary of Energy shall con-
5 duct an inventory of all materials owned by the Depart-
6 ment of Energy that could, either without or with further
7 processing, be used to power commercial nuclear reactors.

8 (b) ESTABLISHMENT OF RESERVE.—The Secretary
9 shall establish a nuclear fuel supply reserve consisting of
10 materials identified as available for such purposes from
11 the inventory conducted under subsection (a). The Sec-
12 retary shall establish appropriate procedures to ensure
13 that the reserve can protect United States energy pro-
14 ducers from shortages of nuclear fuel.

15 (c) PLAN.—The Secretary shall transmit to the Con-
16 gress a long-term plan for introducing nuclear fuel sup-
17 plies from the reserve into the market.

18 **SEC. 168. PUBLIC HEALTH AND SAFETY.**

19 Nothing in this title shall supersede, mitigate, detract
20 from, or in any way decrease the Nuclear Regulatory Com-
21 mission's ability to maintain the highest possible levels of
22 public health and safety standards, consistent with the
23 provisions of the Atomic Energy Act of 1954. No authority
24 granted by this title shall be executed in a manner that

1 jeopardizes, minimizes, reduces, or lessens public health
2 and safety standards.

3 **SEC. 169. STREAMLINING COMBINED CONSTRUCTION AND**
4 **OPERATING LICENSE.**

5 (a) IN GENERAL.—The Nuclear Regulatory Commis-
6 sion shall establish and implement an expedited procedure
7 for issuing a Combined Construction and Operating Li-
8 cense.

9 (b) QUALIFICATIONS.—To qualify for the expedited
10 procedure under this section, an applicant shall—

11 (1) apply for construction of a reactor based on
12 a design certified (or provisionally certified under
13 section 170) by the Nuclear Regulatory Commission;

14 (2) construct the new reactor on or adjacent to
15 a site where an operating nuclear power plant al-
16 ready exists;

17 (3) not be subject to a Nuclear Regulatory
18 Commission order to modify, suspend, or revoke a li-
19 cense under section 2.202 of title 10, Code of Fed-
20 eral Regulations; and

21 (4) submit a complete Combined Construction
22 and Operating License application that is docketed
23 by the Commission.

24 (c) EXPEDITED PROCEDURE.—With respect to a li-
25 cense for which the applicant has satisfied the require-

1 ments of subsection (b) and seeks expedited consideration,
2 the Nuclear Regulatory Commission shall follow the fol-
3 lowing procedures:

4 (1) Undertake an expedited environmental re-
5 view process and issue a draft environmental impact
6 statement not later than 12 months after the appli-
7 cation is accepted for docketing.

8 (2) Begin public licensing hearings when a
9 draft environmental impact statement has been
10 issued, and complete any such hearings and related
11 processes not later than 24 months after accepting
12 for docketing the expedited Combined Construction
13 and Operating License application.

14 (3) Complete the technical review process and
15 issue the Safety Evaluation Report and the final en-
16 vironmental impact statement not later than 18
17 months after the application is accepted for dock-
18 eting.

19 (4) Make a final decision on whether to issue
20 the Combined Construction and Operating License
21 not later than 25 months after docketing the appli-
22 cation.

23 (d) GOALS.—The Chairman of the Nuclear Regu-
24 latory Commission shall present recommendations to Con-
25 gress not later than 90 days after the date of enactment

1 of this Act for procedures that would further facilitate the
2 licensing of new nuclear reactors in a timely manner.

3 **SEC. 170. REACTOR DESIGN CERTIFICATION.**

4 (a) PROVISIONAL CERTIFICATION.—

5 (1) AUTHORITY.—The Nuclear Regulatory
6 Commission may provide to an applicant a provi-
7 sional certification of a proposed nuclear reactor de-
8 sign.

9 (2) EFFECT OF PROVISIONAL CERTIFI-
10 CATION.—Approval of a provisional design certifi-
11 cation under this subsection shall not eliminate, re-
12 duce, or otherwise affect any requirement for reactor
13 design approval or certification by the Nuclear Reg-
14 ulatory Commission or any other agency under Fed-
15 eral law.

16 (3) TIMING.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), a provisional certification
19 shall be provided or denied under this sub-
20 section not later than 60 days after the date of
21 application therefor.

22 (B) EXTENSION.—The Nuclear Regulatory
23 Commission may extend the time period under
24 subparagraph (A) for an additional 30 days if
25 necessary to enable certification.

1 (4) CRITERIA.—In determining whether to ap-
2 prove a provisional certification application under
3 this subsection, the Nuclear Regulatory Commission
4 shall consider whether the proposed design—

5 (A) is based on existing and commercially
6 proven technology;

7 (B) has been approved by internationally
8 recognized regulators; and

9 (C) is safely operating or under construc-
10 tion in other nations.

11 (5) SUPPLEMENTAL INFORMATION.—An appli-
12 cation for provisional certification under this sub-
13 section may include supplemental information pro-
14 vided by potential future applicants for approval of
15 the same or a similar design.

16 (b) EXPEDITED CERTIFICATION PROCESS.—Not
17 later than one year after the date of enactment of this
18 Act, the Chairman of the Nuclear Regulatory Commission
19 shall develop and submit to the Congress an expedited
20 process for certifying reactor designs, including those de-
21 signs under consideration for certification by the Commis-
22 sion on the date of enactment of this Act, that signifi-
23 cantly reduces the time necessary to achieve such certifi-
24 cation.

1 **SEC. 171. TECHNOLOGY-NEUTRAL PLANT DESIGN SPECI-**
2 **FICATIONS.**

3 Not later than one year after the date of enactment
4 of this Act, the Chairman of the Nuclear Regulatory Com-
5 mission shall submit to the Congress a report regarding
6 recommendations for the development of technology-neu-
7 tral plant design specifications.

8 **SEC. 172. ADDITIONAL FUNDING AND PERSONNEL RE-**
9 **SOURCES.**

10 Not later than 90 days after the date of enactment
11 of this Act, the Chairman of the Nuclear Regulatory Com-
12 mission shall transmit to the Congress a request for such
13 additional funding and personnel resources as are nec-
14 essary to carry out sections 169 through 171 without de-
15 laying consideration of applications for Combined Con-
16 struction and Operating Licenses or reactor design certifi-
17 cations not subject to expedited procedures under this
18 title.

19 **SEC. 173. NATIONAL NUCLEAR ENERGY COUNCIL.**

20 (a) IN GENERAL.—

21 (1) The Secretary of Energy shall establish a
22 National Nuclear Energy Council (in this section re-
23 ferred to as the “Council”).

24 (2) The Council shall be subject to the require-
25 ments of the Federal Advisory Committee Act (5
26 U.S.C. App.).

1 (b) PURPOSE.—The Council—

2 (1) shall serve in an advisory capacity to the
3 Secretary regarding nuclear energy on matters sub-
4 mitted to the Council by the Secretary;

5 (2) shall advise, inform, and make rec-
6 ommendations to the Secretary with respect to any
7 matter relating to nuclear energy;

8 (3) shall help nuclear energy-related investors
9 to navigate the Federal bureaucracy to efficiently
10 bring their products and services to the marketplace;
11 and

12 (4) may not participate in any research and de-
13 velopment or commercialization activities.

14 (c) MEMBERSHIP AND ORGANIZATION.—

15 (1) The members of the Council shall be ap-
16 pointed by the Secretary.

17 (2) The Council may establish such study and
18 administrative committees as it considers appro-
19 priate.

20 **SEC. 174. NEXT GENERATION NUCLEAR PLANT.**

21 The Secretary of Energy and the Chairman of the
22 Nuclear Regulatory Commission shall review the Next
23 Generation Nuclear Plant Licensing Strategy report sub-
24 mitted to Congress in August 2008, as required by section
25 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024),

1 with the purpose of reevaluating and significantly accel-
2 erating the Next Generation Nuclear Power Plant sched-
3 ule. Not later than 180 days after the date of enactment
4 of this Act, the Secretary shall submit to the Congress
5 a report including a revised schedule and funding require-
6 ments that would allow for program completion as near
7 as is possible to the date that is 5 years after the date
8 of enactment of this Act.

9 **SEC. 175. URANIUM MINING ON FEDERAL LANDS.**

10 The Secretary of the Interior may not use the Fed-
11 eral Land Policy and Management Act of 1976 (43 U.S.C.
12 1701 et seq.) to prevent uranium mining from taking place
13 on Federal lands unless the Secretary makes findings ex-
14 plaining the reason for such prevention. No Federal agen-
15 cy may collect additional leasing fees that have not been
16 authorized to be collected before the date of enactment
17 of this Act to mine uranium on Federal lands. Any fees
18 collected in association with commercial uranium mining
19 on Federal lands that should be applied for remediation
20 purposes shall only be applied to the remediation of sites
21 that incurred damage as a result of commercial nuclear
22 activities. Such fees shall not be applied to the remediation
23 of any sites that incurred damage as a result of Govern-
24 ment or Government-sponsored activities.

1 **SEC. 176. SMALL AND MODULAR REACTOR LICENSING.**

2 (a) REPORT.—Not later than 90 days after the date
3 of enactment of this Act, the Chairman of the Nuclear
4 Regulatory Commission shall transmit to the Congress a
5 report containing recommendations, including the per-
6 sonnel and resource requirements necessary to implement
7 the recommendations, for streamlined licensing procedures
8 for small and modular nuclear reactors.

9 (b) REGULATIONS.—Not later than one year after the
10 date of enactment of this Act, the Chairman of the Nu-
11 clear Regulatory Commission shall promulgate regulations
12 to implement the recommendations transmitted under
13 subsection (a).

14 **SEC. 177. LIMITATION ON REGULATORY TIME FRAME.**

15 In establishing standards for or otherwise regulating
16 the storage of radioactive material under section 121(a)
17 of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
18 10141(a)) or any other Federal law, the Administrator of
19 the Environmental Protection Agency may not consider
20 environmental effects that could occur more than 10,000
21 years after the date of such regulatory action.

22 **SEC. 178. DEFINITION.**

23 In this subtitle, the term “radiological material”
24 means radioactive material that is a byproduct of the pro-
25 duction of nuclear power, including high-level nuclear
26 waste and spent nuclear fuel, as those terms are defined

1 in section 2 of the Nuclear Waste Policy Act of 1982 (42
2 U.S.C. 10101), but not including low-level radiological
3 material as that term is defined in such section.

4 **TITLE II—AMERICAN-MADE**
5 **ENERGY TRUST FUND**

6 **SEC. 201. ESTABLISHMENT OF AMERICAN-MADE ENERGY**
7 **TRUST FUND.**

8 (a) CREATION OF TRUST FUND.—Subchapter A of
9 chapter 98 of the Internal Revenue Code of 1986 is
10 amended by inserting at the end the following new section:

11 **“SEC. 9512. AMERICAN-MADE ENERGY TRUST FUND.**

12 “(a) ESTABLISHMENT OF TRUST FUND.—There is
13 established in the Treasury of the United States a trust
14 fund to be known as the American-Made Energy Trust
15 Fund, consisting of such amounts as may be appropriated
16 or credited to the American-Made Energy Trust Fund as
17 provided in this section.

18 “(b) TRANSFERS TO TRUST FUND.—To the extent
19 provided by appropriations Acts, there shall be appro-
20 priated to the American-Made Energy Trust Fund—

21 “(1) the amounts required to be transferred
22 under section 128 of A Roadmap for America’s En-
23 ergy Future;

24 “(2) all amounts received by the United States
25 as bonus bids, rents, and royalties for oil and gas

1 leases of the outer Continental Shelf awarded after
2 the date of the enactment of A Roadmap for Amer-
3 ica’s Energy Future that are not otherwise required
4 by law to be paid by the United States; and

5 “(3) all amounts received by the United States
6 as bonus bids, rents, and royalties for oil shale
7 leases of Federal lands awarded after the date of the
8 enactment of A Roadmap for America’s Energy Fu-
9 ture.

10 “(c) EXPENDITURES FROM AMERICAN-MADE EN-
11 ERGY TRUST FUND.—As provided by appropriations Acts,
12 amounts in the American-Made Energy Trust Fund shall
13 be available in any year to carry out section 301 of A
14 Roadmap for America’s Energy Future.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for subchapter A of chapter 98 of such Code is amended
17 by inserting at the end the following new item:

“Sec. 9512. American-Made Energy Trust Fund.”.

1 **TITLE III—REVERSE AUCTION**
2 **MECHANISM FOR RENEW-**
3 **ABLE ENERGY GENERATION**
4 **AND FOR RENEWABLE FUEL**
5 **PRODUCTION**

6 **SEC. 301. REVERSE AUCTION MECHANISM FOR RENEW-**
7 **ABLE ENERGY GENERATION.**

8 (a) IN GENERAL.—The Secretary shall establish a re-
9 verse auction program to award funds from the American-
10 Made Energy Trust Fund to eligible entities to generate
11 an amount of electric energy.

12 (b) REVERSE AUCTION AUTHORITY.—

13 (1) IN GENERAL.—The Secretary shall establish
14 within the Department of Energy a Reverse Auction
15 Authority to conduct reverse auctions under this sec-
16 tion.

17 (2) DIRECTOR.—The Secretary shall appoint a
18 Director to serve as head of the Authority.

19 (c) REVERSE AUCTIONS.—

20 (1) FREQUENCY.—Subject to amounts available
21 in the American-Made Energy Trust Fund (includ-
22 ing any amounts not obligated in the previous cal-
23 endar year), the Director shall conduct a minimum
24 of 2 reverse auctions per calendar year in each geo-
25 graphic region established under paragraph (2).

1 (2) REGIONS.—The Secretary shall establish
2 geographic regions that are contiguous with the
3 Electric Power Markets identified by the Federal
4 Energy Regulatory Commission, and shall ensure
5 that funds awarded under this section are awarded
6 for qualified renewable energy facilities located
7 across those regions.

8 (3) BIDS.—In any reverse auction under this
9 section, bids shall describe the amount of electric en-
10 ergy to be generated by the qualified renewable en-
11 ergy facility and the price per megawatt hour of
12 electric energy that will be generated by such facil-
13 ity.

14 (4) DEPOSIT.—

15 (A) IN GENERAL.—At the time of entering
16 a bid in a reverse auction under this section, an
17 eligible entity shall provide to the Director a de-
18 posit of, as determined by the Director, an ap-
19 propriate amount per kilowatt hour of elec-
20 tricity to be generated by the qualified renew-
21 able energy facility for which the eligible entity
22 is entering the bid.

23 (B) REFUND.—The Director shall refund a
24 deposit provided under subparagraph (A)—

1 (i) for an eligible entity that is not se-
2 lected for an award of funds as a result of
3 the bid for which the deposit was made, at
4 the time the Director notifies the eligible
5 entity selected for an award of such selec-
6 tion; and

7 (ii) for an eligible entity selected for
8 an award of funds as a result of the bid
9 for which the deposit was made, except as
10 provided in subparagraph (C), at the time
11 the facility for which the eligible entity en-
12 tered the bid begins operation.

13 (C) FORFEIT.—If a facility for which
14 funds are awarded is not in operation by the
15 deadline for operation under subsection (d)(3),
16 the eligible entity shall forfeit the deposit pro-
17 vided under subparagraph (A).

18 (5) RESERVE PRICE.—

19 (A) IN GENERAL.—Before conducting a re-
20 verse auction under this section, the Director
21 shall set a reserve price which shall be a min-
22 imum bid above which no bid may win the auc-
23 tion.

24 (B) CONFIDENTIALITY.—The Director
25 shall ensure that a reserve price set under this

1 paragraph remains confidential until 5 years
2 after the date of the auction to which the re-
3 serve price applies.

4 (6) SELECTION OF ELIGIBLE ENTITIES.—

5 (A) IN GENERAL.—In determining eligible
6 entities to which to award funds in any reverse
7 auction under this section, the Director shall
8 take into consideration—

9 (i) bids that incorporate the lowest bid
10 price per megawatt hour of electric energy;
11 and

12 (ii) existing subsidies and other sup-
13 port received by an eligible entity for the
14 qualified renewable energy facility.

15 (B) MAXIMUM PERCENTAGES.—The Direc-
16 tor shall ensure that, measured on a 5-year roll-
17 ing average, of funds awarded under this sec-
18 tion—

19 (i) not more than 60 percent are
20 awarded for one type of renewable energy
21 source; and

22 (ii) not more than 90 percent are
23 awarded for any combination of 2 types of
24 renewable energy sources.

25 (7) CATEGORIES OF GENERATING CAPACITY.—

1 (A) ALLOCATION.—Subject to subpara-
2 graph (B), in each reverse auction conducted
3 under this section, funds shall be allocated as
4 follows:

5 (i) 25 percent of the funds shall be
6 awarded for the generation of electric en-
7 ergy by qualified renewable energy facili-
8 ties that have a small generating capacity.

9 (ii) 25 percent of the funds shall be
10 awarded for the generation of electric en-
11 ergy by qualified renewable energy facili-
12 ties that have a mid-sized generating ca-
13 pacity.

14 (iii) 50 percent of the funds shall be
15 awarded for the generation of electric en-
16 ergy by qualified renewable energy facili-
17 ties that have a large generating capacity.

18 (B) INSUFFICIENT FUNDS.—If the Sec-
19 retary determines that the amount of funds
20 available in any calendar year in the American-
21 Made Energy Trust Fund (including any
22 amounts not obligated in the previous calendar
23 year) are insufficient to provide adequate fund-
24 ing for each allocation described in clauses (i),
25 (ii), and (iii) of subparagraph (A), the Sec-

1 retary may reduce or eliminate any allocation
2 requirement under such subparagraph.

3 (C) DETERMINATION BY SECRETARY.—

4 With respect to the generating capacity of a
5 qualified renewable energy facility, the Sec-
6 retary shall determine what qualifies as a small,
7 mid-sized, and large generating capacity for
8 purposes of this paragraph.

9 (8) STANDARD AMOUNTS OF ELECTRIC EN-
10 ERGY.—In each reverse auction under this section,
11 the Director shall determine standard amounts of
12 electric energy that eligible entities may bid on as
13 well as the time allotted to generate such an amount
14 of electric energy.

15 (9) CONFIDENTIALITY.—Information regarding
16 the bid price of an eligible entity selected for an
17 award of funds pursuant to a reverse auction under
18 this section shall remain confidential until the initial
19 award of funds to such eligible entity is made.

20 (10) INFORMATION REGARDING AUCTIONS.—

21 Before conducting each reverse auction under this
22 section, the Director shall make publicly available in-
23 formation regarding such reverse auction, includ-
24 ing—

1 (A) standard amounts of electric energy
2 described in paragraph (7) to be auctioned; and

3 (B) allocations described in paragraph (6)
4 for such auction.

5 (d) AWARD OF FUNDS.—

6 (1) CONTRACTS FOR GENERATION.—

7 (A) IN GENERAL.—In order to receive an
8 award of funds pursuant to a reverse auction
9 under this section, an eligible entity selected for
10 such award of funds shall enter into a contract
11 with the Director delineating the terms of the
12 award of funds.

13 (B) CONTRACT TERMS.—The Director
14 shall include in a contract entered into under
15 this paragraph the following:

16 (i) The number of megawatts per year
17 on which the contract is based.

18 (ii) A provision allowing for credits to
19 be awarded for the production of energy in
20 excess of the amount specified in the con-
21 tract pursuant to clause (i), which may be
22 carried over, for not more than 2 consecu-
23 tive years, for use in years in which the
24 production of energy is less than that re-

1 required under the contract pursuant to
2 clause (i).

3 (iii) Any other provisions the Director
4 determines appropriate.

5 (C) TERMINATION.—In addition to any
6 other terms regarding termination included in a
7 contract under subparagraph (B), the Director
8 may terminate a contract under this paragraph
9 if the eligible entity fails to generate the num-
10 ber of megawatts of electric energy per year re-
11 quired under subparagraph (B)(i) for a period
12 of 4 consecutive years.

13 (2) LIMITATION ON DISBURSAL.—The Director
14 may disburse funds to an eligible entity only for the
15 amount of electric energy generated under the con-
16 tract entered into under paragraph (3) up to the
17 amount specified pursuant to paragraph (1)(B)(i)
18 for each year in which the contract is in effect.

19 (3) OPERATION REQUIREMENT.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), the Director shall make an
22 award of funds to an eligible entity contingent
23 on the qualified renewable energy facility being
24 in operation not later than 18 months after the

1 eligible entity is selected for an award of funds
2 under this section.

3 (B) EXTENSION.—The Director may grant
4 an eligible entity a one-time 6-month extension
5 of the deadline for operation under subpara-
6 graph (A) with respect to a qualified renewable
7 energy facility if the eligible entity dem-
8 onstrates, to the satisfaction of the Director,
9 that operation of such facility is delayed due to
10 regulatory constraints beyond the control of
11 such eligible entity. Extensions under this sub-
12 paragraph may not be granted for delays due to
13 lack of financing or delayed equipment delivery.

14 (e) PENALTIES.—The Secretary shall determine pen-
15 alties for violations of this section, which may include fines
16 or bans from participating in reverse auctions under this
17 section.

18 (f) TREATMENT OF FUNDS.—Amounts awarded to
19 an eligible entity under subsection (d) shall not be includ-
20 ible in gross income for purposes of the Internal Revenue
21 Code of 1986.

22 (g) DENIAL OF DOUBLE BENEFIT.—

23 (1) BASIS.—For purposes of the Internal Rev-
24 enue Code of 1986, the basis of a renewable energy
25 facility for which funds are awarded to an eligible

1 entity under this section shall be reduced by the
2 amount of such award.

3 (2) TREATMENT AS QUALIFIED FACILITY.—A
4 renewable energy facility for which funds are award-
5 ed to an eligible entity under this section shall not
6 be treated as a qualified facility for purposes of sec-
7 tion 45 of the Internal Revenue Code of 1986 (26
8 U.S.C. 45).

9 (3) TREATMENT AS ENERGY PROPERTY.—

10 (A) IN GENERAL.—A renewable energy fa-
11 cility for which funds are awarded to an eligible
12 entity under this section shall not be treated as
13 an energy property for purposes of section 48
14 of the Internal Revenue Code of 1986 (26
15 U.S.C. 48).

16 (B) LIMITATION ON AWARD OF FUNDS.—

17 The Director may not award funds under this
18 section for a renewable energy facility for which
19 a credit under section 48 of the Internal Rev-
20 enue Code of 1986 (26 U.S.C. 48) has been de-
21 termined.

22 (4) PARTICIPATION IN FEDERAL LOAN GUAR-
23 ANTEE PROGRAMS.—An eligible entity to which
24 funds are awarded under this section for a qualified
25 renewable energy facility may not, for the purposes

1 of such facility, participate in a Federal loan guar-
2 antee program.

3 (5) COORDINATION WITH OTHER FEDERAL
4 SUBSIDIES.—

5 (A) CONTRACT AMOUNT.—A contract for
6 generation under subsection (d)(1) shall be for
7 the amount of the winning bid for the specified
8 amount of electric energy minus the amount of
9 any other Federal subsidy received by the eligi-
10 ble entity for the construction, development, or
11 operation of the qualified renewable energy fa-
12 cility before funds are awarded under sub-
13 section (d).

14 (B) REGULATIONS.—Notwithstanding sub-
15 section (h), not later than one year after the
16 date of enactment of this Act, the Secretary
17 shall promulgate regulations to carry out this
18 paragraph.

19 (h) DEADLINE FOR REGULATIONS.—Not later than
20 180 days after the date of enactment of this Act, the Sec-
21 retary shall promulgate regulations to carry out this sec-
22 tion.

23 (i) DEFINITIONS.—In this section:

24 (1) AMERICAN-MADE ENERGY TRUST FUND.—

25 The term “American-Made Energy Trust Fund”

1 means the trust fund established in section 9512 of
2 the Internal Revenue Code of 1986 (as added by
3 title II).

4 (2) AUTHORITY.—The term “Authority” means
5 the Reverse Auction Authority established under
6 subsection (b).

7 (3) DIRECTOR.—The term “Director” means
8 the Director of the Authority.

9 (4) ELIGIBLE ENTITY.—The term “eligible enti-
10 ty” means an owner or operator of a qualified re-
11 newable energy facility that, with respect to such fa-
12 cility—

13 (A) is not participating in a Federal loan
14 guarantee program; and

15 (B) has a power purchase agreement in
16 place at the time of the reverse auction.

17 (5) OPERATION.—The term “operation”, with
18 respect to a renewable energy facility, means that—

19 (A) such facility is generating electric en-
20 ergy;

21 (B) such facility is transmitting electric
22 energy onto the electric power grid; and

23 (C) electric energy generated by such facil-
24 ity is being sold to one or more electric utilities.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 (7) RENEWABLE ENERGY.—The term “renew-
4 able energy” has the meaning given such term in
5 section 203(b) of the Energy Policy Act of 2005 (42
6 U.S.C. 15852(b)).

7 (8) RENEWABLE ENERGY FACILITY.—The term
8 “renewable energy facility” means a facility—

9 (A) for the generation of electric energy
10 and the transmission of such electric energy
11 onto the electric power grid; and

12 (B) that generates such electric energy
13 from a renewable energy source.

14 (9) QUALIFIED RENEWABLE ENERGY FACIL-
15 ITY.—The term “qualified renewable energy facility”
16 means a renewable energy facility for which the
17 owner or operator demonstrates, to the satisfaction
18 of the Director, the following:

19 (A) Competence of the owner or operator
20 with respect to the generation of electric energy
21 from the renewable energy source used by such
22 facility.

23 (B) Evidence that the renewable energy
24 generating technology used by such facility can
25 be used on a commercial scale.

1 (C) Any additional criteria the Secretary
2 determines appropriate.

3 **TITLE IV—PROHIBITION OF CON-**
4 **SIDERATION OF GREEN-**
5 **HOUSE GAS**

6 **SEC. 401. CLEAN AIR ACT REGULATION.**

7 The Clean Air Act (42 U.S.C. 7401) is amended by
8 inserting after section 329 the following:

9 **“SEC. 330. PROHIBITION OF REGULATION OF GREENHOUSE**
10 **GAS.**

11 “(a) DEFINITION OF GREENHOUSE GAS.—In this
12 section, the term ‘greenhouse gas’ means—

13 “(1) carbon dioxide;

14 “(2) methane;

15 “(3) nitrous oxide;

16 “(4) a hydrofluorocarbon;

17 “(5) a perfluorocarbon; or

18 “(6) sulfur hexafluoride.

19 “(b) REGULATION OF GREENHOUSE GAS.—Nothing
20 in this Act may be construed to require or permit the regu-
21 lation of a greenhouse gas for climate change purposes.”.

22 **SEC. 402. ENDANGERED SPECIES ACT REGULATION.**

23 (a) PROHIBITION OF CONSIDERATION OF IMPACT OF
24 GREENHOUSE GAS.—The Endangered Species Act of

1 1973 (16 U.S.C. 1531 et seq.) is amended by adding at
2 the end the following:

3 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**
4 **GREENHOUSE GAS.**

5 “(a) DEFINITION OF GREENHOUSE GAS.—In this
6 section, the term ‘greenhouse gas’ means—

7 “(1) carbon dioxide;

8 “(2) methane;

9 “(3) nitrous oxide;

10 “(4) a hydrofluorocarbon;

11 “(5) a perfluorocarbon; or

12 “(6) sulfur hexafluoride.

13 “(b) IMPACT OF GREENHOUSE GAS.—The climate
14 change-related impact of a greenhouse gas on any species
15 of fish, wildlife, or plant shall not be considered for any
16 purpose in the implementation of this Act.”.

17 (b) CONFORMING AMENDMENT.—The table of con-
18 tents of the Endangered Species Act of 1973 (16 U.S.C.
19 1531 note) is amended by adding at the end the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

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