

112TH CONGRESS
1ST SESSION

H. R. 1023

To secure unrestricted reliable energy for American consumption and transmission.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2011

Mr. THORNBERRY introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means and Energy and Commerce, 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 secure unrestricted reliable energy for American consumption and transmission.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “No More Excuses Energy Act of 2011”.

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

Sec. 1. Short title; table of contents.

TITLE I—REFINERIES

- Sec. 102. Tax-exempt financing of domestic use oil refinery facilities.
- Sec. 103. Designation and availability of Federal lands for oil and natural gas refineries.

TITLE II—ALTERNATIVE ENERGY

- Sec. 201. Extension of credit for electricity produced from certain renewable resources.
- Sec. 202. Equalization of excise tax on liquefied natural gas and per energy equivalent of diesel.
- Sec. 203. Extension of alternative fuel credit.

TITLE III—NUCLEAR ENERGY

- Sec. 301. Waste Confidence.
- Sec. 302. ASME Nuclear Certification credit.

TITLE IV—DRILLING

Subtitle A—Tax Provisions

- Sec. 401. Credit for producing fuel from nonconventional sources to apply to gas produced onshore from formations more than 15,000 feet deep.
- Sec. 402. Repeal of minimum capture requirement for carbon dioxide sequestration credit.

Subtitle B—Oil and Gas Development on the Coastal Plain of Alaska

- Sec. 411. Short title.
- Sec. 412. Definitions.
- Sec. 413. Leasing program for lands within the Coastal Plain.
- Sec. 414. Lease sales.
- Sec. 415. Grant of leases by the Secretary.
- Sec. 416. Lease terms and conditions.
- Sec. 417. Coastal plain environmental protection.
- Sec. 418. Expedited judicial review.
- Sec. 419. Federal and State distribution of revenues.
- Sec. 420. Rights-of-way across the Coastal Plain.
- Sec. 421. Conveyance.
- Sec. 422. Local government impact aid and community service assistance.

Subtitle C—Offshore Oil and Gas Development

- Sec. 431. Repeal of moratorium on oil and gas leasing in the Gulf of Mexico.
- Sec. 432. Inclusion of areas in 2007–2012 outer Continental Shelf oil and gas leasing program.

TITLE V—GREENHOUSE GAS REGULATION

- Sec. 501. Greenhouse gas regulation under Clean Air Act.

TITLE I—REFINERIES

SEC. 102. TAX-EXEMPT FINANCING OF DOMESTIC USE OIL REFINERY FACILITIES.

(a) IN GENERAL.—

(1) TREATMENT AS EXEMPT FACILITY BOND.—

Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by striking “or” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, and”, and by inserting at the end the following new paragraph:

“(16) domestic use oil refinery facilities.”.

(2) DOMESTIC USE OIL REFINERY FACILITIES.—Section 142 is amended by adding at the end the following new subsection:

“(n) DOMESTIC USE OIL REFINERY FACILITIES.—

“(1) IN GENERAL.—For purposes of subsection (a)(16), the term ‘domestic use oil refinery facility’ means any facility in the United States—

“(A) which processes liquid fuel from crude oil, and

“(B) all of the output of which it is reasonably certain ultimate consumption will occur in the United States.

1 “(2) ELECTION TO TERMINATE TAX-EXEMPT
2 BOND FINANCING BY CERTAIN REFINERIES.—In the
3 case of a facility financed with bonds which would
4 cease to be tax-exempt by reason of the failure to
5 meet the domestic use requirement of this sub-
6 section, rules similar to the rules of subsection (f)(4)
7 shall apply for purposes of this section.”.

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

11 **SEC. 103. DESIGNATION AND AVAILABILITY OF FEDERAL**
12 **LANDS FOR OIL AND NATURAL GAS REFIN-**
13 **ERIES.**

14 (a) DESIGNATION.—Within 18 months after the date
15 of enactment of this Act, the President shall designate at
16 least 10 sites on Federal lands that are suitable for the
17 siting of an oil refinery or natural gas refinery (or both).

18 (b) AVAILABILITY OF LANDS.—Within 24 months
19 after the date of enactment of this Act, the President shall
20 make each site designated under subsection (a) available
21 to the private sector for construction of an oil refinery or
22 natural gas refinery (or both), as appropriate.

1 **TITLE II—ALTERNATIVE**
2 **ENERGY**

3 **SEC. 201. EXTENSION OF CREDIT FOR ELECTRICITY PRO-**
4 **DUCTION FROM CERTAIN RENEWABLE RE-**
5 **SOURCES.**

6 (a) **IN GENERAL.**—Paragraph (1) of section 45(d) of
7 the Internal Revenue Code of 1986 is amended by striking
8 “January 1, 2013” in paragraph (1) and inserting “Janu-
9 ary 1, 2023”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to property originally placed in
12 service on or after January 1, 2013.

13 **SEC. 202. EQUALIZATION OF EXCISE TAX ON LIQUEFIED**
14 **NATURAL GAS AND PER ENERGY EQUIVA-**
15 **LENT OF DIESEL.**

16 (a) **IN GENERAL.**—Subparagraph (B) of section
17 4041(a)(2) of the Internal Revenue Code of 1986 is
18 amended by striking the period at the end of clause (ii)
19 and inserting “, and”, and by inserting after clause (ii)
20 the following new clause:

21 “(iii) in the case of liquefied natural
22 gas, 24.3 cents per energy equivalent of a
23 gallon of diesel.”.

24 (b) **ENERGY EQUIVALENT OF A GALLON OF DIESEL**
25 **AND ADMINISTRATIVE PROVISION.**—Paragraph (2) of sec-

1 tion 4041(a) of such Code is amended by adding at the
2 end the following:

3 “(C) ENERGY EQUIVALENT OF A GALLON
4 OF DIESEL.—For purposes of this paragraph,
5 the term ‘energy equivalent of a gallon of diesel’
6 means, with respect to a liquefied natural gas
7 fuel, the amount of such fuel having a Btu con-
8 tent of 137,380 (higher heating value).

9 “(D) ADMINISTRATIVE PROVISIONS.—For
10 purposes of applying this title with respect to
11 the taxes imposed by this subsection, references
12 to any liquid subject to tax under this sub-
13 section shall be treated as including references
14 to liquefied natural gas subject to tax under
15 this paragraph.”.

16 (c) CONFORMING AMENDMENTS.—Section
17 4041(a)(2)(B)(ii) of such Code is amended—

18 (1) by striking “liquefied natural gas,” and
19 (2) by striking “peat), and” and inserting
20 “peat) and”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to any sale or use of liquefied nat-
23 ural gas after 14 days after the date of the enactment
24 of this Act.

1 **SEC. 203. EXTENSION OF ALTERNATIVE FUEL CREDIT.**

2 (a) IN GENERAL.—Paragraph (5) of section 6426(d)
3 of the Internal Revenue Code of 1986 (relating to alter-
4 native fuel credit) is amended by striking “December 31,
5 2011” and inserting “December 31, 2012”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to fuel sold or used after December
8 31, 2011.

9 **TITLE III—NUCLEAR ENERGY**

10 **SEC. 301. WASTE CONFIDENCE.**

11 The Nuclear Regulatory Commission may not deny
12 an application for a license, permit, or other authorization
13 under the Atomic Energy Act of 1954 on the grounds that
14 sufficient capacity does not exist, or will not become avail-
15 able on a timely basis, for disposal of spent nuclear fuel
16 or high-level radioactive waste from the facility for which
17 the license, permit, or other authorization is sought.

18 **SEC. 302. ASME NUCLEAR CERTIFICATION CREDIT.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 (relating to business related cred-
21 its) is amended by adding at the end the following new
22 section:

23 **“SEC. 45S. ASME NUCLEAR CERTIFICATION CREDIT.**

24 “(a) IN GENERAL.—For purposes of section 38, the
25 ASME Nuclear Certification credit determined under this
26 section for any taxable year is an amount equal to 15 per-

1 cent of the qualified nuclear expenditures paid or incurred
2 by the taxpayer.

3 “(b) QUALIFIED NUCLEAR EXPENDITURES.—For
4 purposes of this section, the term ‘qualified nuclear ex-
5 penditures’ means any expenditure related to—

6 “(1) obtaining a certification under the Amer-
7 ican Society of Mechanical Engineers Nuclear Com-
8 ponent Certification program, or

9 “(2) increasing the taxpayer’s capacity to con-
10 struct, fabricate, assemble, or install components—

11 “(A) for any facility which uses nuclear en-
12 ergy to produce electricity, and

13 “(B) with respect to the construction, fab-
14 rication, assembly, or installation of which the
15 taxpayer is certified under such program.

16 “(c) TIMING OF CREDIT.—The credit allowed under
17 subsection (a) for any expenditures shall be allowed—

18 “(1) in the case of a qualified nuclear expendi-
19 ture described in subsection (b)(1), for the taxable
20 year of such certification, and

21 “(2) in the case of any other qualified nuclear
22 expenditure, for the taxable year in which such ex-
23 penditure is paid or incurred.

24 “(d) SPECIAL RULES.—

1 “(1) BASIS ADJUSTMENT.—For purposes of
2 this subtitle, if a credit is allowed under this section
3 for an expenditure, the increase in basis which would
4 result (but for this subsection) for such expenditure
5 shall be reduced by the amount of the credit allowed
6 under this section.

7 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
8 tion shall be allowed under this chapter for any
9 amount taken into account in determining the credit
10 under this section.

11 “(e) TERMINATION.—This section shall not apply to
12 any expenditures paid or incurred in taxable years begin-
13 ning after December 31, 2019.”.

14 (b) CONFORMING AMENDMENTS.—(1) Subsection (b)
15 of section 38 is amended by striking “plus” at the end
16 of paragraph (35), by striking the period at the end of
17 paragraph (36) and inserting “, plus”, and by adding at
18 the end the following new paragraph:

19 “(37) the ASME Nuclear Certification credit
20 determined under section 45S(a).”.

21 (2) Subsection (a) of section 1016 (relating to adjust-
22 ments to basis) is amended by striking “and” at the end
23 of paragraph (36), by striking the period at the end of
24 paragraph (37) and inserting “, and”, and by adding at
25 the end the following new paragraph:

1 “(38) to the extent provided in section
2 45S(e)(1).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to expenditures paid or incurred
5 in taxable years beginning after December 31, 2010.

6 **TITLE IV—DRILLING**

7 **Subtitle A—Tax Provisions**

8 **SEC. 401. CREDIT FOR PRODUCING FUEL FROM NON-**
9 **CONVENTIONAL SOURCES TO APPLY TO GAS**
10 **PRODUCED ONSHORE FROM FORMATIONS**
11 **MORE THAN 15,000 FEET DEEP.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 45K(c)(1) is amended by striking “or” at the end of clause
14 (i), by striking “and” at the end of clause (ii) and insert-
15 ing “or”, and by inserting after clause (ii) the following
16 new clause:

17 “(iii) an onshore well from a forma-
18 tion more than 15,000 feet deep, and”.

19 (b) ELIGIBLE DEEP GAS WELLS.—Section 45K is
20 amended by adding at the end the following new sub-
21 section:

22 “(h) ELIGIBLE DEEP GAS WELLS.—In the case of
23 a well producing qualified fuel described in subsection
24 (c)(1)(B)(iii)—

1 “(1) for purposes of subsection (e)(1)(A), such
2 well shall be treated as drilled before January 1,
3 1993, if such well is drilled after the date of the en-
4 actment of this subsection, and

5 “(2) subsection (e)(2) shall not apply.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years ending after the
8 date of the enactment of this Act.

9 **SEC. 402. REPEAL OF MINIMUM CAPTURE REQUIREMENT**
10 **FOR CARBON DIOXIDE SEQUESTRATION**
11 **CREDIT.**

12 (a) IN GENERAL.—Subsection (c) of section 45Q of
13 the Internal Revenue Code of 1986 is amended by insert-
14 ing “and” at the end of paragraph (1), by striking “, and”
15 at the end of paragraph (2) and inserting a period, and
16 by striking paragraph (3).

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to carbon dioxide captured after
19 the date of the enactment of this Act.

20 **Subtitle B—Oil and Gas Develop-**
21 **ment on the Coastal Plain of**
22 **Alaska**

23 **SEC. 411. SHORT TITLE.**

24 This subtitle may be cited as the “American-Made
25 Energy and Good Jobs Act”.

1 **SEC. 412. DEFINITIONS.**

2 In this subtitle:

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

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

9 **SEC. 413. LEASING PROGRAM FOR LANDS WITHIN THE**
10 **COASTAL PLAIN.**

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

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

22 (2) to administer the provisions of this subtitle
23 through regulations, lease terms, conditions, restric-
24 tions, prohibitions, stipulations, and other provisions
25 that ensure the oil and gas exploration, development,
26 and production activities on the Coastal Plain will

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

11 (b) REPEAL.—

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

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

18 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
19 TAIN OTHER LAWS.—

20 (1) COMPATIBILITY.—For purposes of the Na-
21 tional Wildlife Refuge System Administration Act of
22 1966 (16 U.S.C. 668dd et seq.), the oil and gas
23 leasing program and activities authorized by this
24 section in the Coastal Plain are deemed to be com-
25 patible with the purposes for which the Arctic Na-

1 tional Wildlife Refuge was established, and no fur-
2 ther findings or decisions are required to implement
3 this determination.

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

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

1 in paragraph (2). Notwithstanding any other law,
2 the Secretary is not required to identify nonleasing
3 alternative courses of action or to analyze the envi-
4 ronmental effects of such courses of action. The Sec-
5 retary shall only identify a preferred action for such
6 leasing and a single leasing alternative, and analyze
7 the environmental effects and potential mitigation
8 measures for those two alternatives. The identifica-
9 tion of the preferred action and related analysis for
10 the first lease sale under this subtitle shall be com-
11 pleted within 18 months after the date of enactment
12 of this Act. The Secretary shall only consider public
13 comments that specifically address the Secretary's
14 preferred action and that are filed within 20 days
15 after publication of an environmental analysis. Not-
16 withstanding any other law, compliance with this
17 paragraph is deemed to satisfy all requirements for
18 the analysis and consideration of the environmental
19 effects of proposed leasing under this subtitle.

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

23 (e) SPECIAL AREAS.—

24 (1) IN GENERAL.—The Secretary, after con-
25 sultation with the State of Alaska, the city of

1 Kaktovik, and the North Slope Borough, may des-
2 ignate up to a total of 45,000 acres of the Coastal
3 Plain as a Special Area if the Secretary determines
4 that the Special Area is of such unique character
5 and interest so as to require special management
6 and regulatory protection. The Secretary shall des-
7 ignate as such a Special Area the Sadlerochit Spring
8 area, comprising approximately 4,000 acres.

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

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

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

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

5 (g) REGULATIONS.—

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

13 (2) REVISION OF REGULATIONS.—The Sec-
14 retary shall periodically review and, if appropriate,
15 revise the rules and regulations issued under sub-
16 section (a) to reflect any significant biological, envi-
17 ronmental, or engineering data that come to the Sec-
18 retary's attention.

19 **SEC. 414. LEASE SALES.**

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

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

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

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

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

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

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

18 (e) TIMING OF LEASE SALES.—The Secretary
19 shall—

20 (1) conduct the first lease sale under this sub-
21 title within 22 months after the date of the enact-
22 ment of this Act; and

23 (2) conduct additional sales so long as sufficient
24 interest in development exists to warrant, in the Sec-
25 retary's judgment, the conduct of such sales.

1 **SEC. 415. GRANT OF LEASES BY THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary may grant to the
3 highest responsible qualified bidder in a lease sale con-
4 ducted pursuant to section 414 any lands to be leased on
5 the Coastal Plain upon payment by the lessee of such
6 bonus as may be accepted by the Secretary.

7 (b) SUBSEQUENT TRANSFERS.—No lease issued
8 under this subtitle may be sold, exchanged, assigned, sub-
9 let, or otherwise transferred except with the approval of
10 the Secretary. Prior to any such approval the Secretary
11 shall consult with, and give due consideration to the views
12 of, the Attorney General.

13 **SEC. 416. LEASE TERMS AND CONDITIONS.**

14 An oil or gas lease issued pursuant to this subtitle
15 shall—

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

21 (2) require that the lessee of lands within the
22 Coastal Plain shall be fully responsible and liable for
23 the reclamation of lands within the Coastal Plain
24 and any other Federal lands that are adversely af-
25 fected in connection with exploration, development,
26 production, or transportation activities conducted

1 under the lease and within the Coastal Plain by the
2 lessee or by any of the subcontractors or agents of
3 the lessee;

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

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

16 (5) include requirements and restrictions to
17 provide for reasonable protection of fish and wildlife,
18 their habitat, subsistence resources, and the environ-
19 ment as determined by the Secretary;

20 (6) prohibit the export of oil produced under
21 the lease; and

22 (7) contain such other provisions as the Sec-
23 retary determines necessary to ensure compliance
24 with the provisions of this subtitle and the regula-
25 tions issued under this subtitle.

1 **SEC. 417. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 The Secretary shall, consistent with the requirements of
5 section 413, administer the provisions of this subtitle
6 through regulations, lease terms, conditions, restrictions,
7 prohibitions, stipulations, and other provisions that—

8 (1) ensure the oil and gas exploration, develop-
9 ment, and production activities on the Coastal Plain
10 will result in no significant adverse effect on fish
11 and wildlife, their habitat, and the environment;

12 (2) require the application of the best commer-
13 cially available technology for oil and gas explo-
14 ration, development, and production on all new ex-
15 ploration, development, and production operations;
16 and

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

22 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

23 The Secretary shall also require, with respect to any pro-
24 posed drilling and related activities, that—

25 (1) a site-specific analysis be made of the prob-
26 able effects, if any, that the drilling or related activi-

1 ties will have on fish and wildlife, their habitat, sub-
2 sistence resources, and the environment;

3 (2) a plan be implemented to avoid, minimize,
4 and mitigate (in that order and to the extent prac-
5 ticable) any significant adverse effect identified
6 under paragraph (1); and

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

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

20 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
21 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
22 proposed regulations, lease terms, conditions, restrictions,
23 prohibitions, and stipulations for the leasing program
24 under this subtitle shall require compliance with all appli-

1 cable provisions of Federal and State environmental law,
2 and shall also require the following:

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

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

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

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

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

22 (4) Prohibitions on general public access and
23 use on all pipeline access and service roads.

24 (5) Stringent reclamation and rehabilitation re-
25 quirements, consistent with the standards set forth

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

11 (6) Appropriate prohibitions or restrictions on
12 access by all modes of transportation.

13 (7) Appropriate prohibitions or restrictions on
14 sand and gravel extraction.

15 (8) Consolidation of facility siting.

16 (9) Appropriate prohibitions or restrictions on
17 use of explosives.

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

24 (11) Avoidance or minimization of air traffic-re-
25 lated disturbance to fish and wildlife.

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

8 (13) Fuel storage and oil spill contingency plan-
9 ning.

10 (14) Research, monitoring, and reporting re-
11 quirements.

12 (15) Field crew environmental briefings.

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

16 (17) Compliance with applicable air and water
17 quality standards.

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

21 (19) Reasonable stipulations for protection of
22 cultural and archeological resources.

23 (20) All other protective environmental stipula-
24 tions, restrictions, terms, and conditions deemed
25 necessary by the Secretary.

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

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

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

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

19 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

3 (A) Avoiding unnecessary duplication of fa-
4 cilities and activities.

5 (B) Encouraging consolidation of common
6 facilities and activities.

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

11 (D) Utilizing existing facilities wherever
12 practicable.

13 (E) Enhancing compatibility between wild-
14 life values and development activities.

15 (g) ACCESS TO PUBLIC LANDS.—The Secretary
16 shall—

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

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

24 **SEC. 418. EXPEDITED JUDICIAL REVIEW.**

25 (a) FILING OF COMPLAINT.—

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

5 (A) except as provided in subparagraph

6 (B), within the 90-day period beginning on the
7 date of the action being challenged; or

8 (B) in the case of a complaint based solely
9 on grounds arising after such period, within 90
10 days after the complainant knew or reasonably
11 should have known of the grounds for the com-
12 plaint.

13 (2) VENUE.—Any complaint seeking judicial re-
14 view of any provision of this subtitle or any action
15 of the Secretary under this subtitle may be filed only
16 in the United States Court of Appeals for the Dis-
17 trict of Columbia.

18 (3) LIMITATION ON SCOPE OF CERTAIN RE-
19 VIEW.—Judicial review of a Secretarial decision to
20 conduct a lease sale under this subtitle, including
21 the environmental analysis thereof, shall be limited
22 to whether the Secretary has complied with the
23 terms of this subtitle and shall be based upon the
24 administrative record of that decision. The Sec-
25 retary's identification of a preferred course of action

1 to enable leasing to proceed and the Secretary's
2 analysis of environmental effects under this subtitle
3 shall be presumed to be correct unless shown other-
4 wise by clear and convincing evidence to the con-
5 trary.

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

10 **SEC. 419. FEDERAL AND STATE DISTRIBUTION OF REVE-**
11 **NUES.**

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

16 (1) 25 percent shall be paid to the State of
17 Alaska; and

18 (2) except as provided in section 422(d), the
19 balance shall be deposited into the Treasury as mis-
20 cellaneous receipts.

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

1 **SEC. 420. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

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

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

10 (2) under title XI of the Alaska National Inter-
11 est Lands Conservation Act (30 U.S.C. 3161 et
12 seq.), for access authorized by sections 1110 and
13 1111 of that Act (16 U.S.C. 3170 and 3171).

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

23 (c) REGULATIONS.—The Secretary shall include in
24 regulations under section 413(g) provisions granting
25 rights-of-way and easements described in subsection (a)
26 of this section.

1 **SEC. 421. CONVEYANCE.**

2 In order to maximize Federal revenues by removing
3 clouds on title to lands and clarifying land ownership pat-
4 terns within the Coastal Plain, the Secretary, notwith-
5 standing the provisions of section 1302(h)(2) of the Alas-
6 ka National Interest Lands Conservation Act (16 U.S.C.
7 3192(h)(2)), shall convey—

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

19 (2) to the Arctic Slope Regional Corporation
20 the remaining subsurface estate to which it is enti-
21 tled pursuant to the August 9, 1983, agreement be-
22 tween the Arctic Slope Regional Corporation and the
23 United States of America.

24 **SEC. 422. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
25 **NITY SERVICE ASSISTANCE.**

26 (a) **FINANCIAL ASSISTANCE AUTHORIZED.**—

1 (1) IN GENERAL.—The Secretary may use
2 amounts available from the Coastal Plain Local Gov-
3 ernment Impact Aid Assistance Fund established by
4 subsection (d) to provide timely financial assistance
5 to entities that are eligible under paragraph (2) and
6 that are directly impacted by the exploration for or
7 production of oil and gas on the Coastal Plain under
8 this subtitle.

9 (2) ELIGIBLE ENTITIES.—The North Slope
10 Borough, the City of Kaktovik, and any other bor-
11 ough, municipal subdivision, village, or other com-
12 munity in the State of Alaska that is directly im-
13 pacted by exploration for, or the production of, oil
14 or gas on the Coastal Plain under this Act, as deter-
15 mined by the Secretary, shall be eligible for financial
16 assistance under this section.

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

19 (1) planning for mitigation of the potential ef-
20 fects of oil and gas exploration and development on
21 environmental, social, cultural, recreational, and sub-
22 sistence values;

23 (2) implementing mitigation plans and main-
24 taining mitigation projects;

1 (3) developing, carrying out, and maintaining
2 projects and programs that provide new or expanded
3 public facilities and services to address needs and
4 problems associated with such effects, including fire-
5 fighting, police, water, waste treatment, medivac,
6 and medical services; and

7 (4) establishment of a coordination office, by
8 the North Slope borough, in the City of Kaktovik,
9 which shall—

10 (A) coordinate with and advise developers
11 on local conditions, impact, and history of the
12 areas utilized for development; and

13 (B) provide to the Committee on Resources
14 of the House of Representatives and the Com-
15 mittee on Energy and Natural Resources of the
16 Senate an annual report on the status of co-
17 ordination between developers and the commu-
18 nities affected by development.

19 (c) APPLICATION.—

20 (1) IN GENERAL.—Any community that is eligi-
21 ble for assistance under this section may submit an
22 application for such assistance to the Secretary, in
23 such form and under such procedures as the Sec-
24 retary may prescribe by regulation.

1 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
2 community located in the North Slope Borough may
3 apply for assistance under this section either directly
4 to the Secretary or through the North Slope Bor-
5 ough.

6 (3) APPLICATION ASSISTANCE.—The Secretary
7 shall work closely with and assist the North Slope
8 Borough and other communities eligible for assist-
9 ance under this section in developing and submitting
10 applications for assistance under this section.

11 (d) ESTABLISHMENT OF FUND.—

12 (1) IN GENERAL.—There is established in the
13 Treasury the Coastal Plain Local Government Im-
14 pact Aid Assistance Fund.

15 (2) USE.—Amounts in the fund may be used
16 only for providing financial assistance under this
17 section.

18 (3) DEPOSITS.—Subject to paragraph (4), there
19 shall be deposited into the fund amounts received by
20 the United States as revenues derived from rents,
21 bonuses, and royalties from Federal leases and lease
22 sales authorized under this subtitle.

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

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

4 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
5 vide financial assistance under this section there is author-
6 ized to be appropriated to the Secretary from the Coastal
7 Plain Local Government Impact Aid Assistance Fund
8 \$5,000,000 for each fiscal year.

9 **Subtitle C—Offshore Oil and Gas**
10 **Development**

11 **SEC. 431. REPEAL OF MORATORIUM ON OIL AND GAS LEAS-**
12 **ING IN THE GULF OF MEXICO.**

13 (a) REPEAL.—Section 104 of the Gulf of Mexico En-
14 ergy Security Act of 2006 (Public Law 109–432; 43
15 U.S.C. 1331 note) is amended by striking “June 30,
16 2022” and inserting “January 1, 2011”.

17 (b) INCLUSION OF OPENED AREAS IN 2007–2012
18 OUTER CONTINENTAL SHELF OIL AND GAS LEASING
19 PROGRAM.—Within 90 days after the date of enactment
20 of this Act, the Secretary of the Interior shall include the
21 area removed from moratorium by subsection (a) in the
22 areas available for leasing under the 2007–2012 outer
23 Continental Shelf oil and gas leasing program prepared
24 under section 18 of the Outer Continental Shelf Lands
25 Act (43 U.S.C. 1344).

1 **SEC. 432. INCLUSION OF AREAS IN 2007–2012 OUTER CONTI-**
2 **NENTAL SHELF OIL AND GAS LEASING PRO-**
3 **GRAM.**

4 (a) **IN GENERAL.**—Within 90 days after the date of
5 enactment of this Act, the Secretary of the Interior shall
6 include the areas described in subsection (b) in the areas
7 available for leasing under the 2007–2012 outer Conti-
8 nental Shelf oil and gas leasing program prepared under
9 section 18 of the Outer Continental Shelf Lands Act (43
10 U.S.C. 1344).

11 (b) **AREAS DESCRIBED.**—The areas referred to in
12 subsection (a) are all areas of the outer Continental Shelf
13 (as that term is defined in that Act) in the Arctic Ocean,
14 Atlantic Ocean, Pacific Ocean, and Eastern Gulf of Mex-
15 ico.

16 **TITLE V—GREENHOUSE GAS**
17 **REGULATION**

18 **SEC. 501. GREENHOUSE GAS REGULATION UNDER CLEAN**
19 **AIR ACT.**

20 (a) **DEFINITION OF AIR POLLUTANT.**—Section
21 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is
22 amended by adding the following at the end thereof: “The
23 term ‘air pollutant’ shall not include carbon dioxide, water
24 vapor, methane, nitrous oxide, hydrofluorocarbons,
25 perfluorocarbons, or sulfur hexafluoride.”.

1 (b) CLIMATE CHANGE NOT REGULATED BY CLEAN
2 AIR ACT.—Nothing in the Clean Air Act (42 U.S.C. 7401
3 et seq.) shall be treated as authorizing or requiring the
4 regulation of climate change or global warming.

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