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. Bachu, Mr. Bensheer, Mr. Brady of Texas, Mr. Brown 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. Emmer, Mr. Fincher, Mr. Franks of Arizona, Mr. Gigney 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. Schrock, 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.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(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
The Congress finds the following:

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

(2) Development of domestic oil and gas resources can be accomplished in a safe and environmentally responsible manner.

(3) Increased development of domestic oil and gas resources could significantly boost economic growth, provide permanent well-paying jobs, and
serve as a significant revenue source to the Federal Government.

(4) The United States Geological Survey estimates that the Arctic National Wildlife Refuge contains a mean expected value of 10.4 billion barrels of technically recoverable oil.

(5) The Minerals Management Service estimated there are 85 billion undiscovered, technically recoverable barrels of oil and 420 trillion cubic feet of natural gas in the outer Continental Shelf of the United States.

(6) The Minerals Management Service estimated that less than 0.001 percent of oil produced on the outer Continental Shelf of the United States since 1980 has been spilled.

(7) The National Academy of Sciences has estimated that less than 1 percent of petroleum in American waters is from drilling and extraction, and that 63 percent is from natural seepage.

Subtitle A—Outer Continental Shelf

SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.

(a) IN GENERAL.—The Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program 2010–2015 released by the Secretary of the Interior (referred
to in this section as the “Secretary”) in January 2009, under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344), is considered to have been approved by the Secretary as a final oil and gas leasing program under that section, and is considered to be in full compliance with and in accordance with all requirements of the Outer Continental Shelf Lands Act, National Environmental Policy Act of 1969, Endangered Species Act of 1973, Clean Air Act, Marine Mammal Protection Act of 1972, Oil Pollution Act of 1990, and all other applicable laws.

(b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—

The Secretary is considered to have issued a legally sufficient final environmental impact statement for the program described in subsection (a) in accordance with all requirements under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), and all other applicable laws.

SEC. 102. OUTER CONTINENTAL SHELF LEASE SALES.

(a) IN GENERAL.—Except as provided in subsection (b), not later than 30 days after the date of enactment of this Act and every 270 days thereafter, the Secretary of the Interior (referred to in this section as the “Secretary”) shall conduct a lease sale in each outer Continental Shelf area for which the Secretary determines that
there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf.

(b) Subsequent Determinations and Sales.—If the Secretary determines that there is not a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in an area under subsection (a), not later than 2 years after the date of such determination, and every 2 years thereafter, the Secretary shall—

(1) reevaluate whether there is commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in the area; and

(2) if the Secretary determines that there is a commercial interest described in paragraph (1), conduct a lease sale in the area.

(c) Proceeds of Lease Sales From Newly Open Areas.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), the Federal share of any proceeds resulting from a lease sale conducted under this section with respect to an outer Continental Shelf area that is made open for lease sales pursuant to section 101, and that was not open for lease sales prior to the enactment of this Act, shall be deposited in
the American-Made Energy Trust Fund established in section 9512 of the Internal Revenue Code of 1986 (as added by title II).

SEC. 103. DEFINITIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

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

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

(2) in subsection (a), by inserting after “control” the following: “, or lying within the United States exclusive economic zone adjacent to the Territories of the United States”;

(3) by amending subsection (f) to read as follows:

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

(4) by striking the semicolon at the end of each of subsections (a) through (o) and inserting a period;

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

(6) by adding at the end the following:
“(r) The term ‘Adjacent State’ means, with respect to any program, plan, lease sale, leased tract, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State the laws of which are declared, pursuant to section 4(a)(2), to be the law of the United States for the portion of the outer Continental Shelf to which such program, plan, lease sale, or leased tract appertains or on which such activity is, or is proposed to be, conducted. For purposes of this paragraph, the term ‘State’ includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and the other Territories of the United States.

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

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

“(u) The term ‘coastline’ has the same meaning as the term ‘coast line’ as defined in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).’’
SEC. 104. DETERMINATION OF ADJACENT ZONES AND OCS PLANNING AREAS.

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

SEC. 105. OUTER CONTINENTAL SHELF LEASING PROGRAM.

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

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

(2) in subsection (c), by striking so much as
precedes paragraph (3) and inserting the following:
“(c)(1) During the preparation of any proposed leas-
ing program under this section, the Secretary shall con-
sider and analyze leasing throughout the entire outer Con-
tinental Shelf without regard to any other law affecting
such leasing. During this preparation, the Secretary shall
invite and consider suggestions from any interested Fed-
eral agency, including the Attorney General, in consulta-
tion with the Federal Trade Commission, and from the
Governor of any coastal State. The Secretary may also in-
vite or consider any suggestions from the executive of any
local government in a coastal State that have been pre-
viously submitted to the Governor of such State, and from
any other person. Further, the Secretary shall consult
with the Secretary of Defense regarding military oper-
ational needs in the outer Continental Shelf. The Sec-
retary shall work with the Secretary of Defense to resolve
any conflicts that might arise regarding offering any area
of the outer Continental Shelf for oil and gas leasing. If
the Secretaries are not able to resolve all such conflicts,
any unresolved issues shall be elevated to the President
for resolution.

“(2) After the consideration and analysis required by
paragraph (1), including the consideration of the sugges-
tions received from any interested Federal agency, the
Federal Trade Commission, the Governor of any coastal
State, any local government of a coastal State, and any
other person, the Secretary shall publish in the Federal
Register a proposed leasing program accompanied by a
draft environmental impact statement prepared pursuant
to the National Environmental Policy Act of 1969. After
the publishing of the proposed leasing program and during
the comment period provided for on the draft environ-
mental impact statement, the Secretary shall submit a
copy of the proposed program to the Governor of each af-
fected State for review and comment. The Governor may
solicit comments from those executives of local govern-
ments in the Governor’s State that the Governor, in the
discretion of the Governor, determines will be affected by
the proposed program. If any comment by such Governor
is received by the Secretary at least 15 days prior to sub-
mission to the Congress pursuant to paragraph (3) and
includes a request for any modification of such proposed
program, the Secretary shall reply in writing, granting or
denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating the Secretary’s reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.”; and

(3) by adding at the end the following:

“(i) Projection of State Adjacent Zone Resources and State and Local Government Shares of OCS Receipts.—Concurrent with the publication of the scoping notice at the beginning of the development of each 5-Year Outer Continental Shelf Oil and Gas Leasing Program, or as soon thereafter as possible, the Secretary shall—

“(1) provide to each Adjacent State a current estimate of proven and potential oil and gas resources located within the State’s Adjacent Zone; and

“(2) provide to each Adjacent State, and coastal political subdivisions thereof, a best efforts projection of the OCS Receipts that the Secretary expects will be shared with each Adjacent State, and its coastal political subdivisions, using the assumption
that the unleased tracts within the State’s Adjacent Zone are fully made available for leasing, including long-term projected OCS Receipts. In addition, the Secretary shall include a macroeconomic estimate of the impact of such leasing on the national economy and each State’s economy, including investment, jobs, revenues, personal income, and other categories.”.

SEC. 106. COORDINATION WITH ADJACENT STATES.

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

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

(2) by adding at the end the following:

“(f)(1) No Federal agency may permit or otherwise approve, without the concurrence of the Adjacent State, the construction of a crude oil or petroleum products (or both) pipeline within the part of the Adjacent State’s Adjacent Zone that is withdrawn from oil and gas leasing, except that such a pipeline may be approved, without such Adjacent State’s concurrence, to pass through such Adjacent Zone if at least 50 percent of the production projected to be carried by the pipeline within its first 10 years
of operation is from areas of the Adjacent State’s Adjacent Zone.

“(2) No State may prohibit the construction within its Adjacent Zone or its State waters of a natural gas pipeline that will transport natural gas produced from the outer Continental Shelf. However, an Adjacent State may prevent a proposed natural gas pipeline landing location if it proposes two alternate landing locations in the Adjacent State, acceptable to the Adjacent State, located within 50 miles on either side of the proposed landing location.”.

SEC. 107. ENVIRONMENTAL STUDIES.

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

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

(2) by adding at the end the following:

“(2) For all programs, lease sales, leases, and actions under this Act, the following shall apply regarding the application of the National Environmental Policy Act of 1969:

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

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

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

“(D) Within each OCS Planning Area, after the preparation of the first development and production plan environmental impact statement for a leased tract within the Area, fu-
ture development and production plans for
leased tracts within the Area shall only require
the preparation of an environmental assessment
unless the most recent development and produc-
tion plan environmental impact statement with-
in the Area was finalized more than 10 years
prior to the date of the approval of the plan, in
which case an environmental impact statement
shall be required.”.

SEC. 108. OUTER CONTINENTAL SHELF INCOMPATIBLE
USE.

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

(b) Exceptions.—Subsection (a) shall not apply to
any facility, transportation corridor, or operating area the
construction, operation, designation, or maintenance of
which is or will be—
(1) located in an area of the outer Continental Shelf that is unavailable for oil and gas leasing by operation of law;

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

(3) required in the national interest, as determined by the President.

SEC. 109. REPURCHASE OF CERTAIN LEASES.

(a) AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.—The Secretary of the Interior may repurchase and cancel any Federal oil and gas, geothermal, coal, oil shale, tar sands, or other mineral lease, whether onshore or offshore, but not including any outer Continental Shelf oil and gas leases that were subject to litigation in the Court of Federal Claims on January 1, 2006, if the Secretary finds that such lease qualifies for repurchase and cancellation under the regulations authorized by this section.

(b) REGULATIONS.—Not later than 365 days after the date of the enactment of this Act, the Secretary shall publish a final regulation stating the conditions under which a lease referred to in subsection (a) would qualify for repurchase and cancellation, and the process to be followed regarding such repurchase and cancellation.
(c) No Prejudice.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

SEC. 110. OFFSITE ENVIRONMENTAL MITIGATION.

Subtitle B—Arctic National Wildlife Refuge

SEC. 121. DEFINITIONS. In this subtitle:

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

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

SEC. 122. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN. (a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

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

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

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

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of
1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) Adequacy of the Department of the Interior’s Legislative Environmental Impact Statement.—The “Final Legislative Environmental Impact Statement” (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) Compliance with NEPA for other actions.—Before conducting the first lease sale under
this subtitle, the Secretary shall prepare an environ-
mental impact statement under the National Envi-
ronmental Policy Act of 1969 with respect to the ac-
tions authorized by this subtitle that are not re-
ferred to in paragraph (2). Notwithstanding any
other law, the Secretary is not required to identify
nonleasing alternative courses of action or to analyze
the environmental effects of such courses of action.
The Secretary shall only identify a preferred action
for such leasing and a single leasing alternative, and
analyze the environmental effects and potential miti-
gation measures for those two alternatives. The
identification of the preferred action and related
analysis for the first lease sale under this subtitle
shall be completed not later than 18 months after
the date of enactment of this Act. The Secretary
shall only consider public comments that specifically
address the Secretary’s preferred action and that are
filed within 20 days after publication of an environ-
mental analysis. Notwithstanding any other law,
compliance with this paragraph is deemed to satisfy
all requirements for the analysis and consideration
of the environmental effects of proposed leasing
under this subtitle.
(d) **Relationship to State and Local Authority.**—Nothing in this subtitle shall be considered to expand or limit State or local regulatory authority.

(c) **Special Areas.**—

(1) **In general.**—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

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

(3) **Exclusion from Leasing or Surface Occupancy.**—The Secretary may exclude any Special Area from leasing. The Secretary may only lease a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, or related activities, if there is no surface occupancy of the lands comprising the Special Area.
(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the Special Area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary’s sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, or production is that authority set forth in this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, the subsistence resources, and the environment of the Coastal Plain, by not later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary’s attention.
SEC. 123. LEASE SALES.

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

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

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

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

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

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

(e) TIMING OF LEASE SALES.—The Secretary shall—
(1) conduct the first lease sale under this subtitle not later than 22 months after the date of the enactment of this Act;

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

and

(3) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary’s judgment, the conduct of such sales.

SEC. 124. GRANT OF LEASES BY THE SECRETARY.

(a) In general.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 123 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) Subsequent transfers.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 125. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this subtitle shall—
(1) provide for the payment of a royalty of not less than 12 1/2 percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

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

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

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

(8) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this subtitle and the regulations issued under this subtitle.

SEC. 126. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) No Significant Adverse Effect Standard To Govern Authorized Coastal Plain Activities.—

The Secretary shall, consistent with the requirements of
section 122, administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the possible significant adverse effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;
(2) if the analysis under paragraph (1) results in a finding that a significant adverse effect prohibited by subsection (a)(1) is likely to occur as a result of the proposed drilling or related activity, a plan be developed and implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) the significant adverse effect in order to comply with such subsection; and

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

(c) Regulations To Protect Coastal Plain Fish and Wildlife Resources, Subsistence Users, and the Environment.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) Compliance With Federal and State Environmental Laws and Other Requirements.—The proposed regulations, lease terms, conditions, restrictions,
prohibitions, and stipulations for the leasing program under this subtitle shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

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

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.
(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

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

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this subtitle, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.
(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

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

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

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

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.
(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

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

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

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

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:


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

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

(f) FACILITY CONSOLIDATION PLANNING.—

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

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.
(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

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

(1) manage public lands in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

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

(a) **FILING OF COMPLAINT.**—

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

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

(B) in the case of a complaint based solely on grounds arising after such period, within 60 days after the complainant knew or reasonably
should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of any provision of this subtitle or any action of the Secretary under this subtitle may be filed only in the United States District Court for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this subtitle, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this subtitle and shall be based upon the administrative record of that decision. The Secretary’s identification of a preferred course of action to enable leasing to proceed and the Secretary’s analysis of environmental effects under this subtitle shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.
SEC. 128. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) In General.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle—

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

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

(b) Payments to Alaska.—Payments to the State of Alaska under this section shall be made semiannually.

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

(a) In General.—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas—

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

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

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

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

SEC. 130. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary
to fulfill the Corporation’s entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 131. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) Financial Assistance Authorized.—

(1) In general.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this subtitle.
(2) **ELIGIBLE ENTITIES.**—The North Slope Borough, the city of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, as determined by the Secretary, shall be eligible for financial assistance under this section.

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

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the city of Kaktovik, which shall—
(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) Application.—

(1) In general.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) North slope borough communities.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) Application assistance.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.
(d) **Establishment of Fund.**—

(1) **In General.**—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) **Use.**—Amounts in the fund may be used only for providing financial assistance under this section.

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

(4) **Limitation on Deposits.**—The total amount in the fund may not exceed $11,000,000.

(5) **Investment of Balances.**—The Secretary of the Treasury shall invest amounts in the fund in interest-bearing government securities.

(e) **Authorization of Appropriations.**—To provide financial assistance under this section, there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.
Subtitle C—Oil Shale

SEC. 141. OIL SHALE.

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

(1) The Office of Naval Petroleum and Oil Shale Reserves at the Department of Energy has estimated that oil shale resources located on Federal lands hold 2 trillion undiscovered technically recoverable barrels of oil.

(2) Oil shale is a strategically important domestic resource that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports.

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

(4) Development of such strategic unconventional fuel should occur, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(5) Oil shale is one of the best resources available for advancing American technology and creating American jobs.
(6) Oil shale will be a critically important component of the Nation's transportation fuel sector in particular, by providing a secure domestic source of aviation fuel for both commercial and military uses.

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

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

(d) REDUCED PAYMENTS TO ENSURE PRODUCTION.—The Secretary of the Interior may temporarily reduce royalties, fees, rentals, bonus bids, or other payments for leases of Federal lands for the development and production of oil shale resources as necessary to give incentives for and encourage development of such resources, if the Secretary determines that the royalties, fees, rentals,
bonus bids, and other payments otherwise authorized by law are hindering production of such resources.

Subtitle D—Coal-to-Liquid

SEC. 151. DEVELOPMENT AND OPERATION OF FACILITIES.

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

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

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

For purposes of this subtitle:

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

(2) QUALIFIED COAL-TO-LIQUID FACILITY.—
The term “qualified coal-to-liquid facility” means a manufacturing facility that has the capacity to produce at least 10,000 barrels per day of coal-to-
liquid fuel from a feedstock that is primarily domes-
tic coal (including peat and any property which al-
low for the capture, transportation, or sequestration
of byproducts resulting from such process, including
carbon emissions).

SEC. 153. REPEAL.

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

Subtitle E—Nuclear

SEC. 161. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

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

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

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

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

(5) nuclear energy supplies consistent, baseload
electricity, independent of environmental conditions;
(6) nuclear power is a safe, reliable, efficient, and affordable source of energy;

(7) between 1960 and 1980, the Nuclear Regulatory Commission issued 169 permits to construct nuclear power facilities;

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

(9) long lead times for nuclear power plant licensing, permitting, and construction indicate that action to stimulate the nuclear power industry should not be delayed;

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

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

(12) increasing nuclear power threefold will create 480,000 construction jobs, 140,000 permanent
jobs, and $20,000,000,000 in local, State, and Federal tax revenue each year;

(13) increasing nuclear power threefold will reduce electricity-based carbon dioxide emissions by 1,400,000,000 metric tons annually and will reduce carbon emissions by 65 percent from current emissions levels by 2050;

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

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

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

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

(18) despite the foregoing laws, the Government has failed to accept high-level radioactive waste and
spent nuclear fuel from utilities and has delayed
construction of the Yucca Mountain repository;

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

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

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

(22) the United States has 58,000 tons of rad-
iological material stored at more than 100 sites in 39
States;

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

(24) the Yucca Mountain repository’s capacity
is statutorily limited to 70,000 tons of waste but can
safely hold 120,000 tons;
(25) operators who have paid into the Nuclear Waste Fund have been denied access to permanent storage of radiological material as promised by the Federal Government;

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

(27) operators have the technical expertise to develop new and more efficient processes of disposing of new radiological material.

(b) STATEMENT OF POLICY.—It is the policy of the United States, given the importance of making a transition to a clean energy, low-carbon economy, to facilitate the continued development and growth of a safe and clean nuclear energy industry through reductions in financial, regulatory, and technical barriers to construction and operation.

SEC. 162. 200 OPERATING PERMITS BY 2040.

Subject to the requirements of this subtitle and in accordance with existing law, the Nuclear Regulatory Commission shall issue operating permits for 200 new commercial nuclear reactors, enough to triple current megawatt capacity, by 2040, if there are a sufficient number of qualified applicants.
SEC. 163. REPEAL OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

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

SEC. 164. RADIOLOGICAL MATERIAL REPOSITORY.

(a) Repository Required.—The Federal Government shall site and permit at least one radiological material geologic repository for the disposal of radiological material.

(b) Yucca Mountain.—

(1) IN GENERAL.—The repository site at Yucca Mountain shall remain the site for the Nation’s radiological material repository unless it is determined unsuitable, based on technical and scientific analysis, by the Nuclear Regulatory Commission following full statutory review of the Department of Energy’s license application to construct the Yucca Mountain repository.

(2) APPLICATION.—The Nuclear Regulatory Commission shall continue to review the Department of Energy’s pending license application to construct the repository at Yucca Mountain until a determination is made on the merits of the application.

(3) DEADLINES.—

(A) SUITABILITY DETERMINATION.—Not later than 90 days after the enactment of this
Act, the Nuclear Regulatory Commission shall make a determination regarding the suitability of Yucca Mountain under paragraph (1).

(B) Action on application.—Not later than 180 days after the enactment of this Act, the Nuclear Regulatory Commission shall approve or deny the application under paragraph (2).

(4) Limitations on amount of radiological material.—All statutory limitations on the amount of radiological material that can be placed in Yucca Mountain are hereby removed and shall be replaced by the Nuclear Regulatory Commission with new limits based on scientific and technical analysis of the full capacity of Yucca Mountain for the storage of radiological material.

(c) Alternative repository.—

(1) In general.—Should the Nuclear Regulatory Commission determine under subsection (b) that Yucca Mountain is not a suitable location to place a radiological material repository, the Secretary shall be responsible for, not later than 1 year after the date on which such determination is made, locating and submitting an application for an alter-
native geologic repository that provides at least
120,000 tons of storage capacity.

(2) Action on Application.—Not later than
2 years after the date on which an application is
submitted under paragraph (1) or (3), the Nuclear
Regulatory Commission shall approve or deny such
application.

(3) Further Application Submissions.—If
an application is denied under paragraph (2), the
Secretary shall submit a new application in accord-
ance with paragraph (1) not later than 1 year after
the date of such denial.

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

SEC. 165. INDEPENDENT RADIOLOGICAL MATERIAL MAN-
AGEMENT.

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

(1) The feasibility of establishing an inde-
dependent radiological material management program
that would meet the guidelines in subsection (b).
(2) Legislative and regulatory action necessary
to phase out the fee structure contained in section
302 of the Nuclear Waste Policy Act of 1982 (42
U.S.C. 10222) in order to allow a fee structure de-
scribed in subsection (b)(5)(F) to be implemented if
a program meeting the guidelines in subsection (b)
is established.

(b) GUIDELINES.—

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

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

(3) APPLICATION CONTENTS.—The Secretary
may require an eligible entity seeking to be awarded
a contract under a program established in accord-
ance with this subsection to submit to the Secretary
an application containing the following:
(A) A complete description of the fee structure the eligible entity will use to fund the maintenance and operation of repositories, in accordance with paragraph (5)(F).

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

(4) TRANSFER OF CONTROL.—The Secretary may transfer to an eligible entity awarded a contract under a program established in accordance with this subsection control and ownership of all Nuclear Regulatory Commission-issued licenses, allowances, and responsibilities necessary for the operation of the nuclear materials repository at Yucca Mountain.

(5) RESPONSIBILITIES.—The Secretary may require an eligible entity awarded a contract under a program established in accordance with this subsection to be responsible for the following:

(A) Providing technical and other information to the Nuclear Regulatory Commission as it reviews the Department of Energy’s permit application for the Yucca Mountain repository.

(B) Seeking all other necessary regulatory approvals and permits to construct and operate the Yucca Mountain repository.
(C) Managing construction of one or more radiological material repositories upon Nuclear Regulatory Commission approval, including conducting all necessary design and engineering work to support construction of the repository.

(D) Radiological material repository operations.

(E) Undertaking all infrastructure activities necessary to support the construction or operation of the repository or transportation to the site of radiological material, including—

(i) safety upgrades;

(ii) site preparation;

(iii) construction of a rail line to connect the repository site with the national rail network, including any facilities to facilitate rail operations; and

(iv) construction, upgrade, acquisition, or operation of electrical grids or facilities, other utilities, communication facilities, access roads, rail lines, and nonnuclear support facilities.

(F) Creating a fee structure for the geologic storage of radiological material. The fees may not exceed the amount necessary to main-
tain and operate repositories and shall be the primary mechanism for accessing repositories, and in setting the fees the eligible entity shall take into consideration multiple variables, including—

(i) volume;
(ii) toxicity;
(iii) heat load; and
(iv) repository operation costs.

(c) Congressional Authorization Required.—The Secretary may not establish an independent radiological material management program under this section unless authorized by a law enacted after the date of enactment of this Act.

SEC. 166. SPENT NUCLEAR FUEL RECYCLING.

(a) Prohibition.—The President is prohibited from blocking or hindering spent nuclear fuel recycling activities.

(b) Rulemaking for Licensing of Spent Nuclear Fuel Recycling Facilities.—Not later than 2 years after the date of enactment of this Act, the Chairman of the Nuclear Regulatory Commission shall complete a rulemaking establishing a process for the licensing by the Nuclear Regulatory Commission, under the Atomic
Energy Act of 1954, of facilities for the recycling of spent nuclear fuel.

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

(a) INVENTORY.—The Secretary of Energy shall conduct an inventory of all materials owned by the Department of Energy that could, either without or with further processing, be used to power commercial nuclear reactors.

(b) ESTABLISHMENT OF RESERVE.—The Secretary shall establish a nuclear fuel supply reserve consisting of materials identified as available for such purposes from the inventory conducted under subsection (a). The Secretary shall establish appropriate procedures to ensure that the reserve can protect United States energy producers from shortages of nuclear fuel.

(c) PLAN.—The Secretary shall transmit to the Congress a long-term plan for introducing nuclear fuel supplies from the reserve into the market.

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

Nothing in this title shall supersede, mitigate, detract from, or in any way decrease the Nuclear Regulatory Commission’s ability to maintain the highest possible levels of public health and safety standards, consistent with the provisions of the Atomic Energy Act of 1954. No authority granted by this title shall be executed in a manner that
jeopardizes, minimizes, reduces, or lessens public health
and safety standards.

SEC. 169. STREAMLINING COMBINED CONSTRUCTION AND
OPERATING LICENSE.

(a) IN GENERAL.—The Nuclear Regulatory Commiss-
ion shall establish and implement an expedited procedure
for issuing a Combined Construction and Operating Li-

cense.

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

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

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

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

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

(c) EXPEDITED PROCEDURE.—With respect to a li-
cense for which the applicant has satisfied the require-
ments of subsection (b) and seeks expedited consideration, the Nuclear Regulatory Commission shall follow the following procedures:

(1) Undertake an expedited environmental review process and issue a draft environmental impact statement not later than 12 months after the application is accepted for docketing.

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

(3) Complete the technical review process and issue the Safety Evaluation Report and the final environmental impact statement not later than 18 months after the application is accepted for docketing.

(4) Make a final decision on whether to issue the Combined Construction and Operating License not later than 25 months after docketing the application.

(d) GOALS.—The Chairman of the Nuclear Regulatory Commission shall present recommendations to Congress not later than 90 days after the date of enactment
of this Act for procedures that would further facilitate the
licensing of new nuclear reactors in a timely manner.

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

(a) **Provisional Certification.—**

(1) **Authority.—**The Nuclear Regulatory
Commission may provide to an applicant a provi-
sional certification of a proposed nuclear reactor de-
sign.

(2) **Effect of Provisional Certification.—**Approval of a provisional design certifi-
cation under this subsection shall not eliminate, re-
duce, or otherwise affect any requirement for reactor
design approval or certification by the Nuclear Reg-
ulatory Commission or any other agency under Fed-
ERAL law.

(3) **Timing.—**

(A) **In General.—**Except as provided in
subparagraph (B), a provisional certification
shall be provided or denied under this sub-
section not later than 60 days after the date of
application therefor.

(B) **Extension.—**The Nuclear Regulatory
Commission may extend the time period under
subparagraph (A) for an additional 30 days if
necessary to enable certification.
(4) CRITERIA.—In determining whether to approve a provisional certification application under this subsection, the Nuclear Regulatory Commission shall consider whether the proposed design—

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

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

(C) is safely operating or under construction in other nations.

(5) SUPPLEMENTAL INFORMATION.—An application for provisional certification under this subsection may include supplemental information provided by potential future applicants for approval of the same or a similar design.

(b) EXPEDITED CERTIFICATION PROCESS.—Not later than one year after the date of enactment of this Act, the Chairman of the Nuclear Regulatory Commission shall develop and submit to the Congress an expedited process for certifying reactor designs, including those designs under consideration for certification by the Commission on the date of enactment of this Act, that significantly reduces the time necessary to achieve such certification.
SEC. 171. TECHNOLOGY-NEUTRAL PLANT DESIGN SPECIFICATIONS.

Not later than one year after the date of enactment of this Act, the Chairman of the Nuclear Regulatory Commission shall submit to the Congress a report regarding recommendations for the development of technology-neutral plant design specifications.

SEC. 172. ADDITIONAL FUNDING AND PERSONNEL RESOURCES.

Not later than 90 days after the date of enactment of this Act, the Chairman of the Nuclear Regulatory Commission shall transmit to the Congress a request for such additional funding and personnel resources as are necessary to carry out sections 169 through 171 without delaying consideration of applications for Combined Construction and Operating Licenses or reactor design certifications not subject to expedited procedures under this title.

SEC. 173. NATIONAL NUCLEAR ENERGY COUNCIL.

(a) IN GENERAL.—

(1) The Secretary of Energy shall establish a National Nuclear Energy Council (in this section referred to as the “Council”).

(2) The Council shall be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).
(b) PURPOSE.—The Council—

(1) shall serve in an advisory capacity to the Secretary regarding nuclear energy on matters submitted to the Council by the Secretary;

(2) shall advise, inform, and make recommendations to the Secretary with respect to any matter relating to nuclear energy;

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

(4) may not participate in any research and development or commercialization activities.

(e) MEMBERSHIP AND ORGANIZATION.—

(1) The members of the Council shall be appointed by the Secretary.

(2) The Council may establish such study and administrative committees as it considers appropriate.

SEC. 174. NEXT GENERATION NUCLEAR PLANT.

The Secretary of Energy and the Chairman of the Nuclear Regulatory Commission shall review the Next Generation Nuclear Plant Licensing Strategy report submitted to Congress in August 2008, as required by section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024),
with the purpose of reevaluating and significantly accel-
erating the Next Generation Nuclear Power Plant sched-
ule. Not later than 180 days after the date of enactment
of this Act, the Secretary shall submit to the Congress
a report including a revised schedule and funding require-
ments that would allow for program completion as near
as is possible to the date that is 5 years after the date
of enactment of this Act.

SEC. 175. URANIUM MINING ON FEDERAL LANDS.

The Secretary of the Interior may not use the Fed-
1701 et seq.) to prevent uranium mining from taking place
on Federal lands unless the Secretary makes findings ex-
plaining the reason for such prevention. No Federal agen-
cy may collect additional leasing fees that have not been
authorized to be collected before the date of enactment
of this Act to mine uranium on Federal lands. Any fees
collected in association with commercial uranium mining
on Federal lands that should be applied for remediation
purposes shall only be applied to the remediation of sites
that incurred damage as a result of commercial nuclear
activities. Such fees shall not be applied to the remediation
of any sites that incurred damage as a result of Govern-
ment or Government-sponsored activities.
SEC. 176. SMALL AND MODULAR REACTOR LICENSING.

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

(b) REGULATIONS.—Not later than one year after the date of enactment of this Act, the Chairman of the Nuclear Regulatory Commission shall promulgate regulations to implement the recommendations transmitted under subsection (a).

SEC. 177. LIMITATION ON REGULATORY TIME FRAME.

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

SEC. 178. DEFINITION.

In this subtitle, the term “radiological material” means radioactive material that is a byproduct of the production of nuclear power, including high-level nuclear waste and spent nuclear fuel, as those terms are defined
in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), but not including low-level radiological material as that term is defined in such section.

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

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

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

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

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

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

“(1) the amounts required to be transferred under section 128 of A Roadmap for America’s Energy Future;

“(2) all amounts received by the United States as bonus bids, rents, and royalties for oil and gas
leases of the outer Continental Shelf awarded after
the date of the enactment of A Roadmap for Amer-
ica's Energy Future that are not otherwise required
by law to be paid by the United States; and

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

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

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

“Sec. 9512. 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.

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

(b) REVERSE AUCTION AUTHORITY.—

(1) IN GENERAL.—The Secretary shall establish within the Department of Energy a Reverse Auction Authority to conduct reverse auctions under this section.

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

(c) REVERSE AUCTIONS.—

(1) FREQUENCY.—Subject to amounts available in the American-Made Energy Trust Fund (including any amounts not obligated in the previous calendar year), the Director shall conduct a minimum of 2 reverse auctions per calendar year in each geographic region established under paragraph (2).
(2) **Regions.**—The Secretary shall establish geographic regions that are contiguous with the Electric Power Markets identified by the Federal Energy Regulatory Commission, and shall ensure that funds awarded under this section are awarded for qualified renewable energy facilities located across those regions.

(3) **Bids.**—In any reverse auction under this section, bids shall describe the amount of electric energy to be generated by the qualified renewable energy facility and the price per megawatt hour of electric energy that will be generated by such facility.

(4) **Deposit.**—

(A) **In general.**—At the time of entering a bid in a reverse auction under this section, an eligible entity shall provide to the Director a deposit of, as determined by the Director, an appropriate amount per kilowatt hour of electricity to be generated by the qualified renewable energy facility for which the eligible entity is entering the bid.

(B) **Refund.**—The Director shall refund a deposit provided under subparagraph (A)—
(i) for an eligible entity that is not selected for an award of funds as a result of the bid for which the deposit was made, at the time the Director notifies the eligible entity selected for an award of such selection; and

(ii) for an eligible entity selected for an award of funds as a result of the bid for which the deposit was made, except as provided in subparagraph (C), at the time the facility for which the eligible entity entered the bid begins operation.

(C) FORFEIT.—If a facility for which funds are awarded is not in operation by the deadline for operation under subsection (d)(3), the eligible entity shall forfeit the deposit provided under subparagraph (A).

(5) RESERVE PRICE.—

(A) IN GENERAL.—Before conducting a reverse auction under this section, the Director shall set a reserve price which shall be a minimum bid above which no bid may win the auction.

(B) CONFIDENTIALITY.—The Director shall ensure that a reserve price set under this
paragraph remains confidential until 5 years
after the date of the auction to which the re-
serve price applies.

(6) Selection of eligible entities.—

(A) In general.—In determining eligible
entities to which to award funds in any reverse
auction under this section, the Director shall
take into consideration—

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

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

(B) Maximum percentages.—The Direc-

tor shall ensure that, measured on a 5-year roll-
ing average, of funds awarded under this sec-
tion—

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

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

(7) Categories of generating capacity.—
(A) ALLOCATION.—Subject to subparagraph (B), in each reverse auction conducted under this section, funds shall be allocated as follows:

(i) 25 percent of the funds shall be awarded for the generation of electric energy by qualified renewable energy facilities that have a small generating capacity.

(ii) 25 percent of the funds shall be awarded for the generation of electric energy by qualified renewable energy facilities that have a mid-sized generating capacity.

(iii) 50 percent of the funds shall be awarded for the generation of electric energy by qualified renewable energy facilities that have a large generating capacity.

(B) INSUFFICIENT FUNDS.—If the Secretary determines that the amount of funds available in any calendar year in the American-Made Energy Trust Fund (including any amounts not obligated in the previous calendar year) are insufficient to provide adequate funding for each allocation described in clauses (i), (ii), and (iii) of subparagraph (A), the Sec-
retary may reduce or eliminate any allocation requirement under such subparagraph.

(C) Determination by Secretary.—

With respect to the generating capacity of a qualified renewable energy facility, the Secretary shall determine what qualifies as a small, mid-sized, and large generating capacity for purposes of this paragraph.

(8) Standard Amounts of Electric Energy.—In each reverse auction under this section, the Director shall determine standard amounts of electric energy that eligible entities may bid on as well as the time allotted to generate such an amount of electric energy.

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

(10) Information Regarding Auctions.— Before conducting each reverse auction under this section, the Director shall make publicly available information regarding such reverse auction, including—
(A) standard amounts of electric energy described in paragraph (7) to be auctioned; and

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

(d) AWARD OF FUNDS.—

(1) CONTRACTS FOR GENERATION.—

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

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

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

(ii) A provision allowing for credits to be awarded for the production of energy in excess of the amount specified in the contract pursuant to clause (i), which may be carried over, for not more than 2 consecutive years, for use in years in which the production of energy is less than that re-
quired under the contract pursuant to clause (i).

(iii) Any other provisions the Director determines appropriate.

(C) TERMINATION.—In addition to any other terms regarding termination included in a contract under subparagraph (B), the Director may terminate a contract under this paragraph if the eligible entity fails to generate the number of megawatts of electric energy per year required under subparagraph (B)(i) for a period of 4 consecutive years.

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

(3) OPERATION REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Director shall make an award of funds to an eligible entity contingent on the qualified renewable energy facility being in operation not later than 18 months after the
eligible entity is selected for an award of funds under this section.

(B) Extension.—The Director may grant an eligible entity a one-time 6-month extension of the deadline for operation under subparagraph (A) with respect to a qualified renewable energy facility if the eligible entity demonstrates, to the satisfaction of the Director, that operation of such facility is delayed due to regulatory constraints beyond the control of such eligible entity. Extensions under this subparagraph may not be granted for delays due to lack of financing or delayed equipment delivery.

(e) Penalties.—The Secretary shall determine penalties for violations of this section, which may include fines or bans from participating in reverse auctions under this section.

(f) Treatment of Funds.—Amounts awarded to an eligible entity under subsection (d) shall not be includible in gross income for purposes of the Internal Revenue Code of 1986.

(g) Denial of Double Benefit.—

(1) Basis.—For purposes of the Internal Revenue Code of 1986, the basis of a renewable energy facility for which funds are awarded to an eligible
entity under this section shall be reduced by the
amount of such award.

(2) Treatment as Qualified Facility.—A
renewable energy facility for which funds are award-
ed to an eligible entity under this section shall not
be treated as a qualified facility for purposes of sec-
tion 45 of the Internal Revenue Code of 1986 (26

(3) Treatment as Energy Property.—

(A) In General.—A renewable energy fa-
cility for which funds are awarded to an eligible
entity under this section shall not be treated as
an energy property for purposes of section 48
of the Internal Revenue Code of 1986 (26

(B) Limitation on Award of Funds.—
The Director may not award funds under this
section for a renewable energy facility for which
a credit under section 48 of the Internal Rev-
ene Code of 1986 (26 U.S.C. 48) has been de-
termined.

(4) Participation in Federal Loan Guar-
antee Programs.—An eligible entity to which
funds are awarded under this section for a qualified
renewable energy facility may not, for the purposes
of such facility, participate in a Federal loan guar-
antee program.

(5) COORDINATION WITH OTHER FEDERAL
SUBSIDIES.—

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

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

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

(i) DEFINITIONS.—In this section:

(1) AMERICAN-MADE ENERGY TRUST FUND.—
The term “American-Made Energy Trust Fund”
means the trust fund established in section 9512 of
the Internal Revenue Code of 1986 (as added by
title II).

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

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

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

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

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

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

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

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

(C) electric energy generated by such facil-
ity is being sold to one or more electric utilities.
(6) Secretary.—The term “Secretary” means the Secretary of Energy.

(7) Renewable Energy.—The term “renewable energy” has the meaning given such term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)).

(8) Renewable Energy Facility.—The term “renewable energy facility” means a facility—

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

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

(9) Qualified Renewable Energy Facility.—The term “qualified renewable energy facility” means a renewable energy facility for which the owner or operator demonstrates, to the satisfaction of the Director, the following:

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

(B) Evidence that the renewable energy generating technology used by such facility can be used on a commercial scale.
(C) Any additional criteria the Secretary determines appropriate.

**TITLE IV—PROHIBITION OF CONSIDERATION OF GREENHOUSE GAS**

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

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

"SEC. 330. PROHIBITION OF REGULATION OF GREENHOUSE GAS.

“(a) Definition of Greenhouse Gas.—In this section, the term ‘greenhouse gas’ means—

“(1) carbon dioxide;

“(2) methane;

“(3) nitrous oxide;

“(4) a hydrofluorocarbon;

“(5) a perfluorocarbon; or

“(6) sulfur hexafluoride.

“(b) Regulation of Greenhouse Gas.—Nothing in this Act may be construed to require or permit the regulation of a greenhouse gas for climate change purposes.”.

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

(a) Prohibition of Consideration of Impact of Greenhouse Gas.—The Endangered Species Act of..."
1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end the following:

“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.

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

“(1) carbon dioxide;
“(2) methane;
“(3) nitrous oxide;
“(4) a hydrofluorocarbon;
“(5) a perfluorocarbon; or
“(6) sulfur hexafluoride.

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

(b) CONFORMING AMENDMENT.—The table of contents of the Endangered Species Act of 1973 (16 U.S.C. 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.”.