To streamline and ensure onshore energy permitting, provide for onshore leasing certainty, and give certainty to oil shale development for American energy security, economic development, and job creation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2013

Mr. LAMBORN introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, 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 streamline and ensure onshore energy permitting, provide for onshore leasing certainty, and give certainty to oil shale development for American energy security, economic development, and job creation, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Federal Lands Jobs
5 and Energy Security Act".
The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Policies regarding buying, building, and working for America.

TITLE I—ONSHORE OIL AND GAS PERMIT STREAMLINING

Sec. 101. Short title.

Subtitle A—Application for Permits to Drill Process Reform

Sec. 111. Permit to drill application timeline.
Sec. 112. Solar and wind right-of-way rental reform.

Subtitle B—Administrative Protest Documentation Reform

Sec. 121. Administrative protest documentation reform.

Subtitle C—Permit Streamlining

Sec. 131. Improve Federal energy permit coordination.
Sec. 132. Administration of current law.

Subtitle D—Judicial Review

Sec. 141. Definitions.
Sec. 142. Exclusive venue for certain civil actions relating to covered energy projects.
Sec. 143. Timely filing.
Sec. 144. Expedition in hearing and determining the action.
Sec. 145. Standard of review.
Sec. 146. Limitation on injunction and prospective relief.
Sec. 147. Limitation on attorneys’ fees.
Sec. 148. Legal standing.

TITLE II—OIL AND GAS LEASING CERTAINTY

Sec. 201. Short title.
Sec. 203. Leasing certainty.
Sec. 204. Leasing consistency.
Sec. 205. Reduce redundant policies.

TITLE III—OIL SHALE

Sec. 301. Short title.
Sec. 302. Effectiveness of oil shale regulations, amendments to resource management plans, and record of decision.
Sec. 303. Oil shale leasing.
SEC. 3. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.

(a) CONGRESSIONAL INTENT.—It is the intent of the Congress that—

(1) this Act will support a healthy and growing United States domestic energy sector that, in turn, helps to reinvigorate American manufacturing, transportation, and service sectors by employing the vast talents of United States workers to assist in the development of energy from domestic sources;

(2) to ensure a robust onshore energy production industry and ensure that the benefits of development support local communities, under this Act, the Secretary shall make every effort to promote the development of onshore American energy, and shall take into consideration the socioeconomic impacts, infrastructure requirements, and fiscal stability for local communities located within areas containing onshore energy resources; and

(3) the Congress will monitor the deployment of personnel and material onshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act through good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.
(b) REQUIREMENT.—The Secretary of the Interior shall when possible, and practicable, encourage the use of United States workers and equipment manufactured in the United States in all construction related to mineral resource development under this Act.

TITLE I—ONSHORE OIL AND GAS PERMIT STREAMLINING

SEC. 101. SHORT TITLE.

This title may be cited as the “Streamlining Permitting of American Energy Act of 2013”.

Subtitle A—Application for Permits to Drill Process Reform

SEC. 111. PERMIT TO DRILL APPLICATION TIMELINE.

Section 17(p)(2) of the Mineral Leasing Act (30 U.S.C. 226(p)(2)) is amended to read as follows:

“(2) APPLICATIONS FOR PERMITS TO DRILL REFORM AND PROCESS.—

“(A) TIMELINE.—The Secretary shall decide whether to issue a permit to drill within 30 days after receiving an application for the permit. The Secretary may extend such period for up to 2 periods of 15 days each, if the Secretary has given written notice of the delay to the applicant. The notice shall be in the form of a letter from the Secretary or a designee of
the Secretary, and shall include the names and
titles of the persons processing the application,
the specific reasons for the delay, and a specific
date a final decision on the application is ex-
pected.

“(B) Notice of reasons for denial.—
If the application is denied, the Secretary shall
provide the applicant—

“(i) in writing, clear and comprehen-
sive reasons why the application was not
accepted and detailed information con-
cerning any deficiencies; and

“(ii) an opportunity to remedy any de-
ficiencies.

“(C) Application deemed approved.—
If the Secretary has not made a decision on the
application by the end of the 60-day period be-
inning on the date the application is received
by the Secretary, the application is deemed ap-
proved, except in cases in which existing reviews
under the National Environmental Policy Act of
1969 or Endangered Species Act of 1973 are
incomplete.

“(D) Denial of permit.—If the Sec-
retary decides not to issue a permit to drill in
accordance with subparagraph (A), the Secretary shall—

“(i) provide to the applicant a description of the reasons for the denial of the permit;

“(ii) allow the applicant to resubmit an application for a permit to drill during the 10-day period beginning on the date the applicant receives the description of the denial from the Secretary; and

“(iii) issue or deny any resubmitted application not later than 10 days after the date the application is submitted to the Secretary.

“(E) Fee.—

“(i) IN GENERAL.—Notwithstanding any other law, the Secretary shall collect a single $6,500 permit processing fee per application from each applicant at the time the final decision is made whether to issue a permit under subparagraph (A). This fee shall not apply to any resubmitted application.

“(ii) TREATMENT OF PERMIT PROCESSING FEE.—Of all fees collected under
this paragraph, 50 percent shall be transferred to the field office where they are collected and used to process protests, leases, and permits under this Act subject to appropriation.”.

SEC. 112. SOLAR AND WIND RIGHT-OF-WAY RENTAL REFORM.

(a) In General.—Subject to subsection (b), and notwithstanding any other provision of law, of fees collected each fiscal year as annual wind energy and solar energy right-of-way authorization fees required under section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g))—

(1) no less than 25 percent shall be available, subject to appropriation, for Department of the Interior field offices responsible for the land where the fee was collected;

(2) no less than 25 percent shall be available, subject to appropriation, for Bureau of Land Management permit approval activities; and

(3) no less than 25 percent shall be available, subject to appropriation, to the Secretary of the Interior for department-wide permitting activities.

(b) Limitation.—The amount used under subsection (a) each fiscal year shall not exceed $10,000,000.
Subtitle B—Administrative Protest

Documentation Reform

SEC. 121. ADMINISTRATIVE PROTEST DOCUMENTATION REFORM.

Section 17(p) of the Mineral Leasing Act (30 U.S.C. 226(p)) is further amended by adding at the end the following:

“(4) Protest fee.—

“(A) In general.—The Secretary shall collect a $5,000 documentation fee to accompany each protest for a lease, right of way, or application for permit to drill.

“(B) Treatment of fees.—Of all fees collected under this paragraph, 50 percent shall remain in the field office where they are collected and used to process protests subject to appropriation.”.

Subtitle C—Permit Streamlining

SEC. 131. IMPROVE FEDERAL ENERGY PERMIT COORDINATION.

(a) Establishment.—The Secretary of the Interior (referred to in this section as the “Secretary”) shall establish a Federal Permit Streamlining Project (referred to in this section as the “Project”) in every Bureau of Land
Management field office with responsibility for permitting energy projects on Federal land.

(b) Memorandum of Understanding.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(A) the Secretary of Agriculture;

(B) the Administrator of the Environmental Protection Agency; and

(C) the Chief of the Army Corps of Engineers.

(2) State participation.—The Secretary may request that the Governor of any State with energy projects on Federal lands to be a signatory to the memorandum of understanding.

(c) Designation of Qualified Staff.—

(1) In general.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the Bureau of Land Management field offices an employee who has expertise in the regulatory issues relating to the office in which the employee is em-
ployed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the energy projects that arise under the authorities of the employee’s home agency; and
(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses on Federal lands.

(d) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Bureau of Land Management field office identified in subsection (a) any additional personnel that are necessary to ensure the effective approval and implementation of energy projects administered by the Bureau of Land Management field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) FUNDING.—Funding for the additional personnel shall come from the Department of the Interior reforms identified in sections 101, 102, and 201.

(f) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Project.
(g) DEFINITION.—For purposes of this section the term “energy projects” includes oil, natural gas, coal, and other energy projects as defined by the Secretary.

SEC. 132. ADMINISTRATION OF CURRENT LAW.
Notwithstanding any other law, the Secretary of the Interior shall not require a finding of extraordinary circumstances in administering section 390 of the Energy Policy Act of 2005.

Subtitle D—Judicial Review

SEC. 141. DEFINITIONS.

In this subtitle—

(1) the term “covered civil action” means a civil action containing a claim under section 702 of title 5, United States Code, regarding agency action (as defined for the purposes of that section) affecting a covered energy project on Federal lands of the United States; and

(2) the term “covered energy project” means the leasing of Federal lands of the United States for the exploration, development, production, processing, or transmission of oil, natural gas, wind, or any other source of energy, and any action under such a lease, except that the term does not include any disputes between the parties to a lease regarding the
obligations under such lease, including regarding any alleged breach of the lease.

SEC. 142. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS RELATING TO COVERED ENERGY PROJECTS.

Venue for any covered civil action shall lie in the district court where the project or leases exist or are proposed.

SEC. 143. TIMELY FILING.

To ensure timely redress by the courts, a covered civil action must be filed no later than the end of the 90-day period beginning on the date of the final Federal agency action to which it relates.

SEC. 144. EXPEDITION IN HEARING AND DETERMINING THE ACTION.

The court shall endeavor to hear and determine any covered civil action as expeditiously as possible.

SEC. 145. STANDARD OF REVIEW.

In any judicial review of a covered civil action, administrative findings and conclusions relating to the challenged Federal action or decision shall be presumed to be correct, and the presumption may be rebutted only by the preponderance of the evidence contained in the administrative record.
SEC. 146. LIMITATION ON INJUNCTION AND PROSPECTIVE RELIEF.

In a covered civil action, the court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation. In addition, courts shall limit the duration of preliminary injunctions to halt covered energy projects to no more than 60 days, unless the court finds clear reasons to extend the injunction. In such cases of extensions, such extensions shall only be in 30-day increments and shall require action by the court to renew the injunction.

SEC. 147. LIMITATION ON ATTORNEYS’ FEES.

Sections 504 of title 5, United States Code, and 2412 of title 28, United States Code, (together commonly called the Equal Access to Justice Act) do not apply to a covered civil action, nor shall any party in such a covered civil action receive payment from the Federal Government for their attorneys’ fees, expenses, and other court costs.

SEC. 148. LEGAL STANDING.

Challengers filing appeals with the Department of the Interior Board of Land Appeals shall meet the same standing requirements as challengers before a United States district court.
TITLE II—OIL AND GAS LEASING
CERTAINTY

SEC. 201. SHORT TITLE.
This title may be cited as the “Providing Leasing
Certainty for American Energy Act of 2013”.

SEC. 202. MINIMUM ACREAGE REQUIREMENT FOR ON-
SHORE LEASE SALES.
In conducting lease sales as required by section 17(a)
of the Mineral Leasing Act (30 U.S.C. 226(a)), each year
the Secretary of the Interior shall perform the following:

(1) The Secretary shall offer for sale no less
than 25 percent of the annual nominated acreage
not previously made available for lease. Acreage of-
fered for lease pursuant to this paragraph shall not
be subject to protest and shall be eligible for cat-
egorical exclusions under section 390 of the Energy
Policy Act of 2005 (42 U.S.C. 15492), except that
it shall not be subject to the test of extraordinary
circumstances.

(2) In administering this section, the Secretary
shall only consider leasing of Federal lands that are
available for leasing at the time the lease sale oc-
curs.
SEC. 203. LEASING CERTAINTY.

Section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)) is amended by inserting “(1)” before “All lands”, and by adding at the end the following:

“(2)(A) The Secretary shall not withdraw any covered energy project issued under this Act without finding a violation of the terms of the lease by the lessee.

“(B) The Secretary shall not infringe upon lease rights under leases issued under this Act by indefinitely delaying issuance of project approvals, drilling and seismic permits, and rights of way for activities under such a lease.

“(C) No later than 18 months after an area is designated as open under the current land use plan the Secretary shall make available nominated areas for lease under the criteria in section 2.

“(D) Notwithstanding any other law, the Secretary shall issue all leases sold no later than 60 days after the last payment is made.

“(E) The Secretary shall not cancel or withdraw any lease parcel after a competitive lease sale has occurred and a winning bidder has submitted the last payment for the parcel.

“(F) Not later than 60 days after a lease sale held under this Act, the Secretary shall adjudicate any lease protests filed following a lease sale. If after 60 days any
protest is left unsettled, said protest is automatically de-
nied and appeal rights of the protestor begin.

“(G) No additional lease stipulations may be added
after the parcel is sold without consultation and agree-
ment of the lessee, unless the Secretary deems such stipu-
lations as emergency actions to conserve the resources of
the United States.”

SEC. 204. LEASING CONSISTENCY.

Federal land managers must follow existing resource
management plans and continue to actively lease in areas
designated as open when resource management plans are
being amended or revised, until such time as a new record
of decision is signed.

SEC. 205. REDUCE REDUNDANT POLICIES.

Bureau of Land Management Instruction Memo-
randum 2010–117 shall have no force or effect.

TITLE III—OIL SHALE

SEC. 301. SHORT TITLE.

This title may be cited as the “Protecting Investment
in Oil Shale the Next Generation of Environmental, En-
ergy, and Resource Security Act” or the “PIONEERS
Act”.

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SEC. 302. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.

(a) Regulations.—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109–58), and the Secretary of the Interior shall implement those regulations, including the oil shale leasing program authorized by the regulations, without any other administrative action necessary.

(b) Amendments to Resource Management Plans and Record of Decision.—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements.
under any law, including the Federal Land Policy and
Management Act of 1976 (43 U.S.C. 1701 et seq.), the
the National Environmental Policy Act of 1969 (42 U.S.C.
4321 et seq.), and the Energy Policy Act of 2005 (Public
Law 109–58), and the Secretary of the Interior shall im-
plement the oil shale leasing program authorized by the
regulations referred to in subsection (a) in those areas cov-
ered by the resource management plans amended by such
amendments, and covered by such record of decision, with-
out any other administrative action necessary.

SEC. 303. OIL SHALE LEASING.

(a) Additional Research and Development
Lease Sales.—The Secretary of the Interior shall hold
a lease sale within 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 re-
sources, under the terms offered in the solicitation of bids
for such leases published on January 15, 2009 (74 Fed.
Reg. 10).

(b) Commercial Lease Sales.—No later than Jan-
uary 1, 2016, the Secretary of the Interior shall hold no
less than 5 separate commercial lease sales in areas con-
sidered to have the most potential for oil shale develop-
ment, as determined by the Secretary, in areas nominated
through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.