

119TH CONGRESS
2D SESSION

H. R. 7329

To amend the Energy Act of 2020, the Geothermal Steam Act of 1970, the Energy Policy Act of 2005, and the Mineral Leasing Act to streamline the leasing and permitting processes of Federal agencies for certain energy and mineral projects, to clarify Federal authorization requirements for certain projects on non-Federal land, to establish enforceable Federal authorization timelines and expedited judicial remedies, to limit Federal actions halting fully permitted projects, to create a de-risking compensation program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2026

Mr. HARDER of California (for himself, Mr. LAWLER, Mr. BACON, Mr. GRAY, Mr. EDWARDS, and Ms. McDONALD RIVET) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture, Energy and Commerce, Transportation and Infrastructure, Science, Space, and Technology, and 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 amend the Energy Act of 2020, the Geothermal Steam Act of 1970, the Energy Policy Act of 2005, and the Mineral Leasing Act to streamline the leasing and permitting processes of Federal agencies for certain energy and mineral projects, to clarify Federal authorization requirements for certain projects on non-Federal land, to establish enforceable Federal authorization timelines and expedited judicial remedies, to limit Federal actions

halting fully permitted projects, to create a de-risking compensation program, 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 “Fighting for Reliable
 5 Energy and Ending Doubt for Open Markets Act” or the
 6 “FREEDOM Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) energy projects face catastrophic financial
 10 losses when Federal agencies revoke permits, fail to
 11 adhere to deadlines, or take years to process routine
 12 applications for those projects, even in cases in
 13 which project sponsors have invested millions of dol-
 14 lars in reliance on Federal approvals;

15 (2) the regulatory uncertainty described in
 16 paragraph (1)—

17 (A) deters critical energy infrastructure in-
 18 vestment across all technologies; and

19 (B) undermines United States energy secu-
 20 rity and economic competitiveness; and

21 (3) regulatory uncertainty and permitting
 22 delays increase the cost of building energy and min-
 23 eral infrastructure, which raises the cost of living for

1 American families and increases power prices for
2 homes and businesses.

3 **SEC. 3. AMENDMENT TO ENERGY ACT OF 2020.**

4 (a) IN GENERAL.—The Energy Act of 2020 (division
5 Z of the Consolidated Appropriations Act, 2021 (Public
6 Law 116–260; 134 Stat. 2418)) is amended by adding at
7 the end the following:

8 **“TITLE XII—FIGHTING FOR RELI-**
9 **ABLE ENERGY AND ENDING**
10 **DOUBT FOR OPEN MARKETS**
11 **“Subtitle A—Definitions**

12 **“SEC. 12001. DEFINITIONS.**

13 “In this title:

14 “(1) AGENCY.—The term ‘agency’ has the
15 meaning given the term in section 551 of title 5,
16 United States Code.

17 “(2) AUTHORIZATION.—The term ‘authoriza-
18 tion’ means—

19 “(A) any license, permit, approval, finding,
20 determination, or administrative decision issued
21 by an agency; and

22 “(B) any interagency consultation that is
23 authorized or required to be conducted under
24 Federal law—

25 “(i) between or among—

1 “(I) agencies; and

2 “(II) in the case of any State
3 that chooses to participate in the envi-
4 ronmental review of a covered energy
5 project, 1 or more State agencies; and

6 “(ii) in order to site, construct, recon-
7 struct, or commence operation of a covered
8 energy project.

9 “(3) COMPLEX AUTHORIZATION.—The term
10 ‘complex authorization’ means an authorization iden-
11 tified as a complex authorization by a lead agency
12 under section 12301(d).

13 “(4) COVERED ENERGY PROJECT.—The term
14 ‘covered energy project’ means any activity carried
15 out in the United States that involves the construc-
16 tion of infrastructure—

17 “(A) to develop, produce, generate, store,
18 transport, or distribute energy;

19 “(B) to capture, remove, transport, or
20 store carbon dioxide; or

21 “(C) to mine, extract, beneficiate, or proc-
22 ess minerals.

23 “(5) ENVIRONMENTAL DOCUMENT.—

24 “(A) IN GENERAL.—The term ‘environ-
25 mental document’ means—

- 1 “(i) an environmental assessment;
2 “(ii) a finding of no significant im-
3 pact;
4 “(iii) a notice of intent;
5 “(iv) an environmental impact state-
6 ment; and
7 “(v) a record of decision.

8 “(B) INCLUSIONS.—The term ‘environ-
9 mental document’ includes any document that
10 is—

11 “(i) a supplement to a document de-
12 scribed in subparagraph (A); or

13 “(ii)(I) related to a document de-
14 scribed in subparagraph (A); and

15 “(II) prepared pursuant to a court
16 order.

17 “(6) ENVIRONMENTAL IMPACT STATEMENT.—
18 The term ‘environmental impact statement’ means a
19 detailed, written statement required under section
20 102(2)(C) of the National Environmental Policy Act
21 of 1969 (42 U.S.C. 4332(2)(C)).

22 “(7) ENVIRONMENTAL REVIEW.—The term ‘en-
23 vironmental review’ means any agency procedure or
24 process for—

1 “(A) applying a categorical exclusion
2 (within the meaning of the National Environ-
3 mental Policy Act of 1969 (42 U.S.C. 4321 et
4 seq.) (including regulations promulgated pursu-
5 ant to that Act)); or

6 “(B) preparing an environmental document
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.).

9 “(8) LEAD AGENCY.—The term ‘lead agency’,
10 with respect to a covered energy project, means the
11 agency with principal responsibility for environ-
12 mental review of the covered energy project under
13 the National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.) (including regulations promul-
15 gated pursuant to that Act).

16 “(9) PROJECT SPONSOR.—The term ‘project
17 sponsor’ means a private, public, or public-private
18 entity seeking an authorization for a covered energy
19 project.

20 “(10) REVIEWING COURT.—The term ‘review-
21 ing court’ means the court in which a petition de-
22 scribed in paragraph (1) of section 12403(a) is filed,
23 subject to paragraph (2)(B) of that section.

1 “(11) ROUTINE AUTHORIZATION.—The term
 2 ‘routine authorization’ means any authorization that
 3 is not a complex authorization.

4 **“Subtitle B—Federal Land Energy**
 5 **and Mineral Reforms**

6 **“SEC. 12101. ACCELERATING FEDERAL LAND RIGHTS-OF-**
 7 **WAY FOR CERTAIN COVERED ENERGY**
 8 **PROJECTS.**

9 “(a) DEFINITION OF ELIGIBLE PROJECT.—In this
 10 section, the term ‘eligible project’ means a covered energy
 11 project for which the project sponsor seeks a right-of-way
 12 under section 501 of the Federal Land Policy and Man-
 13 agement Act of 1976 (43 U.S.C. 1761).

14 “(b) COST RECOVERY.—Not later than 30 days after
 15 the date on which a project sponsor submits a complete
 16 application for a right-of-way under section 501 of the
 17 Federal Land Policy and Management Act of 1976 (43
 18 U.S.C. 1761) for an eligible project, the Secretary of the
 19 Interior or the Secretary of Agriculture, as applicable,
 20 shall issue a cost recovery agreement relating to the eligi-
 21 ble project, if a cost recovery agreement is required under
 22 section 2804.14 of title 43, Code of Federal Regulations
 23 (or a successor regulation), or section 251.58 of title 36,
 24 Code of Federal Regulations (or a successor regulation).

1 “(c) LOW-DISTURBANCE ACTIVITIES FOR ELIGIBLE
2 PROJECTS.—

3 “(1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of this title, to facilitate
5 timely permitting of eligible projects, the Secretary
6 of the Interior and the Secretary of Agriculture each
7 shall develop or adopt 1 or more categorical exclu-
8 sions, including allowing for extraordinary cir-
9 cumstances under which the categorical exclusion
10 shall not be available, under the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
12 for low-disturbance activities described in paragraph
13 (2) that are necessary for eligible projects.

14 “(2) ACTIVITIES DESCRIBED.—Low-disturbance
15 activities referred to in paragraph (1) include the
16 following:

17 “(A) An individual surface disturbance of
18 less than 5 acres for which a site-specific anal-
19 ysis has previously been completed in an envi-
20 ronmental document under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 “(B) An activity at a location at which the
24 same type of activity has previously occurred

1 during the 5-year period preceding the date of
2 commencement of the activity.

3 “(C) An activity on previously disturbed or
4 developed (as defined in section 1021.102(g)(1)
5 of title 10, Code of Federal Regulations (as in
6 effect on the date of enactment of this title)
7 land that was analyzed, in an approved land use
8 plan or an environmental document prepared
9 under the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321 et seq.)), as a reasonably
11 foreseeable activity, subject to the condition
12 that the land use plan or environmental docu-
13 ment was approved during the 5-year period
14 preceding the date of commencement of the ac-
15 tivity.

16 “(D) Maintenance of a minor activity,
17 other than construction or major renovation, of
18 a building or facility.

19 “(E) A preliminary geotechnical investiga-
20 tion.

21 “(F) The construction or removal of a me-
22 teorological evaluation tower.

“Subtitle C—De-Risking Compensation Program

“SEC. 12201. DEFINITIONS.

“In this subtitle:

“(1) CAPITAL CONTRIBUTION.—The term ‘capital contribution’, with respect to a covered energy project, means the sum of—

“(A) any amounts expended by the project sponsor for the covered energy project; and

“(B) any amounts the project sponsor is obligated to expend for the covered energy project under an executed contract, binding commitment, or financing agreement, including verifiable expenditures for development, construction, permitting, and financing costs directly related to the covered energy project.

The term ‘capital contribution’ shall not include executive compensation, bonuses, equity awards, general corporate overhead, lobbying, public relations, dividends, or profit.

“(2) COURT.—The term ‘Court’ means the United States Court of Federal Claims.

“(3) PROGRAM.—The term ‘Program’ means the De-Risking Compensation Program established by section 12202(a).

1 “(4) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of Energy.

3 **“SEC. 12202. ESTABLISHMENT; PURPOSES.**

4 “(a) ESTABLISHMENT.—There is established in the
5 Department of Energy a program, to be known as the ‘De-
6 Risking Compensation Program’, to provide compensation
7 to project sponsors of covered energy projects that suffer
8 unrecoverable losses due to an event described in section
9 12204(a), as determined by the Court in accordance with
10 this subtitle.

11 “(b) PURPOSES.—The purposes of the Program
12 are—

13 “(1) to reduce regulatory risks for energy infra-
14 structure developers;

15 “(2) to facilitate timely permitting and financ-
16 ing of projects essential to United States energy se-
17 curity and economic competitiveness; and

18 “(3) to provide compensation in cases in which
19 an agency action, inaction, or delay causes a covered
20 energy project to be cancelled, unviable, or subject to
21 an unrecoverable loss.

22 **“SEC. 12203. ENROLLMENT.**

23 “(a) ELIGIBILITY.—A project sponsor shall be eligi-
24 ble to enroll in the Program with respect to a covered en-
25 ergy project if the project sponsor—

1 “(1) exercises control over the covered energy
2 project; and

3 “(2) submits to the Secretary an application
4 under subsection (b)—

5 “(A) after the submission of a notice of
6 initiation for the covered energy project under
7 section 12301(a); but

8 “(B) not later than 90 days after the com-
9 pleted notice date (as defined in section
10 12302(a)) of the covered energy project.

11 “(b) APPLICATIONS.—

12 “(1) IN GENERAL.—A project sponsor seeking
13 enrollment in the Program shall submit to the Sec-
14 retary an application, in such form, in such manner,
15 and containing such information as the Secretary
16 may require, subject to the condition that the re-
17 quired information shall be only that necessary—

18 “(A) to verify the eligibility of the project
19 sponsor under subsection (a); and

20 “(B) to calculate the premium to be
21 charged to the project sponsor under subsection
22 (d)(1).

23 “(2) LIMITATION.—The Secretary shall not ac-
24 cept an application under this subsection relating to
25 a covered energy project that is submitted after the

1 occurrence of an event described in section 12204(a)
2 with respect to the covered energy project.

3 “(c) DETERMINATION BY SECRETARY.—Not later
4 than 90 days after the date of receipt of an application
5 under subsection (b), the Secretary shall—

6 “(1) determine whether the application meets
7 the requirements of that subsection; and

8 “(2) on making—

9 “(A) a positive determination under para-
10 graph (1), enroll the project sponsor in the Pro-
11 gram; or

12 “(B) a negative determination under para-
13 graph (1), deny enrollment in the Program.

14 “(d) PREMIUMS AND FEES.—

15 “(1) ANNUAL PREMIUM.—

16 “(A) IN GENERAL.—As a condition of en-
17 rollment in the Program, a project sponsor shall
18 pay to the Secretary an annual premium in ac-
19 cordance with subparagraph (B).

20 “(B) AMOUNT.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), the amount of the annual premium
23 paid by a project sponsor under subpara-
24 graph (A) shall be equal to 1.5 percent of

1 the capital contribution of the project
2 sponsor to the covered energy project.

3 “(ii) ADJUSTMENT.—The Secretary
4 may increase the amount of a premium
5 charged to a project sponsor under clause
6 (i) by not more than 1.5 percentage points,
7 as the Secretary determines to be nec-
8 essary to ensure the solvency of the Pro-
9 gram.

10 “(C) DEPOSIT.—The Secretary shall de-
11 posit the premiums collected pursuant to this
12 paragraph in the De-Risking Compensation
13 Fund established by section 12205(a).

14 “(2) NO ENROLLMENT FEE.—No enrollment
15 fee may be charged for enrollment in the Program.

16 “(e) ADMINISTRATIVE RECORD.—

17 “(1) IN GENERAL.—For each covered energy
18 project with respect to which a project sponsor is en-
19 rolled in the Program, the Secretary shall maintain
20 an administrative record, which shall consist of—

21 “(A) the application submitted by the
22 project sponsor under subsection (b); and

23 “(B) the premium payment history of the
24 project sponsor.

1 “(2) CERTIFICATION.—Not later than 30 days
2 after the date of receipt of a request from a project
3 sponsor enrolled in the Program, the Secretary shall
4 certify and submit to the Court the administrative
5 record maintained under paragraph (1) with respect
6 to the applicable covered energy project.

7 **“SEC. 12204. COMPENSATION OF ENROLLED PROJECT**
8 **SPONSORS.**

9 “(a) TRIGGERING EVENTS.—A project sponsor en-
10 rolled in the Program may receive from the Secretary com-
11 pensation in accordance with this section if the Court de-
12 termines that the covered energy project of the project
13 sponsor has suffered an unrecoverable loss due to any of
14 the following events:

15 “(1) Revocation, cancellation, or vacatur of an
16 authorization.

17 “(2) Failure by an agency to issue a final deci-
18 sion regarding an authorization by the applicable
19 deadline under subsection (b) or (c) of section
20 12302.

21 “(3) Failure by an agency to act on a remand,
22 renewal, or reapproval relating to the covered energy
23 project by the date that is 180 days after the date
24 on which the agency received the remand, renewal
25 request, or reapproval request, as applicable.

1 “(4) Failure by an agency to adhere to a dead-
2 line required under another Federal law.

3 “(5) Inaction or unreasonable delay by an agen-
4 cy that—

5 “(A) causes the cancellation of the covered
6 energy project; or

7 “(B) renders the covered energy project
8 commercially unviable.

9 “(b) CLAIMS FOR COMPENSATION.—

10 “(1) IN GENERAL.—Not later than the date de-
11 scribed in paragraph (2), a project sponsor enrolled
12 in the Program may bring an action in the Court
13 seeking compensation from the Secretary with re-
14 spect to a covered energy project.

15 “(2) DESCRIPTION OF DATE.—The date re-
16 ferred to in paragraph (1) is the date that is 180
17 days after the later of—

18 “(A) the date on which an event described
19 in subsection (a) occurs with respect to the ap-
20 plicable covered energy project; and

21 “(B) the first date on which the project
22 sponsor knew, or reasonably should have
23 known, of—

24 “(i) an unrecoverable loss suffered by
25 the covered energy project; and

1 “(ii) the causal connection of that loss
2 to an event described in subsection (a).

3 “(3) CONTENTS.—A claim filed with the Court
4 under this subsection shall include documentation,
5 certified by a qualified accountant, demonstrating—

6 “(A) enrollment of the project sponsor in
7 the Program with respect to the applicable cov-
8 ered energy project;

9 “(B) the total capital contribution of the
10 project sponsor to the covered energy project;
11 and

12 “(C)(i) each unrecoverable loss claimed
13 with respect to the covered energy project; and

14 “(ii) the causal connection of that loss to
15 an event described in subsection (a).

16 “(c) JUDICIAL REVIEW.—

17 “(1) EXCLUSIVE JURISDICTION.—The Court
18 shall have exclusive jurisdiction over any action
19 brought under this section.

20 “(2) STANDARD AND SCOPE OF REVIEW.—In
21 an action under this section, the Court shall—

22 “(A) review the matter based on the ad-
23 ministrative record submitted by the Secretary
24 under section 12203(e)(2), subject to paragraph
25 (3); and

1 “(B) determine de novo—

2 “(i) whether the project sponsor has
3 established, by a preponderance of the evi-
4 dence, entitlement to compensation under
5 the Program; and

6 “(ii) if such an entitlement is so es-
7 tablished, the amount of compensation to
8 be provided, in accordance with subsection
9 (d).

10 “(3) FAILURE TO CERTIFY OR SUBMIT
11 RECORD.—If the Secretary fails to maintain an ad-
12 ministrative record as required under paragraph (1)
13 of section 12203(e), or fails to certify or submit to
14 the Court such a record by the applicable deadline
15 under paragraph (2) of that section, the Court may
16 proceed in the applicable action under this section
17 on the basis of—

18 “(A) the evidence submitted by the project
19 sponsor; and

20 “(B) any other evidence the Court deter-
21 mines to be appropriate.

22 “(d) PAYMENTS.—

23 “(1) JUDGMENT.—

24 “(A) IN GENERAL.—On determining that a
25 project sponsor is entitled to receive compensa-

tion in an action under this section, the Court shall enter a judgment ordering the Secretary to pay the awarded amount from the De-Risking Compensation Fund established by section 12205(a), subject to subparagraph (B).

“(B) MINIMUM CAPITAL CONTRIBUTION.—

The Court may not award compensation to a project sponsor under this subsection with respect to a covered energy project unless the project sponsor demonstrates, through the documentation submitted under subsection (b)(3), that the capital contribution of the project sponsor to the covered energy project is equal to not less than \$5,000,000.

“(2) AMOUNT.—

“(A) LIMITATION.—The amount of compensation provided to a project sponsor under this subsection shall not exceed an amount equal to the total capital contribution of the project sponsor to the applicable covered energy project.

“(B) OFFSET.—The Court shall reduce the amount of compensation provided to a project sponsor under this subsection by the amount of any award, settlement payment, insurance re-

1 covery, or other compensation received by the
2 project sponsor for the same unrecoverable loss
3 arising from the same agency action, inaction,
4 delay, or order that is the subject of the action
5 under this section.

6 “(C) NO DOUBLE RECOVERY.—A project
7 sponsor may not receive compensation under
8 this subtitle for any loss for which the project
9 sponsor has been compensated under subtitle E.

10 “(3) ACTION BY SECRETARY.—The Secretary
11 shall provide to a project sponsor a payment award-
12 ed by the Court under this section by not later than
13 30 days after the date on which the judgment under
14 paragraph (1) ordering that payment becomes final.

15 “(e) LIMITATIONS ON DENIAL.—The Court and the
16 Secretary may not deny a claim submitted by a project
17 sponsor under this subtitle based on—

18 “(1) the merits of the covered energy project
19 that is the subject of the claim; or

20 “(2) a type of technology employed by that cov-
21 ered energy project.

22 “(f) APPEALS.—A judgment of the Court under this
23 section shall be subject to judicial review in the United
24 States Court of Appeals for the Federal Circuit in accord-
25 ance with section 1295 of title 28, United States Code.

1 **“SEC. 12205. DE-RISKING COMPENSATION FUND.**

2 “(a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States a fund, to be known as the
4 ‘De-Risking Compensation Fund’ (referred to in this sec-
5 tion as the ‘Fund’), consisting of—

6 “(1) the premiums collected under section
7 12203(d)(1); and

8 “(2) such amounts as are appropriated to the
9 Fund pursuant to subsection (c).

10 “(b) USE OF FUNDS.—Amounts in the Fund shall
11 be available, without further appropriation, solely for—

12 “(1) compensation payments ordered in final
13 judgments under section 12204(d)(1); and

14 “(2) the administration of the Program, subject
15 to the condition that not more than 5 percent of
16 amounts in the Fund shall be available for adminis-
17 trative expenses.

18 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Fund such sums
20 as are necessary to carry out this subtitle.

21 “(d) LIMITATION.—No payment may be made under
22 this subtitle from the general fund of the Treasury or any
23 other Federal account if amounts in the Fund are ex-
24 hausted.

1 **“Subtitle D—Permitting Timelines**
2 **and Performance Fund**

3 **“SEC. 12301. NOTICES OF INITIATION; PROJECT SCHED-**
4 **ULES.**

5 “(a) NOTICES OF INITIATION FOR COVERED ENERGY
6 PROJECTS.—

7 “(1) IN GENERAL.—A project sponsor shall
8 submit a notice of initiation for a covered energy
9 project proposed to be carried out by the project
10 sponsor to the head of each agency from which 1 or
11 more authorizations are anticipated to be required to
12 carry out the covered energy project.

13 “(2) CONTENTS.—A notice of initiation under
14 this subsection shall include—

15 “(A) a statement describing the purposes
16 and objectives of the proposed covered energy
17 project;

18 “(B) a concise description of the proposed
19 covered energy project, including the general lo-
20 cation of the proposed covered energy project
21 and a summary of geospatial information, if
22 available, illustrating the project area and the
23 locations of known environmental, cultural, and
24 historic resources, if any;

1 “(C) a statement identifying all Federal fi-
2 nancing, environmental reviews, and authoriza-
3 tions anticipated to be required to carry out the
4 proposed covered energy project; and

5 “(D) a general description, to the extent
6 practicable, of any preliminary and projected
7 future stakeholder engagement conducted by
8 the project sponsor relating to the covered en-
9 ergy project.

10 “(b) DETERMINATION OF COMPLETENESS.—

11 “(1) IN GENERAL.—Not later than 30 days
12 after the date of receipt of a notice of initiation
13 under subsection (a), the applicable lead agency
14 shall determine whether the notice is complete in ac-
15 cordance with paragraph (2).

16 “(2) COMPLETENESS.—A notice of initiation
17 shall be considered to be complete under paragraph
18 (1) if the lead agency determines that the notice
19 meets the requirements described in subsection
20 (a)(2).

21 “(3) STATEMENT.—

22 “(A) IN GENERAL.—A lead agency, on
23 making a determination under paragraph (1)
24 that—

1 “(i) a notice of initiation is complete,
2 shall provide to the project sponsor a state-
3 ment of the determination; or

4 “(ii) a notice of initiation is incom-
5 plete, shall provide to the project sponsor
6 a deficiency statement identifying the in-
7 formation required for the notice to be
8 considered complete.

9 “(B) FAILURE TO ACT.—If a lead agency
10 fails to issue a statement under this paragraph
11 by the applicable deadline described in para-
12 graph (1), the applicable notice of initiation
13 shall be deemed to be complete.

14 “(4) EFFECT OF DEFICIENCY.—

15 “(A) RESPONSE BY PROJECT SPONSOR.—
16 If a lead agency issues a deficiency statement
17 under paragraph (3)(A)(ii), the project sponsor
18 may—

19 “(i) submit to the lead agency a re-
20 vised notice containing the information
21 identified in the deficiency statement by
22 not later than 90 days after the date on
23 which the deficiency statement is issued; or

24 “(ii) request an extension of time to
25 prepare such a revised notice.

1 “(B) EXTENSION.—On receipt of a request
2 for an extension under subparagraph (A)(ii), a
3 lead agency shall grant the applicable project
4 sponsor an extension of the applicable deadline
5 under subparagraph (A)(i) for a period of not
6 more than 90 days.

7 “(c) PROJECT SCHEDULE.—Not later than 30 days
8 after the date on which a notice of initiation for a pro-
9 posed covered energy project is determined or deemed to
10 be complete under subsection (b), the applicable lead agen-
11 cy shall publish a schedule for the covered energy project
12 that—

13 “(1)(A) lists each authorization required for the
14 covered energy project; and

15 “(B) identifies each such authorization as a
16 routine authorization or a complex authorization, in
17 accordance with subsection (d);

18 “(2) identifies each Federal, State, Tribal, and
19 local agency that has been designated as a cooper-
20 ating agency for the covered energy project in ac-
21 cordance with the National Environmental Policy
22 Act of 1969 (42 U.S.C. 4321 et seq.), if applicable;
23 and

24 “(3) establishes for the covered energy
25 project—

1 “(A) interim milestones; and

2 “(B) final decision dates in accordance
3 with section 12302.

4 “(d) IDENTIFICATION OF AUTHORIZATIONS.—

5 “(1) IN GENERAL.—For each authorization re-
6 quired for a covered energy project for which a
7 schedule is published under subsection (c), the lead
8 agency shall identify the authorization as—

9 “(A) a complex authorization if the author-
10 ization is—

11 “(i) described in paragraph (2); or

12 “(ii) designated by the lead agency
13 pursuant to paragraph (3)(A); or

14 “(B) a routine authorization if the author-
15 ization is not identified as a complex authoriza-
16 tion under subparagraph (A).

17 “(2) DESCRIPTION OF COMPLEX AUTHORIZA-
18 TIONS.—A complex authorization referred to in
19 paragraph (1)(A)(i) is an authorization that—

20 “(A) requires the issuance of an authoriza-
21 tion or certification of public convenience and
22 necessity under section 3(e) or 7(c) of the Nat-
23 ural Gas Act (15 U.S.C. 717b(e), 717f(c));

1 “(B) requires the issuance of a license or
2 permit under section 4(e) or 216 of the Federal
3 Power Act (16 U.S.C. 797(e), 824p);

4 “(C) requires the issuance of a lease, ease-
5 ment, right-of-way, or other authorization
6 under section 5 or 8(p) of the Outer Conti-
7 nental Shelf Lands Act (43 U.S.C. 1334,
8 1337(p));

9 “(D) requires the preparation of an envi-
10 ronmental assessment or environmental impact
11 statement;

12 “(E) requires formal consultation under
13 section 7 of the Endangered Species Act of
14 1973 (16 U.S.C. 1536) or results in the
15 issuance of a biological opinion;

16 “(F) requires consultation under section
17 306108 of title 54, United States Code;

18 “(G) grants a new or expanded right-of-
19 way, easement, lease, or comparable real prop-
20 erty interest exceeding 20 acres of Federal
21 property; or

22 “(H) requires an individual permit under
23 section 404 of the Federal Water Pollution
24 Control Act (33 U.S.C. 1344) or an individual

1 water quality certification under section 401 of
 2 that Act (33 U.S.C. 1341).

3 “(3) DESIGNATIONS BY LEAD AGENCY.—

4 “(A) IN GENERAL.—A lead agency may
 5 designate an authorization as a complex author-
 6 ization based on a written, reasoned determina-
 7 tion of the lead agency that identifies factors
 8 that—

9 “(i) are specific to the applicable cov-
 10 ered energy project; and

11 “(ii) are not described in subpara-
 12 graphs (A) through (H) of paragraph (2).

13 “(B) JUDICIAL REVIEW.—The designation
 14 by a lead agency of a complex authorization
 15 pursuant to subparagraph (A) shall be subject
 16 to judicial review by the applicable reviewing
 17 court under subtitle E.

18 **“SEC. 12302. AUTHORIZATION DEADLINES.**

19 “(a) DEFINITION OF COMPLETED NOTICE DATE.—
 20 In this section, the term ‘completed notice date’, with re-
 21 spect to a covered energy project, means the date on which
 22 the notice of initiation under section 12301(a) for the cov-
 23 ered energy project is—

24 “(1) determined to be complete under section
 25 12301(b)(1); or

1 “(2) deemed to be complete under section
2 12301(b)(3)(B).

3 “(b) DEADLINES.—Each agency that receives from
4 a project sponsor a notice of initiation under section
5 12301(a) for a covered energy project shall issue a final
6 decision regarding each authorization for the covered en-
7 ergy project that is under the jurisdiction of the agency
8 by not later than—

9 “(1) the date that is 90 days after the com-
10 pleted notice date of the covered energy project, if
11 the authorization is a routine authorization; and

12 “(2) the date that is 1 year after the completed
13 notice date of the covered energy project, if the au-
14 thorization is a complex authorization, except as pro-
15 vided in subsection (c).

16 “(c) EXTENSION FOR ENVIRONMENTAL IMPACT
17 STATEMENTS.—If the lead agency publishes a notice of
18 intent to prepare an environmental impact statement for
19 a covered energy project after the completed notice date
20 of the covered energy project, the deadline for completion
21 of the environmental impact statement shall be the date
22 that is 2 years after the completed notice date.

23 “(d) EARLIER DEADLINES UNDER OTHER FEDERAL
24 LAW.—If another Federal law requires an agency to issue
25 a final decision regarding an authorization by a date that

1 is earlier than the deadline applicable under subsection (b)
2 or (c), the agency shall issue the final decision not later
3 than that earlier date.

4 “(e) FAILURE TO MEET DEADLINE.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the failure by an agency to adhere to a
7 deadline under this section or a milestone under sec-
8 tion 12301(c)(3)(A) shall be—

9 “(A) considered to be a final agency action
10 unlawfully withheld or unreasonably delayed
11 under section 706 of title 5, United States
12 Code; and

13 “(B) subject to review by a reviewing court
14 under subtitle E or the United States Court of
15 Federal Claims under subtitle C.

16 “(2) EXCEPTIONS.—The failure by an agency
17 to adhere to a deadline under this section or a mile-
18 stone under section 12301(c)(3)(A) shall not be con-
19 sidered to be a final agency action unlawfully with-
20 held or unreasonably delayed under section 706 of
21 title 5, United States Code, if—

22 “(A) the project sponsor and the agency
23 agree to a different deadline or milestone; or

24 “(B) a reviewing court determines that—

1 “(i) a natural disaster reasonably im-
 2 paired the ability of the agency to adhere
 3 to the deadline or milestone; or

4 “(ii) a national emergency or extraor-
 5 dinary circumstance exists for which the
 6 only available remedy is to delay the dead-
 7 line or milestone.

8 **“SEC. 12303. REVIEWING COURT-APPROVED CONTRACTORS.**

9 “(a) DEFINITION OF ELIGIBLE PROJECT.—In this
 10 section, the term ‘eligible project’ means a covered energy
 11 project with respect to which a reviewing court has—

12 “(1) found that an agency has failed to adhere
 13 to a deadline or milestone; and

14 “(2) issued an order described in section
 15 12404(b)(2)(C).

16 “(b) PROJECT SPONSOR REQUEST.—

17 “(1) IN GENERAL.—On receipt of a request
 18 from the project sponsor of an eligible project, a re-
 19 viewing court may authorize the project sponsor to
 20 retain a qualified contractor to complete any nec-
 21 essary analysis or documentation, in accordance with
 22 this subsection.

23 “(2) INCLUSIONS.—A project sponsor request
 24 under paragraph (1) shall include—

1 “(A) identifying information for the con-
2 tractor proposed to be hired by the project
3 sponsor; and

4 “(B) the qualifications of that contractor,
5 including—

6 “(i) relevant professional credentials;

7 “(ii) prior experience with Federal en-
8 vironmental reviews; and

9 “(iii) disclosure of any potential con-
10 flicts of interest that are material to the
11 work to be performed, including—

12 “(I) any financial interest in the
13 outcome of the applicable eligible
14 project;

15 “(II) any contingent or success-
16 based compensation arrangement;

17 “(III) any engagement with the
18 project sponsor;

19 “(IV) any equity ownership with
20 a 10-percent or greater interest;

21 “(V) any contractual relation-
22 ship, during the 2-year period pre-
23 ceding the date of the request, be-
24 tween the contractor and an engineer-
25 ing, procurement, or construction firm

1 acting as a prime contractor for the
2 eligible project; and

3 “(VI) any current engagement
4 related to the eligible project.

5 “(3) APPROVAL.—

6 “(A) IN GENERAL.—Not later than 30
7 days after the date of receipt of a request of a
8 project sponsor under this subsection, the re-
9 viewing court shall approve or reject the pro-
10 posed contractor that is the subject of the re-
11 quest based on—

12 “(i) the demonstrated technical com-
13 petence of the contractor for the required
14 analyses;

15 “(ii) the absence of disqualifying con-
16 flicts of interest;

17 “(iii) the agreement of the con-
18 tractor—

19 “(I) to operate under the tech-
20 nical guidance of the applicable agen-
21 cy;

22 “(II) to maintain independence
23 in professional judgment; and

24 “(III) to proceed under the direc-
25 tion of the reviewing court if the

1 agency fails to provide technical guid-
2 ance or timely review by an applicable
3 deadline under subsection (g); and

4 “(iv) a determination by the reviewing
5 court regarding whether the contractor
6 meets the qualifications described in sub-
7 paragraph (B).

8 “(B) QUALIFICATIONS.—The qualifications
9 referred to in subparagraph (A)(iv), with re-
10 spect to a contractor, are that the contractor—

11 “(i) holds a recognized professional li-
12 cense or certification applicable to the
13 work, or has demonstrably comparable ex-
14 pertise;

15 “(ii) has demonstrated experience
16 completing similar analyses for agencies
17 during the preceding 5-year period;

18 “(iii) is not debarred or suspended
19 from Federal contracting; and

20 “(iv) maintains professional liability
21 insurance of not less than \$1,000,000.

22 “(C) FORM OF APPROVAL.—The approval
23 of a reviewing court under this paragraph may
24 include any conditions or limitations necessary
25 to ensure compliance with applicable law.

1 “(c) STANDARDS AND OBLIGATIONS.—

2 “(1) IN GENERAL.—A contractor approved by a
3 reviewing court under subsection (b) shall—

4 “(A) follow applicable laws and regula-
5 tions, guidance documents, and technical stand-
6 ards relevant to the analyses performed by the
7 contractor;

8 “(B) certify under penalty of perjury that
9 all work product of the contractor meets the ap-
10 plicable legal requirements;

11 “(C) maintain professional independence
12 from the applicable project sponsor in all tech-
13 nical determinations and analyses;

14 “(D) remain subject to applicable profes-
15 sional liability and ethical standards; and

16 “(E) execute a sworn conflict of interest
17 and relationship disclosure, as described in sub-
18 section (b)(2)(B)(iii), and maintain a log of ma-
19 terial communications with the project sponsor,
20 which shall be made available to the reviewing
21 court and any applicable agency on request.

22 “(2) STATUS OF WORK PRODUCT.—All work
23 product of a contractor approved under this section
24 shall be—

1 “(A) deemed to be received by the applica-
2 ble agency on submission by the contractor; and

3 “(B) included in the administrative record
4 relating to each relevant authorization.

5 “(d) PAYMENT.—

6 “(1) IN GENERAL.—All reasonable costs of a
7 contractor approved by a reviewing court under this
8 section, including the costs of studies, modeling, and
9 coordination, shall be paid—

10 “(A) by the relevant lead agency from
11 amounts in the Permitting Performance Fund
12 established by section 12304(a); and

13 “(B) at rates not higher than comparable
14 rates on the Federal Supply Schedule of the
15 General Services Administration, or as other-
16 wise determined to be reasonable by the review-
17 ing court.

18 “(2) ADVANCES.—

19 “(A) IN GENERAL.—A project sponsor may
20 advance to a contractor approved under this
21 section payment for any costs described in
22 paragraph (1).

23 “(B) REIMBURSEMENT.—The relevant
24 lead agency shall reimburse a project sponsor
25 that makes an advance payment under subpara-

1 graph (A) by not later than 30 days after the
2 date on which the project sponsor submits to
3 the lead agency an invoice relating to the ad-
4 vance payment.

5 “(e) SCOPE OF WORK.—A contractor approved by a
6 reviewing court under this section shall prepare only the
7 documentation necessary to complete the relevant admin-
8 istrative record.

9 “(f) PRODUCTION OF GOVERNMENT INFORMA-
10 TION.—

11 “(1) IN GENERAL.—On a motion of the project
12 sponsor or a contractor approved by a reviewing
13 court under this section, the reviewing court may
14 order any Federal, State, or local agency to produce,
15 by a date certain, any document, data, or expert
16 input necessary to complete the relevant administra-
17 tive record.

18 “(2) NO TOLLING.—A failure by an agency to
19 produce a document, data, or input by the applicable
20 date under paragraph (1) shall not toll any deadline
21 under this title.

22 “(g) DEADLINES FOR CONTRACTOR WORK.—A re-
23 viewing court shall establish deadlines for deliverables of
24 a contractor approved by the reviewing court under this

1 section, subject to the condition that such a deadline shall
2 not exceed—

3 “(1) 120 days for a complex authorization not
4 requiring an environmental impact statement; and

5 “(2) 240 days for a complex authorization re-
6 quiring an environmental impact statement.

7 “(h) AGENCY DECISIONS ON CONTRACTOR-PRE-
8 PARED RECORD.—

9 “(1) AGENCY ACTION.—Not later than 30 days
10 after the date on which a contractor approved by a
11 reviewing court under this section submits to an ap-
12 plicable agency the completed documentation pre-
13 pared by the contractor, the agency shall—

14 “(A) issue a final decision regarding the
15 applicable authorization, based on the docu-
16 mentation; or

17 “(B) identify, including a citation to the
18 applicable law or regulation, any specific legal
19 deficiency in the documentation that requires
20 correction, subject to paragraph (2)(C).

21 “(2) DEFICIENCIES.—

22 “(A) IN GENERAL.—If an agency identifies
23 a deficiency under paragraph (1)(B), the af-
24 fected contractor shall correct the deficiency by

1 not later than 90 days after the date on which
2 the identification occurs.

3 “(B) ACTION BY AGENCY.—Not later than
4 14 days after the date of receipt of corrected
5 documentation under subparagraph (A), an
6 agency shall issue a final decision regarding the
7 applicable authorization.

8 “(C) SINGLE IDENTIFICATION.—An agency
9 may identify deficiencies under paragraph
10 (1)(B) on only 1 occasion, unless the applicable
11 reviewing court approves another identification
12 for good cause based on a legal requirement
13 that was not in effect at the time of the initial
14 identification of deficiencies.

15 “(3) LIMITATION.—An agency may not reject
16 any documentation prepared by a contractor ap-
17 proved by a reviewing court under this section based
18 on a policy disagreement or any other discretionary
19 factor if the documentation satisfies all applicable
20 legal requirements.

21 **“SEC. 12304. PERMITTING PERFORMANCE FUND.**

22 “(a) ESTABLISHMENT.—There is established in the
23 Treasury a fund, to be known as the ‘Permitting Perform-
24 ance Fund’ (referred to in this section as the ‘Fund’), con-
25 sisting of—

1 “(1) any civil penalties assessed under section
2 12404(c);

3 “(2) such amounts as are transferred to the
4 Fund under subsection (c); and

5 “(3) such amounts as are appropriated to the
6 Fund pursuant to subsection (d).

7 “(b) USE OF FUNDS.—Amounts in the Fund shall
8 be available, without further appropriation, to pay the
9 costs of—

10 “(1) any contractor approved by a reviewing
11 court under section 12303(b); and

12 “(2) any penalty or award to a project sponsor
13 of attorneys’ fees and costs ordered by a reviewing
14 court pursuant to section 12404(b)(2)(D).

15 “(c) TRANSFER OF AMOUNTS.—

16 “(1) DEFINITION OF COVERED WORKLOAD.—In
17 this subsection, the term ‘covered workload’, with re-
18 spect to an agency, means the total number of au-
19 thorizations for covered energy projects listed in
20 project schedules published under section 12301(c)
21 for which the agency was identified as the respon-
22 sible agency, determined by assigning a weight of 1
23 to each routine authorization and a weight of 4 to
24 each complex authorization.

1 “(2) TRANSFER.—The Secretary of the Treas-
2 ury shall transfer to the Fund from the general
3 management account of any agency found by a re-
4 viewing court under subtitle E to be liable for an un-
5 reasonable delay an amount based on the proportion
6 that—

7 “(A) the covered workload of the agency
8 during the preceding fiscal year; bears to

9 “(B) the covered workload of all agencies
10 during that preceding fiscal year.

11 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Fund—

13 “(1) \$50,000,000 for the initial capitalization
14 of the Fund; and

15 “(2) thereafter, such sums as are necessary to
16 carry out this section.

17 **“SEC. 12305. EFFECTIVE DATE.**

18 “(a) IN GENERAL.—This subtitle shall apply to any
19 notice of initiation submitted under section 12301(a) for
20 a covered energy project on or after the date that is 90
21 days after the date of enactment of this title.

22 “(b) PENDING PROJECTS.—For a covered energy
23 project the notice of initiation for which is pending on the
24 effective date described in subsection (a)—

1 “(1) this subtitle shall apply beginning on the
2 date that is 120 days after the date of enactment of
3 this title; and

4 “(2) as applicable, the completed notice date
5 (as defined in section 12302(a)) shall be deemed to
6 be the date that is 120 days after that date of enact-
7 ment.

8 **“Subtitle E—Expedited Judicial**
9 **Review and Enforcement**

10 **“SEC. 12401. CAUSES OF ACTION.**

11 “(a) IN GENERAL.—Subject to subsection (b), a
12 project sponsor of a covered energy project may file a peti-
13 tion in accordance with section 12402 for judicial review
14 of—

15 “(1) a final agency action relating to the cov-
16 ered energy project;

17 “(2) an alleged failure by an agency—

18 “(A) to act on the covered energy project,
19 including through unlawful withholding or un-
20 reasonable delay; or

21 “(B) to adhere to—

22 “(i) a milestone established for the
23 covered energy project under section
24 12301(c)(3)(A); or

1 “(ii) a deadline applicable to the cov-
2 ered energy project under section 12302;

3 or

4 “(3) an order, directive, suspension, revocation,
5 or other action described in section 12501(b) of an
6 agency relating to the covered energy project.

7 “(b) SINGLE PETITION RULE.—

8 “(1) IN GENERAL.—A project sponsor may file
9 only 1 petition under this subtitle with respect to
10 any single cause of action described in subsection
11 (a).

12 “(2) MULTIPLE GROUNDS.—A project sponsor
13 may file a single petition under this subtitle seeking
14 multiple grounds for relief.

15 “(c) RELIEF SOUGHT.—A petition under this subtitle
16 may seek 1 or more of the following:

17 “(1) Review of an order, directive, or action de-
18 scribed in section 12501(b).

19 “(2) A court order compelling agency action or
20 other relief for an unreasonable delay in the author-
21 ization process, in accordance with subtitle D.

22 “(3) Review of the designation of an authoriza-
23 tion as a complex authorization pursuant to section
24 12301(d)(3).

25 “(d) INTERVENTION.—

1 “(1) IN GENERAL.—Any person that would
2 have standing under article III of the Constitution
3 of the United States to challenge or defend the ap-
4 plicable agency action may move to intervene in a
5 cause of action under this subtitle.

6 “(2) RULING.—The reviewing court shall rule
7 expeditiously on any motion to intervene under para-
8 graph (1).

9 **“SEC. 12402. PETITION REQUIREMENTS.**

10 “(a) CONTENTS.—

11 “(1) REQUIREMENTS.—A petition under this
12 subtitle shall contain an affidavit, together with sup-
13 porting documentation described in paragraph (2),
14 demonstrating the grounds for the petition as fol-
15 lows:

16 “(A) SUBTITLE F ACTIONS.—A petition al-
17 leging that an agency violated section 12501
18 with respect to a covered energy project shall
19 demonstrate that—

20 “(i) the agency issued an order or di-
21 rective, revoked a permit or authorization,
22 or carried out any other action to halt,
23 delay, or otherwise cancel a previously au-
24 thorized activity in violation of section
25 12501;

1 “(ii) the project sponsor has suffered
2 a loss as a direct result of the action de-
3 scribed in clause (i); and

4 “(iii) the compensation sought in the
5 petition does not exceed an amount equal
6 to 125 percent of the amount of financial
7 loss suffered by the project sponsor as a
8 result of that action.

9 “(B) UNREASONABLE DELAYS.—A petition
10 alleging unreasonable delay by an agency with
11 respect to a covered energy project shall dem-
12 onstrate that—

13 “(i) the petitioner is a project sponsor
14 that has submitted a notice of initiation
15 under section 12301(a) for the covered en-
16 ergy project;

17 “(ii) the notice was, on such date as
18 the project sponsor shall specify—

19 “(I) determined to be complete
20 under section 12301(b)(1); or

21 “(II) deemed to be complete
22 under section 12301(b)(3)(B);

23 “(iii) the applicable deadline for a
24 final decision relating to an authorization
25 for the covered energy project under sec-

tion 12302 has lapsed without the agency
issuing the final decision; and

“(iv) the petitioner has suffered or
will suffer harm as a result of the lapse de-
scribed in clause (iii).

“(C) DESIGNATIONS AS COMPLEX.—A pe-
tition seeking review of the designation of an
authorization as a complex authorization shall
demonstrate that the written, reasoned deter-
mination by the applicable lead agency fails to
identify project-specific factors that justify the
designation, in accordance with section
12301(d)(3).

“(2) DOCUMENTS AND OTHER INFORMATION.—

“(A) IN GENERAL.—A petition under this
subtitle shall include, as applicable to each
claim asserted in the petition—

“(i) all relevant agency correspond-
ence (including any application for an au-
thorization), deficiency notices, and deter-
minations relating to a notice of initiation
or project schedule for the applicable cov-
ered energy project, if any;

“(ii) a copy of each final agency ac-
tion, authorization, record of decision, en-

1 vironmental document, or order that is the
2 subject of the petition; and

3 “(iii) identification, to the maximum
4 extent practicable, of any records similar
5 to the records described in this subpara-
6 graph that are unavailable to the petitioner
7 and the reasons for the unavailability.

8 “(B) ADDITIONAL INFORMATION.—A peti-
9 tion for judicial review under this subtitle may
10 include other available relevant documents, such
11 as expert reports, economic analyses, or affida-
12 vits from personnel, relating to—

13 “(i) the applicable covered energy
14 project;

15 “(ii) action or inaction by an applica-
16 ble agency; or

17 “(iii) harm suffered by the petitioner.

18 “(b) NAMING OF RESPONDENTS.—

19 “(1) IN GENERAL.—In a petition under this
20 subtitle challenging the schedule for a covered en-
21 ergy project under section 12301(c), or the designa-
22 tion of an authorization as a complex authorization
23 under section 12301(d)(3), the head of the applica-
24 ble lead agency shall be named as the respondent.

1 “(2) OTHER CAUSES OF ACTION.—In a petition
2 under this subtitle relating to a cause of action not
3 described in paragraph (1), the head of the agency
4 that carried out the applicable final agency action,
5 issued the applicable order or directive, or is alleged
6 to have unlawfully withheld or unreasonably delayed
7 action shall be named as the respondent.

8 “(c) FILING DATES.—

9 “(1) FINAL AGENCY ACTIONS.—A petition
10 under this subtitle of a cause of action described in
11 section 12401(a)(1) shall be filed not later than 60
12 days after the date on which the applicable agency
13 action becomes final.

14 “(2) FAILURES TO ACT.—A petition under this
15 subtitle of a cause of action described in section
16 12401(a)(2) may be filed beginning on the day after
17 the date of the applicable missed deadline or mile-
18 stone.

19 “(3) SUBTITLE F ACTIONS.—A petition under
20 this subtitle of a cause of action described in section
21 12401(a)(3) shall be filed not later than 30 days
22 after the date on which the applicable order, direc-
23 tive, suspension, revocation, or other action of an
24 agency is issued or carried out.

1 “(d) SERVICE.—The petitioner shall serve a petition
2 under this subtitle on—

3 “(1) the Attorney General of the United States;

4 “(2) the head of the lead agency with respect
5 to the covered energy project that is the subject of
6 the petition; and

7 “(3) each cooperating agency identified under
8 section 12301(c)(2) in the project schedule for the
9 covered energy project that is the subject of the peti-
10 tion.

11 **“SEC. 12403. JUDICIAL REVIEW.**

12 “(a) VENUE.—

13 “(1) IN GENERAL.—A petition under this sub-
14 title may be filed, at the election of the project spon-
15 sor, in—

16 “(A) the United States Court of Appeals
17 for the District of Columbia Circuit;

18 “(B) the United States court of appeals
19 for the circuit in which—

20 “(i) the covered energy project is lo-
21 cated; or

22 “(ii) the project sponsor has its prin-
23 cipal place of business; or

24 “(C) any United States district court that
25 would have jurisdiction under any other applica-

1 ble law (including any special statutory review
2 provision) to review the agency action, order,
3 directive, or failure to act that is the subject of
4 the petition.

5 “(2) EXCLUSIVE JURISDICTION.—

6 “(A) IN GENERAL.—The reviewing court
7 in which a petition is filed under paragraph (1)
8 shall have exclusive jurisdiction over—

9 “(i) that petition; and

10 “(ii) any claim under this subtitle
11 with respect to the same cause of action
12 described in section 12401(a).

13 “(B) CONSOLIDATION.—If 1 or more peti-
14 tions concerning the same cause of action de-
15 scribed in section 12401(a) are filed in more
16 than 1 reviewing court, each later-filed petition
17 shall be transferred to the reviewing court in
18 which the initial petition was filed.

19 “(b) REPRESENTATION OF RESPONDENTS.—A re-
20 spondent named under section 12402(b) shall be rep-
21 resented in accordance with section 518(a) of title 28,
22 United States Code.

23 “(c) STANDARD OF REVIEW.—

24 “(1) IN GENERAL.—The reviewing court shall
25 conduct the review of, and reach a decision regard-

1 ing, a petition under this subtitle in accordance with
2 chapter 7 of title 5, United States Code.

3 “(2) ADMINISTRATIVE RECORD.—

4 “(A) IN GENERAL.—Judicial review of a
5 petition under this subtitle shall be based on an
6 administrative record compiled and certified by
7 the head of the agency named in the petition as
8 the respondent under section 12402(b).

9 “(B) MULTIPLE RESPONDENTS.—If mul-
10 tiple agency heads are named in a petition as
11 respondents under section 12402(b)—

12 “(i) each agency head shall compile
13 and certify the portions of the record with-
14 in the custody of that agency; and

15 “(ii) the lead agency, or such other
16 agency as the reviewing court may require,
17 shall assemble a consolidated record.

18 “(C) FAILURES TO ACT.—The administra-
19 tive record relating to a petition under this sub-
20 title for a cause of action described in section
21 12401(a)(2) shall include, as applicable—

22 “(i) the notice of initiation submitted
23 under section 12301(a);

1 “(ii) any completeness or deficiency
2 designation of that notice under section
3 12301(b);

4 “(iii) the project schedule published
5 under section 12301(c); and

6 “(iv) any other materials the review-
7 ing court determines to be necessary to re-
8 solve the petition.

9 “(d) ADDITIONAL SUBMISSIONS.—In addition to the
10 documents and information required under section
11 12402(a)(2), a petitioner shall submit to the reviewing
12 court, in accordance with a schedule established by the
13 reviewing court, such other records and documents as are
14 reasonable and necessary for determination of the appro-
15 priate remedy and the amount of compensation to be or-
16 dered.

17 “(e) DISCOVERY AND RECORD DEVELOPMENT.—

18 “(1) IN GENERAL.—There shall be no discovery
19 in a proceeding relating to a petition under this sub-
20 title other than such discovery as may be ordered by
21 the reviewing court, as the reviewing court deter-
22 mines to be reasonable and necessary to determine
23 the appropriate remedy and the amount of com-
24 pensation (including compensation for any violation
25 of section 12501) to be ordered.

1 “(2) INFORMATION, TESTIMONY, AND DOCU-
 2 MENTS.—The reviewing court may require the sub-
 3 mission of such information, the testimony of such
 4 persons, and the production of such documents as
 5 the reviewing court determines to be reasonable and
 6 necessary for purposes of this subsection.

7 **“SEC. 12404. EXPEDITED PROCEDURE; RELIEF; PENALTIES;**
 8 **APPEALS.**

9 “(a) EXPEDITED PROCEDURE.—The reviewing court
 10 shall—

11 “(1) establish an expedited schedule for briefing
 12 and disposition relating to a petition under this sub-
 13 title; and

14 “(2) absent extraordinary circumstances, issue
 15 a decision with respect to a petition under this sub-
 16 title—

17 “(A) as expeditiously as practicable; but

18 “(B) not later than 120 days after the
 19 date on which the petition is filed.

20 “(b) AVAILABLE RELIEF.—

21 “(1) IN GENERAL.—On a finding by a review-
 22 ing court that a petitioner is entitled to relief under
 23 this subtitle, the reviewing court shall grant such
 24 legal, equitable, and administrative relief as the re-
 25 viewing court determines to be appropriate to effec-

1 tuate the purposes of this title in accordance with
2 paragraph (2), subject to section 12501(b).

3 “(2) ACTIONS BY REVIEWING COURT.—A re-
4 viewing court that makes a finding described in
5 paragraph (1) shall—

6 “(A) hold unlawful and set aside any final
7 agency action found to be arbitrary, capricious,
8 an abuse of discretion, or otherwise not in ac-
9 cordance with law;

10 “(B) remand each applicable matter to the
11 appropriate agency for further action in accord-
12 ance with the direction of the reviewing court,
13 together with a schedule and deadline for com-
14 pletion of those actions, which deadline shall
15 not exceed—

16 “(i) 180 days after the date on which
17 the judgment is issued; or

18 “(ii) such longer period to which the
19 project sponsor may agree;

20 “(C) in any case involving unlawful with-
21 holding or unreasonable delay, issue an order
22 that—

23 “(i) compels the appropriate agency to
24 act;

1 “(ii) specifies the date by which each
2 discrete action of the agency shall be com-
3 pleted in order to finalize the agency re-
4 view and issue a final agency decision; and

5 “(iii) retains the jurisdiction of the re-
6 viewing court to ensure compliance with
7 the order;

8 “(D) award to a project sponsor that pre-
9 vails on a claim of unreasonable delay under
10 subtitle D reasonable attorneys’ fees and costs;
11 and

12 “(E) for any action found to be in violation
13 of section 12501, award to the project sponsor
14 just compensation sufficient to remedy damages
15 to the project sponsor caused by the action.

16 “(c) PENALTY FOR NONCOMPLIANCE.—

17 “(1) DAILY FEE.—A reviewing court shall as-
18 sess against any agency found to have failed to com-
19 ply with a schedule or order issued by the reviewing
20 court pursuant to subsection (b)(2) a civil penalty in
21 an amount equal to not less than \$1,000, but not
22 more than \$100,000, per day of noncompliance. In
23 determining the amount of the penalty within that
24 range, the reviewing court shall consider the extent
25 to which the noncompliance was within the reason-

1 able control of the agency and whether the agency
2 acted with diligence and good faith. A civil penalty
3 assessed under this paragraph shall be payable only
4 from unobligated amounts available in the general
5 management account of the applicable agency, and
6 no transfer or payment may be made if that unobli-
7 gated balance is zero or if the transfer would reduce
8 that unobligated balance to zero.

9 “(2) DEPOSIT.—The amounts collected under
10 this subsection shall be deposited in the Permitting
11 Performance Fund established by section 12304(a).

12 “(d) APPEALS.—

13 “(1) DISTRICT COURT JUDGMENTS.—If a peti-
14 tion under this subtitle is filed in a United States
15 district court pursuant to section 12403(a)(1)(C),
16 any party aggrieved by the judgment of the district
17 court may obtain review in the United States court
18 of appeals of competent jurisdiction under chapter
19 83 of title 28, United States Code, subject to the
20 condition that a notice of appeal shall be filed not
21 later than 30 days after the date of entry of the
22 judgment.

23 “(2) COURT OF APPEALS ORIGINAL PETI-
24 TIONS.—If a petition under this subtitle is filed in
25 a United States court of appeals pursuant to sub-

1 paragraph (A) or (B) of section 12403(a)(1), further
2 review shall be as otherwise provided by law.

3 **“SEC. 12405. ACCELERATION OF CERTAIN CLAIMS BY**
4 **OTHER PERSONS.**

5 “(a) CERTAIN CIVIL ACTIONS.—A civil action au-
6 thorized by Federal law seeking judicial review of a final
7 agency action that constitutes the issuance, approval, or
8 adoption of a complex authorization for a covered energy
9 project may be brought in accordance with this section by
10 a person other than a project sponsor of the covered en-
11 ergy project.

12 “(b) FILING DEADLINE.—A civil action described in
13 subsection (a) shall be filed not later than the earlier of—

14 “(1) the date that is 150 days after—

15 “(A) the date on which the applicable lead
16 agency publishes in the Federal Register a no-
17 tice of the relevant final complex authorization;
18 or

19 “(B) if publication described in subpara-
20 graph (A) is not required by law, the date on
21 which the lead agency first makes a notice de-
22 scribed in that subparagraph publicly available;
23 and

24 “(2) the applicable statutory deadline with re-
25 spect to the civil action.

1 “(c) SCOPE.—Judicial review of a civil action de-
2 scribed in subsection (a) shall be limited to the administra-
3 tive record for the complex authorization at issue.

4 “(d) LIMITED VACATUR AND INJUNCTIVE RELIEF.—
5 In a civil action described in subsection (a), the court
6 may—

7 “(1) remand the matter to the applicable agen-
8 cy for further action in accordance with the direction
9 of the court; and

10 “(2) in addition to such a remand, vacate or en-
11 join all or any part of a final agency action only if
12 the court finds, based on the administrative record
13 and any additional evidence properly before the
14 court, that failure so to vacate or enjoin would result
15 in specific, imminent, and irreparable environmental
16 harm that cannot reasonably be avoided or mitigated
17 through narrower relief, an additional mitigation
18 measure, or expedited correction of the deficiency.

19 “(e) EFFECT OF SECTION.—Nothing in this section
20 limits the ability of a project sponsor to bring a claim chal-
21 lenging an authorization for a covered energy project.

1 **“Subtitle F—Limiting Orders**
2 **Against Fully Permitted Projects**

3 **“SEC. 12501. TREATMENT OF FULLY PERMITTED PROJECTS.**

4 “(a) DEFINITION OF FULLY PERMITTED
5 PROJECT.—In this section, the term ‘fully permitted
6 project’ means a covered energy project that has received
7 a substantial majority of the authorizations required for
8 the covered energy project.

9 “(b) PROHIBITION.—No agency or Federal official
10 shall issue any order or directive terminating the construc-
11 tion or operation of a fully permitted project, revoke any
12 permit or authorization for a fully permitted project, or
13 take any other action to halt, suspend, delay, or terminate
14 an authorized activity carried out to support a fully per-
15 mitted project unless—

16 “(1) there exists—

17 “(A) a clear, immediate, and substantiated
18 harm for which the Federal order, directive, or
19 action is required to prevent, mitigate, or re-
20 pair; and

21 “(B) no other viable alternative that would
22 allow a previously authorized activity, such as
23 construction, to continue; or

24 “(2)(A) an applicable authorization is illegal
25 under applicable Federal law; and

1 “(B) the Federal order, directive, or action
 2 is the only available remedy to address that ille-
 3 gality.

4 “(c) LIMITATION ON PETITIONS.—

5 “(1) IN GENERAL.—No agency may petition a
 6 court for voluntary remand of an authorization for
 7 a fully permitted project that has received a record
 8 of decision unless the project sponsor consents to the
 9 petition.

10 “(2) IN-CAMERA REVIEW.—As necessary, a
 11 court may review a petition submitted under this
 12 subsection in camera.

13 **“Subtitle G—Other Matters**

14 **“SEC. 12601. GOVERNMENT ACCOUNTABILITY OFFICE SUR- 15 VEY AND REPORT.**

16 “Not later than 180 days after the date of enactment
 17 of this title, and not less frequently than annually there-
 18 after, the Comptroller General of the United States
 19 shall—

20 “(1) conduct a survey of industry satisfaction
 21 with the Federal permitting process with respect to
 22 covered energy projects, which shall—

23 “(A) include questions relating to—

24 “(i) related Federal staffing levels and
 25 expertise;

1 “(ii) the costs of the permitting proc-
2 ess; and

3 “(iii) recommendations for improving
4 the permitting process; and

5 “(B) be carried out so as to accommodate
6 any industry group or individual that desires to
7 comment anonymously; and

8 “(2) submit to the Committee on Energy and
9 Natural Resources of the Senate and the Committee
10 on Natural Resources of the House of Representa-
11 tives a report that includes—

12 “(A) an evaluation of the ability of agen-
13 cies to adhere to the deadlines under this title;

14 “(B) an evaluation of whether any energy
15 source has been unfairly treated, including
16 through the imposition of delays or added re-
17 quirements, a lack of communication, or any
18 other action taken to disadvantage the source in
19 the permitting process, subject to the condition
20 that it shall not be considered unfair treatment
21 for purposes of this subparagraph if—

22 “(i) an energy source is subject to
23 regulation or other measures due to a dif-
24 ference inherent in a specific technology; or

1 “(ii) an initiative is carried out to im-
 2 prove service—

3 “(I) for an industry; or

4 “(II) at a field office of the De-
 5 partment of Energy or the Depart-
 6 ment of the Interior; and

7 “(C) a description of the results of the
 8 most recent survey conducted under paragraph
 9 (1).”.

10 (b) CLERICAL AMENDMENT.—The table of contents
 11 contained in section 101(b) of the Energy Act of 2020
 12 (Public Law 116–260; 134 Stat. 2418) is amended by
 13 adding at the end the following:

“TITLE XII—FIGHTING FOR RELIABLE ENERGY AND ENDING
 DOUBT FOR OPEN MARKETS

“Subtitle A—Definitions

“Sec. 12001. Definitions.

“Subtitle B—Federal Land Energy and Mineral Reforms

“Sec. 12101. Accelerating Federal land rights-of-way for certain covered energy
 projects.

“Subtitle C—De-Risking Compensation Program

“Sec. 12201. Definitions.

“Sec. 12202. Establishment; purposes.

“Sec. 12203. Enrollment.

“Sec. 12204. Compensation of enrolled project sponsors.

“Sec. 12205. De-Risking Compensation Fund.

“Subtitle D—Permitting Timelines and Performance Fund

“Sec. 12301. Notices of initiation; project schedules.

“Sec. 12302. Authorization deadlines.

“Sec. 12303. Reviewing court-approved contractors.

“Sec. 12304. Permitting Performance Fund.

“Sec. 12305. Effective date.

“Subtitle E—Expedited Judicial Review and Enforcement

“Sec. 12401. Causes of action.

“Sec. 12402. Petition requirements.

“Sec. 12403. Judicial review.

“Sec. 12404. Expedited procedure; relief; penalties; appeals.

“Sec. 12405. Acceleration of certain claims by other persons.

“Subtitle F—Limiting Orders Against Fully Permitted Projects

“Sec. 12501. Treatment of fully permitted projects.

“Subtitle G—Other Matters

“Sec. 12601. Government Accountability Office survey and report.”.

1 **SEC. 4. GEOTHERMAL LEASING AND PERMITTING IM-**
 2 **PROVEMENTS; PERMITTING COMPLIANCE ON**
 3 **NON-FEDERAL LAND.**

4 (a) GEOTHERMAL LEASING AND PERMITTING IM-
 5 PROVEMENTS.—

6 (1) ANNUAL LEASING.—Section 4(b) of the
 7 Geothermal Steam Act of 1970 (30 U.S.C. 1003(b))
 8 is amended—

9 (A) in paragraph (2), by striking “every 2
 10 years” and inserting “per year”; and

11 (B) by adding at the end the following:

12 “(5) REPLACEMENT SALES.—If a lease sale
 13 under this section for a year is cancelled or de-
 14 layed—

15 “(A) the Secretary shall conduct a replace-
 16 ment sale not later than 180 days after the
 17 date of the cancellation or delay, as applicable;
 18 and

19 “(B) that replacement sale may not be
 20 cancelled or delayed.”.

1 (2) COST RECOVERY AUTHORITY.—Section 24
2 of the Geothermal Steam Act of 1970 (30 U.S.C.
3 1023) is amended—

4 (A) by striking the section designation and
5 all that follows through “(b) development” in
6 the second sentence and inserting the following:

7 **“SEC. 24. RULES AND REGULATIONS.**

8 “(a) IN GENERAL.—The Secretary shall prescribe
9 such rules and regulations as the Secretary determines to
10 be appropriate to carry out this Act.

11 “(b) INCLUSIONS.—The regulations prescribed pur-
12 suant to subsection (a) may include, without limitation,
13 provisions relating to—

14 “(1) the prevention of waste;

15 “(2) the development”;

16 (B) in subsection (b) (as so designated)—

17 (i) in paragraph (2) (as so des-
18 ignated), by striking “resources, (c) the”
19 and inserting the following: “resources;

20 “(3) the”;

21 (ii) in paragraph (3) (as so des-
22 ignated), by striking “interest, (d) assign-
23 ment” and inserting the following: “inter-
24 est;

25 “(4) assignment”;

1 (iii) in paragraph (4) (as so des-
2 ignated), by striking “agreements, (e) com-
3 pensatory” and inserting the following:
4 “agreements;
5 “(5) compensatory”;

6 (iv) in paragraph (5) (as so des-
7 ignated), by striking “royalties, (f) the”
8 and inserting the following: “royalties;
9 “(6) the”;

10 (v) in paragraph (6) (as so des-
11 ignated), by striking “resources, (g) use”
12 and inserting the following: “resources;
13 “(7) the use”;

14 (vi) in paragraph (7) (as so des-
15 ignated), by striking “his lease, (h) the”
16 and inserting the following: “a lease;
17 “(8) the”; and

18 (vii) in paragraph (8) (as so des-
19 ignated), by striking “program, and (i)
20 protection” and inserting the following:
21 “program; and
22 “(9) protection”; and

23 (C) by adding at the end the following:

24 “(c) COST RECOVERY.—Not later than 180 days
25 after the date of enactment of the FREEDOM Act, the

1 Secretary shall prescribe rules pursuant to this section for
2 cost recovery, to be paid by permit applicants or lessees—

3 “(1) to facilitate the timely coordination and
4 processing of leases, permits, and authorizations;
5 and

6 “(2) to reimburse the Secretary for all reason-
7 able administrative costs incurred from the inspec-
8 tion and monitoring of activities carried out under
9 the permit, lease, or other authorization, as applica-
10 ble.”.

11 (3) FEDERAL PERMITTING PROCESS.—Not later
12 than 1 year after the date of enactment of this Act,
13 the Secretary of the Interior shall promulgate regu-
14 lations and establish a Federal permitting process to
15 allow for simultaneous, concurrent consideration of
16 multiple phases of a geothermal project, including—

17 (A) surface exploration;

18 (B) geophysical exploration (including well
19 drilling);

20 (C) production well drilling; and

21 (D) use of geothermal resources (including
22 power plant construction).

23 (4) GEOTHERMAL PRODUCTION PARITY.—Sec-
24 tion 390 of the Energy Policy Act of 2005 (42
25 U.S.C. 15942) is amended—

1 (A) in subsection (a)—

2 (i) by striking “(NEPA)” and insert-
3 ing “(42 U.S.C. 4321 et seq.) (referred to
4 in this section as ‘NEPA’)”;

5 (ii) by inserting “(30 U.S.C. 181 et
6 seq.)” after “Mineral Leasing Act”; and

7 (iii) by inserting “or the Geothermal
8 Steam Act of 1970 (30 U.S.C. 1001 et
9 seq.) for the purpose of exploration or de-
10 velopment of geothermal resources” before
11 the period at the end; and

12 (B) in subsection (b)—

13 (i) in paragraph (2), by striking “oil
14 or gas” and inserting “oil, gas, or geo-
15 thermal resources”; and

16 (ii) in paragraph (3), by striking “oil
17 or gas” and inserting “oil, gas, or geo-
18 thermal resources”.

19 (5) GEOTHERMAL OMBUDSMAN.—

20 (A) IN GENERAL.—Not later than 60 days
21 after the date of enactment of this Act, the Sec-
22 retary of the Interior shall appoint within the
23 Bureau of Land Management a Geothermal
24 Ombudsman.

1 (B) DUTIES.—The Geothermal Ombuds-
2 man appointed under paragraph (1) shall—

3 (i) act as a liaison between—

4 (I) the individual field offices of
5 the Bureau of Land Management;

6 (II) the Division Chief of the Na-
7 tional Renewable Energy Coordination
8 Office of the Bureau of Land Man-
9 agement; and

10 (III) the Director of the Bureau
11 of Land Management;

12 (ii) provide dispute resolution services
13 between the individual field offices of the
14 Bureau of Land Management and appli-
15 cants for geothermal resource permits;

16 (iii) monitor and facilitate permit
17 processing practices and timelines across
18 individual field offices of the Bureau of
19 Land Management;

20 (iv) develop best practices for the per-
21 mitting and leasing process for geothermal
22 resources; and

23 (v) coordinate with the Federal Per-
24 mitting Improvement Steering Council.

1 (C) REPORT.—The Geothermal Ombuds-
2 man appointed under paragraph (1) shall sub-
3 mit to the Committee on Energy and Natural
4 Resources of the Senate and the Committee on
5 Natural Resources of the House of Representa-
6 tives an annual report that—

7 (i) describes the activities carried out
8 by the Geothermal Ombudsman during the
9 preceding year; and

10 (ii) evaluates the effectiveness of geo-
11 thermal permit processing during the pre-
12 ceding year.

13 (b) PERMITTING COMPLIANCE ON NON-FEDERAL
14 LAND.—

15 (1) CERTAIN OIL AND GAS ACTIVITIES ON NON-
16 FEDERAL SURFACE.—

17 (A) IN GENERAL.—Notwithstanding the
18 Mineral Leasing Act (30 U.S.C. 181 et seq.),
19 the Federal Oil and Gas Royalty Management
20 Act of 1982 (30 U.S.C. 1701 et seq.), or sub-
21 part 3162 of part 3160 of title 43, Code of
22 Federal Regulations (or successor regulations),
23 but subject to any applicable State or Tribal re-
24 quirements and subparagraph (C), the Sec-
25 retary of the Interior shall not require a permit

1 to drill for an oil and gas lease under the Min-
2 eral Leasing Act (30 U.S.C. 181 et seq.) for
3 any action occurring within an oil and gas drill-
4 ing or spacing unit if—

5 (i) the Federal Government—

6 (I) owns fewer than 50 percent of
7 the minerals within the oil and gas
8 drilling or spacing unit; and

9 (II) does not own or lease the
10 surface estate within the area directly
11 impacted by the drilling;

12 (ii) the well is located on non-Federal
13 land overlying a non-Federal mineral es-
14 tate, but some portion of the wellbore en-
15 ters and produces from the Federal min-
16 eral estate subject to the lease; or

17 (iii) the well is located on non-Federal
18 land overlying a non-Federal mineral es-
19 tate, but some portion of the wellbore tra-
20 verses but does not produce from the Fed-
21 eral mineral estate subject to the lease.

22 (B) STATE PERMITS TO DRILL AND DRILL-
23 ING PLANS.—For each State permit to drill or
24 drilling plan that would impact or extract oil
25 and gas owned by the Federal Government—

1 (i) each lessee of Federal minerals in
2 the unit (or a designee) shall—

3 (I) notify the Secretary of the In-
4 terior of the submission of a State ap-
5 plication for a permit to drill or drill-
6 ing plan on submission of the applica-
7 tion; and

8 (II) provide to the Secretary of
9 the Interior a copy of the application
10 described in subclause (I) not later
11 than 5 days after the date on which
12 the permit or plan is submitted;

13 (ii) each lessee described in clause (i)
14 (or a designee), and each applicable State,
15 shall notify the Secretary of the Interior of
16 the approved State permit to drill or drill-
17 ing plan not later than 45 days after the
18 date on which the permit or plan is ap-
19 proved; and

20 (iii) as a condition of commencing
21 drilling operations, each lessee described in
22 clause (i) (or a designee) shall provide to
23 the Secretary of the Interior an agreement
24 authorizing the Secretary of the Interior to
25 enter non-Federal land, as necessary for

1 inspection and enforcement of the terms of
2 the Federal lease.

3 (C) NONAPPLICABILITY TO INDIAN
4 LANDS.—Subparagraph (A) shall not apply to
5 Indian lands (as defined in section 3 of the
6 Federal Oil and Gas Royalty Management Act
7 of 1982 (30 U.S.C. 1702)).

8 (D) EFFECT.—Nothing in this paragraph
9 affects—

10 (i) other authorities of the Secretary
11 of the Interior under the Federal Oil and
12 Gas Royalty Management Act of 1982 (30
13 U.S.C. 1701 et seq.); or

14 (ii) the amount of royalties due to the
15 Federal Government from the production
16 of the Federal minerals within an oil or
17 gas drilling or spacing unit.

18 (2) PERMITTING COMPLIANCE FOR CERTAIN
19 GEOTHERMAL ACTIVITIES ON NON-FEDERAL SUR-
20 FACE.—The Geothermal Steam Act of 1970 (30
21 U.S.C. 1001 et seq.) is amended by adding at the
22 end the following:

1 **“SEC. 30. NO FEDERAL DRILLING PERMIT REQUIRED FOR**
2 **CERTAIN GEOTHERMAL ACTIVITIES ON NON-**
3 **FEDERAL SURFACE.**

4 “(a) PROHIBITION.—The Secretary shall not require
5 an operator to obtain a Federal drilling permit or equiva-
6 lent Federal drilling approval for any geothermal explo-
7 ration or production activity conducted on a non-Federal
8 surface estate, subject to the conditions that—

9 “(1) the United States holds an ownership in-
10 terest of less than 50 percent of the subsurface geo-
11 thermal estate to be accessed by the proposed action;
12 and

13 “(2) the operator shall submit to the Secretary
14 a State permit or other State authorization to con-
15 duct geothermal exploration or production activities
16 on the non-Federal surface estate, in accordance
17 with subsection (b).

18 “(b) STATE PERMITS AND AUTHORIZATIONS.—

19 “(1) APPLICATION.—On submission to an ap-
20 plicable State by an operator described in subsection
21 (a) of an application for a State permit or authoriza-
22 tion described in subsection (a)(2), the operator
23 shall—

24 “(A) notify the Secretary of the submis-
25 sion; and

1 “(B) not later than 5 days after the date
2 of the submission, provide to the Secretary a
3 copy of the application.

4 “(2) APPROVAL NOTICE.—Not later than 45
5 days after the date on which the State permit or
6 other State authorization is approved by the applica-
7 ble State, the operator or the State shall notify the
8 Secretary of the approval.

9 “(3) ACCESS AGREEMENTS.—As a condition of
10 commencing operations under this section, an oper-
11 ator shall provide to the Secretary an agreement au-
12 thorizing the Secretary to enter non-Federal land, as
13 necessary for inspection and enforcement of the
14 terms of any applicable Federal geothermal lease, in-
15 cluding for production accountability and royalty
16 verification.

17 “(c) ROYALTIES AND PRODUCTION ACCOUNT-
18 ABILITY.—

19 “(1) ROYALTIES.—Nothing in this section af-
20 fects the amount of royalties due to the United
21 States under this Act from the production or use of
22 geothermal resources or byproducts.

23 “(2) INSPECTIONS.—The Secretary may con-
24 duct onsite reviews and inspections to ensure proper

1 accountability, measurement, and reporting of pro-
 2 duction and payment of royalties under this Act.

3 “(d) EXCEPTIONS.—This section shall not apply to—

4 “(1) any action carried out on—

5 “(A) land located within the boundaries of
 6 an Indian reservation, pueblo, or rancheria; or

7 “(B) land not located within the bound-
 8 aries of an Indian reservation, pueblo, or
 9 rancheria, the title to which is held—

10 “(i) in trust by the United States for
 11 the benefit of an Indian Tribe or an indi-
 12 vidual Indian;

13 “(ii) by an Indian Tribe or an indi-
 14 vidual Indian, subject to restriction against
 15 alienation under laws of the United States;
 16 or

17 “(iii) by a dependent Indian commu-
 18 nity; or

19 “(2) any resource managed by the United
 20 States, in trust for the benefit of an Indian Tribe.”.

21 (3) AUTHORITY ON NON-FEDERAL LAND FOR
 22 OIL AND GAS LEASES.—Section 17(g) of the Mineral
 23 Leasing Act (30 U.S.C. 226(g)) is amended—

24 (A) by striking the subsection designation
 25 and all that follows through “Secretary of the

1 Interior, or” in the first sentence and inserting
2 the following:

3 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-
4 TIES.—

5 “(1) IN GENERAL.—The Secretary of the Inte-
6 rior, or”; and

7 (B) by adding at the end the following:

8 “(2) EFFECT OF MINERAL LEASING ACT.—

9 “(A) IN GENERAL.—In the case of an oil
10 and gas lease under the Mineral Leasing Act on
11 land described in subparagraph (B) that is lo-
12 cated within an oil and gas drilling or spacing
13 unit, nothing in this Act authorizes the Sec-
14 retary of the Interior—

15 “(i) to require a bond to protect non-
16 Federal land;

17 “(ii) to enter non-Federal land with-
18 out the consent of the applicable land-
19 owner;

20 “(iii) to impose mitigation require-
21 ments; or

22 “(iv) to require approval for surface
23 reclamation.

1 “(B) DESCRIPTION OF LAND.—Land re-
2 ferred to in subparagraph (A) is land with re-
3 spect to which—

4 “(i) the Federal Government—

5 “(I) owns fewer than 50 percent
6 of the minerals within the oil and gas
7 drilling or spacing unit; and

8 “(II) does not own or lease the
9 surface estate within the area directly
10 impacted by the relevant action;

11 “(ii) a well is located on non-Federal
12 land overlying a non-Federal mineral es-
13 tate, but some portion of the wellbore en-
14 ters and produces from the Federal min-
15 eral estate subject to the lease; or

16 “(iii) a well is located on non-Federal
17 land overlying a non-Federal mineral es-
18 tate, but some portion of the wellbore tra-
19 verses but does not produce from the Fed-
20 eral mineral estate subject to the lease.

21 “(e) DEFINITION OF OPERATOR.—In this section, the
22 term ‘operator’ means any person that has taken responsi-
23 bility in writing, submitted to the Secretary, for geo-

- 1 thermal exploration or production operations conducted
- 2 under a lease issued under this Act.”.

