

110TH CONGRESS
2D SESSION

S. 3222

To promote the energy security of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2008

Mr. THUNE introduced the following bill; which was read twice and referred
to the Committee on Energy and Natural Resources

A BILL

To promote the energy security of the United States, and
for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Energy Transition Act of 2008”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—TRADITIONAL RESOURCES

Subtitle A—Outer Continental Shelf

Sec. 101. Publication of projected State lines on outer Continental Shelf.

Sec. 102. Production of oil and natural gas in new producing areas.

Sec. 103. Conforming amendment.

Subtitle B—Leasing Program for Land Within Coastal Plain

- Sec. 111. Definitions.
- Sec. 112. Leasing program for land within the Coastal Plain.
- Sec. 113. Lease sales.
- Sec. 114. Grant of leases by the Secretary.
- Sec. 115. Lease terms and conditions.
- Sec. 116. Coastal Plain environmental protection.
- Sec. 117. Expedited judicial review.
- Sec. 118. Rights-of-way and easements across Coastal Plain.
- Sec. 119. Conveyance.
- Sec. 120. Local government impact aid and community service assistance.
- Sec. 121. Prohibition on exports.
- Sec. 122. Allocation of revenues.

Subtitle C—Permitting

- Sec. 131. Refinery permitting process.
- Sec. 132. Removal of additional fee for new applications for permits to drill.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

- Sec. 201. Definition of renewable biomass.
- Sec. 202. Repeal of waiver for fuel or fuel additives.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

- Sec. 211. Short title.
- Sec. 212. Definitions.
- Sec. 213. Clean coal-derived fuel program.

Subtitle C—Oil Shale

- Sec. 221. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.

Subtitle D—United States Geological Survey

- Sec. 231. Funding for United States Geological Survey.

TITLE III—ENERGY INDEPENDENCE FUND

- Sec. 301. Establishment.
- Sec. 302. Energy security initiative.

1 SEC. 2. DEFINITION OF SECRETARY.

2 In this Act, the term “Secretary” means the Sec-
3 retary of Energy.

1 **TITLE I—TRADITIONAL**
2 **RESOURCES**
3 **Subtitle A—Outer Continental**
4 **Shelf**

5 **SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON**
6 **OUTER CONTINENTAL SHELF.**

7 Section 4(a)(2)(A) of the Outer Continental Shelf
8 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

9 (1) by designating the first, second, and third
10 sentences as clause (i), (iii), and (iv), respectively;

11 (2) in clause (i) (as so designated), by inserting
12 before the period at the end the following: “not later
13 than 90 days after the date of enactment of the En-
14 ergy Transition Act of 2008”; and

15 (3) by inserting after clause (i) (as so des-
16 ignated) the following:

17 “(ii)(I) The projected lines shall also be used for the
18 purpose of preleasing and leasing activities conducted in
19 new producing areas under section 32.

20 “(II) This clause shall not affect any property right
21 or title to Federal submerged land on the outer Conti-
22 nental Shelf.

23 “(III) In carrying out this clause, the President shall
24 consider the offshore administrative boundaries beyond
25 State submerged lands for planning, coordination, and ad-

1 ministrative purposes of the Department of the Interior,
 2 but may establish different boundaries.”.

3 **SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
 4 **PRODUCING AREAS.**

5 The Outer Continental Shelf Lands Act (43 U.S.C.
 6 1331 et seq.) is amended by adding at the end the fol-
 7 lowing:

8 **“SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
 9 **PRODUCING AREAS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) COASTAL POLITICAL SUBDIVISION.—The
 12 term ‘coastal political subdivision’ means a political
 13 subdivision of a new producing State any part of
 14 which political subdivision is—

15 “(A) within the coastal zone (as defined in
 16 section 304 of the Coastal Zone Management
 17 Act of 1972 (16 U.S.C. 1453)) of the new pro-
 18 ducing State as of the date of enactment of this
 19 section; and

20 “(B) not more than 200 nautical miles
 21 from the geographic center of any leased tract.

22 “(2) MORATORIUM AREA.—The term ‘morato-
 23 rium area’ means an area covered by sections 104
 24 through 105 of the Department of the Interior, En-
 25 vironment, and Related Agencies Appropriations

1 Act, 2008 (Public Law 110–161; 121 Stat. 2118)
2 (as in effect on the day before the date of enactment
3 of this section).

4 “(3) NEW PRODUCING AREA.—The term ‘new
5 producing area’ means any moratorium area within
6 the offshore administrative boundaries beyond the
7 submerged land of a State that is located greater
8 than 50 miles from the coastline of the State.

9 “(4) NEW PRODUCING STATE.—The term ‘new
10 producing State’ means a State that has, within the
11 offshore administrative boundaries beyond the sub-
12 merged land of the State, a new producing area
13 available for oil and gas leasing under subsection
14 (b).

15 “(5) OFFSHORE ADMINISTRATIVE BOUND-
16 ARIES.—The term ‘offshore administrative bound-
17 aries’ means the administrative boundaries estab-
18 lished by the Secretary beyond State submerged land
19 for planning, coordination, and administrative pur-
20 poses of the Department of the Interior and pub-
21 lished in the Federal Register on January 3, 2006
22 (71 Fed. Reg. 127).

23 “(6) QUALIFIED OUTER CONTINENTAL SHELF
24 REVENUES.—

1 “(A) IN GENERAL.—The term ‘qualified
 2 outer Continental Shelf revenues’ means all
 3 rentals, royalties, bonus bids, and other sums
 4 due and payable to the United States from
 5 leases entered into on or after the date of en-
 6 actment of this section for new producing areas.

7 “(B) EXCLUSIONS.—The term ‘qualified
 8 outer Continental Shelf revenues’ does not in-
 9 clude—

10 “(i) revenues from a bond or other
 11 surety forfeited for obligations other than
 12 the collection of royalties;

13 “(ii) revenues from civil penalties;

14 “(iii) royalties taken by the Secretary
 15 in-kind and not sold;

16 “(iv) revenues generated from leases
 17 subject to section 8(g); or

18 “(v) any revenues considered qualified
 19 outer Continental Shelf revenues under
 20 section 102 of the Gulf of Mexico Energy
 21 Security Act of 2006 (43 U.S.C. 1331
 22 note; Public Law 109–432).

23 “(b) PETITION FOR LEASING NEW PRODUCING
 24 AREAS.—

1 “(1) IN GENERAL.—Beginning on the date on
 2 which the President delineates projected State lines
 3 under section 4(a)(2)(A)(ii), the Governor of a State
 4 with a new producing area within the offshore ad-
 5 ministrative boundaries beyond the submerged land
 6 of the State may submit to the Secretary a petition
 7 requesting that the Secretary make the new pro-
 8 ducing area available for oil and gas leasing.

9 “(2) ACTION BY SECRETARY.—Notwithstanding
 10 section 18, as soon as practicable after receipt of a
 11 petition under paragraph (1), the Secretary shall ap-
 12 prove the petition if the Secretary determines that
 13 leasing the new producing area would not create an
 14 unreasonable risk of harm to the marine, human, or
 15 coastal environment.

16 “(c) DISPOSITION OF QUALIFIED OUTER CONTI-
 17 NENTAL SHELF REVENUES FROM NEW PRODUCING
 18 AREAS.—

19 “(1) IN GENERAL.—Notwithstanding section 9
 20 and subject to the other provisions of this sub-
 21 section, for each applicable fiscal year, the Secretary
 22 of the Treasury shall deposit—

23 “(A) 50 percent of qualified outer Conti-
 24 nental Shelf revenues in the Energy Independ-

ence Fund established under section 301 of the
Energy Transition Act of 2008; and

“(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

“(i) 75 percent to new producing States in accordance with paragraph (2);
and

“(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460l–5).

“(2) ALLOCATION TO NEW PRODUCING STATES
AND COASTAL POLITICAL SUBDIVISIONS.—

“(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Sec-

retary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

“(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

“(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

“(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

“(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

“(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1)

1 for the applicable fiscal year shall be made available
2 in accordance with that subparagraph during the fis-
3 cal year immediately following the applicable fiscal
4 year.

5 “(5) AUTHORIZED USES.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), each new producing State and coast-
8 al political subdivision shall use all amounts re-
9 ceived under paragraph (2) in accordance with
10 all applicable Federal and State laws, only for
11 1 or more of the following purposes:

12 “(i) Projects and activities for the
13 purposes of coastal protection, including
14 conservation, coastal restoration, hurricane
15 protection, and infrastructure directly af-
16 fected by coastal wetland losses.

17 “(ii) Mitigation of damage to fish,
18 wildlife, or natural resources.

19 “(iii) Implementation of a federally
20 approved marine, coastal, or comprehensive
21 conservation management plan.

22 “(iv) Mitigation of the impact of outer
23 Continental Shelf activities through the
24 funding of onshore infrastructure projects.

1 “(v) Planning assistance and the ad-
 2 ministrative costs of complying with this
 3 section.

4 “(B) LIMITATION.—Not more than 3 per-
 5 cent of amounts received by a new producing
 6 State or coastal political subdivision under
 7 paragraph (2) may be used for the purposes de-
 8 scribed in subparagraph (A)(v).

9 “(6) ADMINISTRATION.—Amounts made avail-
 10 able under paragraph (1)(B) shall—

11 “(A) be made available, without further
 12 appropriation, in accordance with this sub-
 13 section;

14 “(B) remain available until expended; and

15 “(C) be in addition to any amounts appro-
 16 priated under—

17 “(i) other provisions of this Act;

18 “(ii) the Land and Water Conserva-
 19 tion Fund Act of 1965 (16 U.S.C. 460l-
 20 4 et seq.); or

21 “(iii) any other provision of law.

22 “(d) DISPOSITION OF QUALIFIED OUTER CONTI-
 23 NENTAL SHELF REVENUES FROM OTHER AREAS.—Not-
 24 withstanding section 9, for each applicable fiscal year, the
 25 terms and conditions of subsection (c) shall apply to the

1 disposition of qualified outer Continental Shelf revenues
2 that—

3 “(1) are derived from oil or gas leasing in an
4 area that is not included in the current 5-year plan
5 of the Secretary for oil or gas leasing; and

6 “(2) are not assumed in the budget of the
7 United States Government submitted by the Presi-
8 dent under section 1105 of title 31, United States
9 Code.”.

10 **SEC. 103. CONFORMING AMENDMENT.**

11 Sections 104 through 105 of the Department of the
12 Interior, Environment, and Related Agencies Appropria-
13 tions Act, 2008 (Public Law 110–161; 121 Stat. 2118)
14 are repealed.

15 **Subtitle B—Leasing Program for**
16 **Land Within Coastal Plain**

17 **SEC. 111. DEFINITIONS.**

18 In this subtitle:

19 (1) **COASTAL PLAIN.**—The term “Coastal
20 Plain” means that area identified as the “1002
21 Coastal Plain Area” on the map.

22 (2) **FEDERAL AGREEMENT.**—The term “Fed-
23 eral Agreement” means the Federal Agreement and
24 Grant Right-of-Way for the Trans-Alaska Pipeline
25 issued on January 23, 1974, in accordance with sec-

tion 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term “Final Statement” means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term “map” means the map entitled “Arctic National Wildlife Refuge”, dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

1 (1) AUTHORIZATION.—Congress authorizes the
2 exploration, leasing, development, production, and
3 economically feasible and prudent transportation of
4 oil and gas in and from the Coastal Plain.

5 (2) ACTIONS.—The Secretary shall take such
6 actions as are necessary—

7 (A) to establish and implement, in accord-
8 ance with this subtitle, a competitive oil and
9 gas leasing program that will result in an envi-
10 ronmentally sound program for the exploration,
11 development, and production of the oil and gas
12 resources of the Coastal Plain while taking into
13 consideration the interests and concerns of resi-
14 dents of the Coastal Plain, which is the home-
15 land of the Kaktovikmiut Inupiat; and

16 (B) to administer this subtitle through reg-
17 ulations, lease terms, conditions, restrictions,
18 prohibitions, stipulations, and other provisions
19 that—

20 (i) ensure the oil and gas exploration,
21 development, and production activities on
22 the Coastal Plain will result in no signifi-
23 cant adverse effect on fish and wildlife,
24 their habitat, subsistence resources, and
25 the environment; and

1 (ii) require the application of the best
 2 commercially available technology for oil
 3 and gas exploration, development, and pro-
 4 duction to all exploration, development,
 5 and production operations under this sub-
 6 title in a manner that ensures the receipt
 7 of fair market value by the public for the
 8 mineral resources to be leased.

9 (b) REPEAL.—

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

13 (2) CONFORMING AMENDMENT.—The table of
 14 contents contained in section 1 of that Act (16
 15 U.S.C. 3101 note) is amended by striking the item
 16 relating to section 1003.

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

19 (1) COMPATIBILITY.—For purposes of the Na-
 20 tional Wildlife Refuge System Administration Act of
 21 1966 (16 U.S.C. 668dd et seq.)—

22 (A) the oil and gas pre-leasing and leasing
 23 program, and activities authorized by this sec-
 24 tion in the Coastal Plain, shall be considered to
 25 be compatible with the purposes for which the

1 Arctic National Wildlife Refuge was established;
2 and

3 (B) no further findings or decisions shall
4 be required to implement that program and
5 those activities.

6 (2) ADEQUACY OF THE DEPARTMENT OF THE
7 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
8 STATEMENT.—The Final Statement shall be consid-
9 ered to satisfy the requirements under the National
10 Environmental Policy Act of 1969 (42 U.S.C. 4321
11 et seq.) that apply with respect to pre-leasing activi-
12 ties, including exploration programs and actions au-
13 thorized to be taken by the Secretary to develop and
14 promulgate the regulations for the establishment of
15 a leasing program authorized by this subtitle before
16 the conduct of the first lease sale.

17 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
18 TIONS.—

19 (A) IN GENERAL.—Before conducting the
20 first lease sale under this subtitle, the Secretary
21 shall prepare an environmental impact state-
22 ment in accordance with the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.) with respect to the actions authorized by

1 this subtitle that are not referred to in para-
 2 graph (2).

3 (B) IDENTIFICATION AND ANALYSIS.—

4 Notwithstanding any other provision of law, in
 5 carrying out this paragraph, the Secretary shall
 6 not be required—

7 (i) to identify nonleasing alternative
 8 courses of action; or

9 (ii) to analyze the environmental ef-
 10 fects of those courses of action.

11 (C) IDENTIFICATION OF PREFERRED AC-
 12 TION.—Not later than 18 months after the date
 13 of enactment of this Act, the Secretary shall—

14 (i) identify only a preferred action and
 15 a single leasing alternative for the first
 16 lease sale authorized under this subtitle;
 17 and

18 (ii) analyze the environmental effects
 19 and potential mitigation measures for
 20 those 2 alternatives.

21 (D) PUBLIC COMMENTS.—In carrying out
 22 this paragraph, the Secretary shall consider
 23 only public comments that are filed not later
 24 than 20 days after the date of publication of a
 25 draft environmental impact statement.

1 (E) EFFECT OF COMPLIANCE.—Notwith-
 2 standing any other provision of law, compliance
 3 with this paragraph shall be considered to sat-
 4 isfy all requirements for the analysis and con-
 5 sideration of the environmental effects of pro-
 6 posed leasing under this subtitle.

7 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
 8 ITY.—Nothing in this subtitle expands or limits any State
 9 or local regulatory authority.

10 (e) SPECIAL AREAS.—

11 (1) DESIGNATION.—

12 (A) IN GENERAL.—The Secretary, after
 13 consultation with the State of Alaska, the
 14 North Slope Borough, Alaska, and the City of
 15 Kaktovik, Alaska, may designate not more than
 16 45,000 acres of the Coastal Plain as a special
 17 area if the Secretary determines that the special
 18 area would be of such unique character and in-
 19 terest as to require special management and
 20 regulatory protection.

21 (B) SADLEROCHIT SPRING AREA.—The
 22 Secretary shall designate as a special area in
 23 accordance with subparagraph (A) the
 24 Sadlerochit Spring area, comprising approxi-
 25 mately 4,000 acres as depicted on the map.

1 (2) MANAGEMENT.—The Secretary shall man-
2 age each special area designated under this sub-
3 section in a manner that—

4 (A) respects and protects the Native people
5 of the area; and

6 (B) preserves the unique and diverse char-
7 acter of the area, including fish, wildlife, sub-
8 sistence resources, and cultural values of the
9 area.

10 (3) EXCLUSION FROM LEASING OR SURFACE
11 OCCUPANCY.—

12 (A) IN GENERAL.—The Secretary may ex-
13 clude any special area designated under this
14 subsection from leasing.

15 (B) NO SURFACE OCCUPANCY.—If the Sec-
16 retary leases all or a portion of a special area
17 for the purposes of oil and gas exploration, de-
18 velopment, production, and related activities,
19 there shall be no surface occupancy of the land
20 comprising the special area.

21 (4) DIRECTIONAL DRILLING.—Notwithstanding
22 any other provision of this subsection, the Secretary
23 may lease all or a portion of a special area under
24 terms that permit the use of horizontal drilling tech-

1 nology from sites on leases located outside the spe-
2 cial area.

3 (f) LIMITATION ON CLOSED AREAS.—The Secretary
4 may not close land within the Coastal Plain to oil and gas
5 leasing or to exploration, development, or production ex-
6 cept in accordance with this subtitle.

7 (g) REGULATIONS.—

8 (1) IN GENERAL.—Not later than 15 months
9 after the date of enactment of this Act, in consulta-
10 tion with appropriate agencies of the State of Alas-
11 ka, the North Slope Borough, Alaska, and the City
12 of Kaktovik, Alaska, the Secretary shall issue such
13 regulations as are necessary to carry out this sub-
14 title, including rules and regulations relating to pro-
15 tection of the fish and wildlife, fish and wildlife habi-
16 tat, and subsistence resources of the Coastal Plain.

17 (2) REVISION OF REGULATIONS.—The Sec-
18 retary may periodically review and, as appropriate,
19 revise the rules and regulations issued under para-
20 graph (1) to reflect any significant scientific or engi-
21 neering data that come to the attention of the Sec-
22 retary.

23 **SEC. 113. LEASE SALES.**

24 (a) IN GENERAL.—Land may be leased pursuant to
25 this subtitle to any person qualified to obtain a lease for

1 deposits of oil and gas under the Mineral Leasing Act (30
2 U.S.C. 181 et seq.).

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

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

9 (2) the holding of lease sales after that nomina-
10 tion process; and

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

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

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

22 (e) TIMING OF LEASE SALES.—The Secretary
23 shall—

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

4 (2) not later than September 30, 2012, conduct
5 a second lease sale under this subtitle; and

6 (3) conduct additional sales at appropriate in-
7 tervals if sufficient interest in exploration or devel-
8 opment exists to warrant the conduct of the addi-
9 tional sales.

10 **SEC. 114. GRANT OF LEASES BY THE SECRETARY.**

11 (a) IN GENERAL.—Upon payment by a lessee of such
12 bonus as may be accepted by the Secretary, the Secretary
13 may grant to the highest responsible qualified bidder in
14 a lease sale conducted pursuant to section 113 a lease for
15 any land on the Coastal Plain.

16 (b) SUBSEQUENT TRANSFERS.—

17 (1) IN GENERAL.—No lease issued under this
18 subtitle may be sold, exchanged, assigned, sublet, or
19 otherwise transferred except with the approval of the
20 Secretary.

21 (2) CONDITION FOR APPROVAL.—Before grant-
22 ing any approval described in paragraph (1), the
23 Secretary shall consult with and give due consider-
24 ation to the opinion of the Attorney General.

1 **SEC. 115. LEASE TERMS AND CONDITIONS.**

2 (a) IN GENERAL.—An oil or gas lease issued pursu-
3 ant to this subtitle shall—

4 (1) provide for the payment of a royalty of not
5 less than 16½ percent of the amount or value of the
6 production removed or sold from the lease, as deter-
7 mined by the Secretary in accordance with regula-
8 tions applicable to other Federal oil and gas leases;

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

14 (3) require that each lessee of land within the
15 Coastal Plain shall be fully responsible and liable for
16 the reclamation of land within the Coastal Plain and
17 any other Federal land that is adversely affected in
18 connection with exploration, development, produc-
19 tion, or transportation activities within the Coastal
20 Plain conducted by the lessee or by any of the sub-
21 contractors or agents of the lessee;

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

1 (5) provide that the standard of reclamation for
2 land required to be reclaimed under this subtitle
3 shall be, to the maximum extent practicable—

4 (A) a condition capable of supporting the
5 uses that the land was capable of supporting
6 prior to any exploration, development, or pro-
7 duction activities; or

8 (B) upon application by the lessee, to a
9 higher or better standard, as approved by the
10 Secretary;

11 (6) contain terms and conditions relating to
12 protection of fish and wildlife, fish and wildlife habi-
13 tat, subsistence resources, and the environment as
14 required under section 112(a)(2);

15 (7) provide that each lessee, and each agent
16 and contractor of a lessee, use their best efforts to
17 provide a fair share of employment and contracting
18 for Alaska Natives and Alaska Native Corporations
19 from throughout the State of Alaska, as determined
20 by the level of obligation previously agreed to in the
21 Federal Agreement; and

22 (8) contain such other provisions as the Sec-
23 retary determines to be necessary to ensure compli-
24 ance with this subtitle and regulations issued under
25 this subtitle.

1 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
2 as a term and condition of each lease under this subtitle,
3 and in recognizing the proprietary interest of the Federal
4 Government in labor stability and in the ability of con-
5 struction labor and management to meet the particular
6 needs and conditions of projects to be developed under the
7 leases issued pursuant to this subtitle (including the spe-
8 cial concerns of the parties to those leases), shall require
9 that each lessee, and each agent and contractor of a lessee,
10 under this subtitle negotiate to obtain a project labor
11 agreement for the employment of laborers and mechanics
12 on production, maintenance, and construction under the
13 lease.

14 **SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

15 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
16 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
17 In accordance with section 112, the Secretary shall admin-
18 ister this subtitle through regulations, lease terms, condi-
19 tions, restrictions, prohibitions, stipulations, or other pro-
20 visions that—

21 (1) ensure, to the maximum extent practicable,
22 that oil and gas exploration, development, and pro-
23 duction activities on the Coastal Plain will result in
24 no significant adverse effect on fish and wildlife, fish
25 and wildlife habitat, and the environment;

1 (2) require the application of the best commer-
2 cially available technology for oil and gas explo-
3 ration, development, and production on all new ex-
4 ploration, development, and production operations;
5 and

6 (3) ensure that the maximum surface acreage
7 covered in connection with the leasing program by
8 production and support facilities, including airstrips
9 and any areas covered by gravel berms or piers for
10 support of pipelines, does not exceed 2,000 acres on
11 the Coastal Plain.

12 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—
13 The Secretary shall require, with respect to any proposed
14 drilling and related activities on the Coastal Plain, that—

15 (1) a site-specific environmental analysis be
16 made of the probable effects, if any, that the drilling
17 or related activities will have on fish and wildlife,
18 fish and wildlife habitat, subsistence resources, sub-
19 sistence uses, and the environment;

20 (2) a plan be implemented to avoid, minimize,
21 and mitigate (in that order and to the maximum ex-
22 tent practicable) any significant adverse effect iden-
23 tified under paragraph (1); and

24 (3) the development of the plan occur after con-
25 sultation with—

1 (A) each agency having jurisdiction over
2 matters mitigated by the plan;

3 (B) the State of Alaska;

4 (C) North Slope Borough, Alaska; and

5 (D) the City of Kaktovik, Alaska.

6 (c) REGULATIONS TO PROTECT COASTAL PLAIN
7 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
8 AND THE ENVIRONMENT.—Before implementing the leas-
9 ing program authorized by this subtitle, the Secretary
10 shall prepare and issue regulations, lease terms, condi-
11 tions, restrictions, prohibitions, stipulations, or other
12 measures designed to ensure, to the maximum extent prac-
13 ticable, that the activities carried out on the Coastal Plain
14 under this subtitle are conducted in a manner consistent
15 with the purposes and environmental requirements of this
16 subtitle.

17 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
18 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
19 proposed regulations, lease terms, conditions, restrictions,
20 prohibitions, and stipulations for the leasing program
21 under this subtitle shall require—

22 (1) compliance with all applicable provisions of
23 Federal and State environmental law (including reg-
24 ulations);

25 (2) implementation of and compliance with—

1 (A) standards that are at least as effective
2 as the safety and environmental mitigation
3 measures, as described in items 1 through 29
4 on pages 167 through 169 of the Final State-
5 ment, on the Coastal Plain;

6 (B) seasonal limitations on exploration, de-
7 velopment, and related activities, as necessary,
8 to avoid significant adverse effects during peri-
9 ods of concentrated fish and wildlife breeding,
10 denning, nesting, spawning, and migration;

11 (C) design safety and construction stand-
12 ards for all pipelines and any access and service
13 roads that minimize, to the maximum extent
14 practicable, adverse effects on—

15 (i) the passage of migratory species
16 (such as caribou); and

17 (ii) the flow of surface water by re-
18 quiring the use of culverts, bridges, or
19 other structural devices;

20 (D) prohibitions on general public access
21 to, and use of, all pipeline access and service
22 roads;

23 (E) stringent reclamation and rehabilita-
24 tion requirements in accordance with this sub-
25 title for the removal from the Coastal Plain of

1 all oil and gas development and production fa-
2 cilities, structures, and equipment on comple-
3 tion of oil and gas production operations, except
4 in a case in which the Secretary determines
5 that those facilities, structures, or equipment—

6 (i) would assist in the management of
7 the Arctic National Wildlife Refuge; and

8 (ii) are donated to the United States
9 for that purpose;

10 (F) appropriate prohibitions or restrictions
11 on—

12 (i) access by all modes of transpor-
13 tation;

14 (ii) sand and gravel extraction; and

15 (iii) use of explosives;

16 (G) reasonable stipulations for protection
17 of cultural and archaeological resources;

18 (H) measures to protect groundwater and
19 surface water, including—

20 (i) avoidance, to the maximum extent
21 practicable, of springs, streams, and river
22 systems;

23 (ii) the protection of natural surface
24 drainage patterns and wetland and ripar-
25 ian habitats; and

1 (iii) the regulation of methods or tech-
2 niques for developing or transporting ade-
3 quate supplies of water for exploratory
4 drilling; and

5 (I) research, monitoring, and reporting re-
6 quirements;

7 (3) that exploration activities (except surface
8 geological studies) be limited to the period between
9 approximately November 1 and May 1 of each year
10 and be supported, if necessary, by ice roads, winter
11 trails with adequate snow cover, ice pads, ice air-
12 strips, and air transport methods (except that those
13 exploration activities may be permitted at other
14 times if the Secretary determines that the explo-
15 ration will have no significant adverse effect on fish
16 and wildlife, fish and wildlife habitat, subsistence re-
17 sources, and the environment of the Coastal Plain);

18 (4) consolidation of facility siting;

19 (5) avoidance or reduction of air traffic-related
20 disturbance to fish and wildlife;

21 (6) treatment and disposal of hazardous and
22 toxic wastes, solid wastes, reserve pit fluids, drilling
23 muds and cuttings, and domestic wastewater, includ-
24 ing, in accordance with applicable Federal and State
25 environmental laws (including regulations)—

1 (A) preparation of an annual waste man-
2 agement report;

3 (B) development and implementation of a
4 hazardous materials tracking system; and

5 (C) prohibition on the use of chlorinated
6 solvents;

7 (7) fuel storage and oil spill contingency plan-
8 ning;

9 (8) conduct of periodic field crew environmental
10 briefings;

11 (9) avoidance of significant adverse effects on
12 subsistence hunting, fishing, and trapping;

13 (10) compliance with applicable air and water
14 quality standards;

15 (11) appropriate seasonal and safety zone des-
16 ignations around well sites, within which subsistence
17 hunting and trapping shall be limited; and

18 (12) development and implementation of such
19 other protective environmental requirements, restric-
20 tions, terms, or conditions as the Secretary, after
21 consultation with the State of Alaska, North Slope
22 Borough, Alaska, and the City of Kaktovik, Alaska,
23 determines to be necessary.

24 (e) CONSIDERATIONS.—In preparing and issuing reg-
25 ulations, lease terms, conditions, restrictions, prohibitions,

1 or stipulations under this section, the Secretary shall take
2 into consideration—

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

8 (2) the environmental protection standards that
9 governed the initial Coastal Plain seismic exploration
10 program under parts 37.31 through 37.33 of title
11 50, Code of Federal Regulations (or successor regu-
12 lations); and

13 (3) the land use stipulations for exploratory
14 drilling on the KIC–ASRC private land described in
15 Appendix 2 of the agreement between Arctic Slope
16 Regional Corporation and the United States dated
17 August 9, 1983.

18 (f) FACILITY CONSOLIDATION PLANNING.—

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

1 (2) OBJECTIVES.—The objectives of the plan
2 shall be—

3 (A) the avoidance of unnecessary duplica-
4 tion of facilities and activities;

5 (B) the encouragement of consolidation of
6 common facilities and activities;

7 (C) the location or confinement of facilities
8 and activities to areas that will minimize impact
9 on fish and wildlife, fish and wildlife habitat,
10 subsistence resources, and the environment;

11 (D) the use of existing facilities, to the
12 maximum extent practicable; and

13 (E) the enhancement of compatibility be-
14 tween wildlife values and development activities.

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

17 (1) manage public land in the Coastal Plain in
18 accordance with subsections (a) and (b) of section
19 811 of the Alaska National Interest Lands Con-
20 servation Act (16 U.S.C. 3121); and

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

24 **SEC. 117. EXPEDITED JUDICIAL REVIEW.**

25 (a) FILING OF COMPLAINTS.—

1 (1) DEADLINE.—A complaint seeking judicial
2 review of a provision of this subtitle or an action of
3 the Secretary under this subtitle shall be filed—

4 (A) except as provided in subparagraph
5 (B), during the 90-day period beginning on the
6 date on which the action being challenged was
7 carried out; or

8 (B) in the case of a complaint based solely
9 on grounds arising after the 90-day period de-
10 scribed in subparagraph (A), during the 90-day
11 period beginning on the date on which the com-
12 plainant knew or reasonably should have known
13 about the grounds for the complaint.

14 (2) VENUE.—A complaint seeking judicial re-
15 view of a provision of this subtitle or an action of
16 the Secretary under this subtitle shall be filed in the
17 United States Court of Appeals for the District of
18 Columbia.

19 (3) SCOPE.—

20 (A) IN GENERAL.—Judicial review of a de-
21 cision of the Secretary under this subtitle (in-
22 cluding an environmental analysis of such a
23 lease sale) shall be—

- 1 (i) limited to a review of whether the
 2 decision is in accordance with this subtitle;
 3 and
 4 (ii) based on the administrative record
 5 of the decision.

6 (B) PRESUMPTIONS.—Any identification
 7 by the Secretary of a preferred course of action
 8 relating to a lease sale, and any analysis by the
 9 Secretary of environmental effects, under this
 10 subtitle shall be presumed to be correct unless
 11 proven otherwise by clear and convincing evi-
 12 dence.

13 (b) LIMITATION ON OTHER REVIEW.—Any action of
 14 the Secretary that is subject to judicial review under this
 15 section shall not be subject to judicial review in any civil
 16 or criminal proceeding for enforcement.

17 **SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COAST-**
 18 **AL PLAIN.**

19 For purposes of section 1102(4)(A) of the Alaska Na-
 20 tional Interest Lands Conservation Act (16 U.S.C.
 21 3162(4)(A)), any rights-of-way or easements across the
 22 Coastal Plain for the exploration, development, produc-
 23 tion, or transportation of oil and gas shall be considered
 24 to be established incident to the management of the Coast-
 25 al Plain under this section.

1 **SEC. 119. CONVEYANCE.**

2 Notwithstanding section 1302(h)(2) of the Alaska
3 National Interest Lands Conservation Act (16 U.S.C.
4 3192(h)(2)), to remove any cloud on title to land, and to
5 clarify land ownership patterns in the Coastal Plain, the
6 Secretary shall—

7 (1) to the extent necessary to fulfill the entitle-
8 ment of the Kaktovik Inupiat Corporation under sec-
9 tions 12 and 14 of the Alaska Native Claims Settle-
10 ment Act (43 U.S.C. 1611, 1613), as determined by
11 the Secretary, convey to that Corporation the sur-
12 face estate of the land described in paragraph (1) of
13 Public Land Order 6959, in accordance with the
14 terms and conditions of the agreement between the
15 Secretary, the United States Fish and Wildlife Serv-
16 ice, the Bureau of Land Management, and the
17 Kaktovik Inupiat Corporation, dated January 22,
18 1993; and

19 (2) convey to the Arctic Slope Regional Cor-
20 poration the remaining subsurface estate to which
21 that Corporation is entitled under the agreement be-
22 tween that corporation and the United States, dated
23 August 9, 1983.

24 **SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
25 **NITY SERVICE ASSISTANCE.**

26 (a) ESTABLISHMENT OF FUND.—

1 (1) IN GENERAL.—As a condition on the receipt
2 of funds under section 122(2), the State of Alaska
3 shall establish in the treasury of the State, and ad-
4 minister in accordance with this section, a fund to
5 be known as the “Coastal Plain Local Government
6 Impact Aid Assistance Fund” (referred to in this
7 section as the “Fund”).

8 (2) DEPOSITS.—Subject to paragraph (1), the
9 Secretary of the Treasury shall deposit into the
10 Fund, \$35,000,000 each year from the amount
11 available under section 122(2)(A).

12 (3) INVESTMENT.—The Governor of the State
13 of Alaska (referred to in this section as the “Gov-
14 ernor”) shall invest amounts in the Fund in interest-
15 bearing securities of the United States or the State
16 of Alaska.

17 (b) ASSISTANCE.—The Governor, in cooperation with
18 the Mayor of the North Slope Borough, shall use amounts
19 in the Fund to provide assistance to North Slope Borough,
20 Alaska, the City of Kaktovik, Alaska, and any other bor-
21 ough, municipal subdivision, village, or other community
22 in the State of Alaska that is directly impacted by explo-
23 ration for, or the production of, oil or gas on the Coastal
24 Plain under this subtitle, or any Alaska Native Regional
25 Corporation acting on behalf of the villages and commu-

1 nities within its region whose lands lie along the right of
2 way of the Trans Alaska Pipeline System, as determined
3 by the Governor.

4 (c) APPLICATION.—

5 (1) IN GENERAL.—To receive assistance under
6 subsection (b), a community or Regional Corporation
7 described in that subsection shall submit to the Gov-
8 ernor, or to the Mayor of the North Slope Borough,
9 an application in such time, in such manner, and
10 containing such information as the Governor may re-
11 quire.

12 (2) ACTION BY NORTH SLOPE BOROUGH.—The
13 Mayor of the North Slope Borough shall submit to
14 the Governor each application received under para-
15 graph (1) as soon as practicable after the date on
16 which the application is received.

17 (3) ASSISTANCE OF GOVERNOR.—The Governor
18 shall assist communities in submitting applications
19 under this subsection, to the maximum extent prac-
20 ticable.

21 (d) USE OF FUNDS.—A community or Regional Cor-
22 poration that receives funds under subsection (b) may use
23 the funds—

24 (1) to plan for mitigation, implement a mitiga-
25 tion plan, or maintain a mitigation project to ad-

1 dress the potential effects of oil and gas exploration
2 and development on environmental, social, cultural,
3 recreational, and subsistence resources of the com-
4 munity;

5 (2) to develop, carry out, and maintain—

6 (A) a project to provide new or expanded
7 public facilities; or

8 (B) services to address the needs and prob-
9 lems associated with the effects described in
10 paragraph (1), including firefighting, police,
11 water and waste treatment, first responder, and
12 other medical services;

13 (3) to compensate residents of the Coastal
14 Plain for significant damage to environmental, so-
15 cial, cultural, recreational, or subsistence resources;
16 and

17 (4) in the City of Kaktovik, Alaska—

18 (A) to develop a mechanism for providing
19 members of the Kaktovikmiut Inupiat commu-
20 nity an opportunity to—

21 (i) monitor development on the Coast-
22 al Plain; and

23 (ii) provide information and rec-
24 ommendations to the Governor based on
25 traditional aboriginal knowledge of the nat-

1 ural resources, flora, fauna, and ecological
2 processes of the Coastal Plain; and

3 (B) to establish a local coordination office,
4 to be managed by the Mayor of the North Slope
5 Borough, in coordination with the City of
6 Kaktovik, Alaska—

7 (i) to coordinate with and advise de-
8 velopers on local conditions and the history
9 of areas affected by development;

10 (ii) to provide to the Committee on
11 Resources of the House of Representatives
12 and the Committee on Energy and Natural
13 Resources of the Senate annual reports on
14 the status of the coordination between de-
15 velopers and communities affected by de-
16 velopment;

17 (iii) to collect from residents of the
18 Coastal Plain information regarding the
19 impacts of development on fish, wildlife,
20 habitats, subsistence resources, and the en-
21 vironment of the Coastal Plain; and

22 (iv) to ensure that the information
23 collected under clause (iii) is submitted
24 to—

25 (I) developers; and

1 (II) any appropriate Federal
2 agency.

3 **SEC. 121. PROHIBITION ON EXPORTS.**

4 An oil or gas lease issued under this subtitle shall
5 prohibit the exportation of oil or gas produced under the
6 lease.

7 **SEC. 122. ALLOCATION OF REVENUES.**

8 Notwithstanding the Mineral Leasing Act (30 U.S.C.
9 181 et seq.) or any other provision of law, of the adjusted
10 bonus, rental, and royalty receipts from Federal oil and
11 gas leasing and operations authorized under this subtitle:

12 (1) 50 percent shall be deposited in the Energy
13 Independence Fund established under section 301.

14 (2) The remainder shall be available as follows:

15 (A) \$35,000,000 shall be deposited by the
16 Secretary of the Treasury into the fund created
17 under section 120(a)(1).

18 (B) The remainder shall be disbursed to
19 the State of Alaska.

20 **Subtitle C—Permitting**

21 **SEC. 131. REFINERY PERMITTING PROCESS.**

22 (a) DEFINITIONS.—In this section:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Administrator of the Environ-
25 mental Protection Agency.

1 (2) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b).

5 (3) PERMIT.—The term “permit” means any
6 permit, license, approval, variance, or other form of
7 authorization that a refiner is required to obtain—

8 (A) under any Federal law; or

9 (B) from a State or Indian tribal govern-
10 ment agency delegated authority by the Federal
11 Government, or authorized under Federal law,
12 to issue permits.

13 (4) REFINER.—The term “refiner” means a
14 person that—

15 (A) owns or operates a refinery; or

16 (B) seeks to become an owner or operator
17 of a refinery.

18 (5) REFINERY.—

19 (A) IN GENERAL.—The term “refinery”
20 means—

21 (i) a facility at which crude oil is re-
22 fined into transportation fuel or other pe-
23 troleum products; and

1 (ii) a coal liquification or coal-to-liquid
 2 facility at which coal is processed into syn-
 3 thetic crude oil or any other fuel.

4 (B) INCLUSIONS.—The term “refinery” in-
 5 cludes an expansion of a refinery.

6 (6) REFINERY EXPANSION.—The term “refin-
 7 ery expansion” means a physical change in a refin-
 8 ery that results in an increase in the capacity of the
 9 refinery.

10 (7) REFINERY PERMITTING AGREEMENT.—The
 11 term “refinery permitting agreement” means an
 12 agreement entered into between the Administrator
 13 and a State or Indian tribe under subsection (b).

14 (8) SECRETARY.—The term “Secretary” means
 15 the Secretary of Commerce.

16 (9) STATE.—The term “State” means—

17 (A) a State;

18 (B) the District of Columbia;

19 (C) the Commonwealth of Puerto Rico;

20 and

21 (D) any other territory or possession of the
 22 United States.

23 (b) STREAMLINING OF REFINERY PERMITTING
 24 PROCESS.—

1 (1) IN GENERAL.—At the request of the Gov-
2 ernor of a State or the governing body of an Indian
3 tribe, the Administrator shall enter into a refinery
4 permitting agreement with the State or Indian tribe
5 under which the process for obtaining all permits
6 necessary for the construction and operation of a re-
7 finery shall be streamlined using a systematic inter-
8 disciplinary multimedia approach as provided in this
9 section.

10 (2) AUTHORITY OF ADMINISTRATOR.—Under a
11 refinery permitting agreement—

12 (A) the Administrator shall have authority,
13 as applicable and necessary, to—

14 (i) accept from a refiner a consoli-
15 dated application for all permits that the
16 refiner is required to obtain to construct
17 and operate a refinery;

18 (ii) in consultation and cooperation
19 with each Federal, State, or Indian tribal
20 government agency that is required to
21 make any determination to authorize the
22 issuance of a permit, establish a schedule
23 under which each agency shall—

1 (I) concurrently consider, to the
 2 maximum extent practicable, each de-
 3 termination to be made; and

4 (II) complete each step in the
 5 permitting process; and

6 (iii) issue a consolidated permit that
 7 combines all permits issued under the
 8 schedule established under clause (ii); and

9 (B) the Administrator shall provide to
 10 State and Indian tribal government agencies—

11 (i) financial assistance in such
 12 amounts as the agencies reasonably require
 13 to hire such additional personnel as are
 14 necessary to enable the government agen-
 15 cies to comply with the applicable schedule
 16 established under subparagraph (A)(ii);
 17 and

18 (ii) technical, legal, and other assist-
 19 ance in complying with the refinery permit-
 20 ting agreement.

21 (3) AGREEMENT BY THE STATE.—Under a re-
 22 finery permitting agreement, a State or governing
 23 body of an Indian tribe shall agree that—

24 (A) the Administrator shall have each of
 25 the authorities described in paragraph (2); and

1 (B) each State or Indian tribal government
2 agency shall—

3 (i) in accordance with State law, make
4 such structural and operational changes in
5 the agencies as are necessary to enable the
6 agencies to carry out consolidated project-
7 wide permit reviews concurrently and in
8 coordination with the Environmental Pro-
9 tection Agency and other Federal agencies;
10 and

11 (ii) comply, to the maximum extent
12 practicable, with the applicable schedule
13 established under paragraph (2)(A)(ii).

14 (4) DEADLINES.—

15 (A) NEW REFINERIES.—In the case of a
16 consolidated permit for the construction of a
17 new refinery, the Administrator and the State
18 or governing body of an Indian tribe shall ap-
19 prove or disapprove the consolidated permit not
20 later than—

21 (i) 360 days after the date of the re-
22 ceipt of the administratively complete ap-
23 plication for the consolidated permit; or

24 (ii) on agreement of the applicant, the
25 Administrator, and the State or governing

1 body of the Indian tribe, 90 days after the
2 expiration of the deadline established
3 under clause (i).

4 (B) EXPANSION OF EXISTING REFIN-
5 ERIES.—In the case of a consolidated permit
6 for the expansion of an existing refinery, the
7 Administrator and the State or governing body
8 of an Indian tribe shall approve or disapprove
9 the consolidated permit not later than—

10 (i) 120 days after the date of the re-
11 ceipt of the administratively complete ap-
12 plication for the consolidated permit; or

13 (ii) on agreement of the applicant, the
14 Administrator, and the State or governing
15 body of the Indian tribe, 30 days after the
16 expiration of the deadline established
17 under clause (i).

18 (5) FEDERAL AGENCIES.—Each Federal agency
19 that is required to make any determination to au-
20 thorize the issuance of a permit shall comply with
21 the applicable schedule established under paragraph
22 (2)(A)(ii).

23 (6) JUDICIAL REVIEW.—Any civil action for re-
24 view of any permit determination under a refinery
25 permitting agreement shall be brought exclusively in

1 the United States district court for the district in
2 which the refinery is located or proposed to be lo-
3 cated.

4 (7) EFFICIENT PERMIT REVIEW.—In order to
5 reduce the duplication of procedures, the Adminis-
6 trator shall use State permitting and monitoring
7 procedures to satisfy substantially equivalent Fed-
8 eral requirements under this title.

9 (8) SEVERABILITY.—If 1 or more permits that
10 are required for the construction or operation of a
11 refinery are not approved on or before any deadline
12 established under paragraph (4), the Administrator
13 may issue a consolidated permit that combines all
14 other permits that the refiner is required to obtain
15 other than any permits that are not approved.

16 (9) SAVINGS.—Nothing in this subsection af-
17 fects the operation or implementation of otherwise
18 applicable law regarding permits necessary for the
19 construction and operation of a refinery.

20 (10) CONSULTATION WITH LOCAL GOVERN-
21 MENTS.—Congress encourages the Administrator,
22 States, and tribal governments to consult, to the
23 maximum extent practicable, with local governments
24 in carrying out this subsection.

1 (11) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this subsection.

4 (12) EFFECT ON LOCAL AUTHORITY.—Nothing
5 in this subsection affects—

6 (A) the authority of a local government
7 with respect to the issuance of permits; or

8 (B) any requirement or ordinance of a
9 local government (such as a zoning regulation).

10 (c) FISCHER-TROPSCH FUELS.—

11 (1) IN GENERAL.—In cooperation with the Sec-
12 retary of Energy, the Secretary of Defense, the Ad-
13 ministrator of the Federal Aviation Administration,
14 Secretary of Health and Human Services, and
15 Fischer-Tropsch industry representatives, the Ad-
16 ministrator shall—

17 (A) conduct a research and demonstration
18 program to evaluate the air quality benefits of
19 ultra-clean Fischer-Tropsch transportation fuel,
20 including diesel and jet fuel;

21 (B) evaluate the use of ultra-clean Fischer-
22 Tropsch transportation fuel as a mechanism for
23 reducing engine exhaust emissions; and

24 (C) submit recommendations to Congress
25 on the most effective use and associated bene-

1 fits of these ultra-clean fuel for reducing public
2 exposure to exhaust emissions.

3 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
4 Administrator shall, to the extent necessary, issue
5 any guidance or technical support documents that
6 would facilitate the effective use and associated ben-
7 efit of Fischer-Tropsch fuel and blends.

8 (3) REQUIREMENTS.—The program described
9 in paragraph (1) shall consider—

10 (A) the use of neat (100 percent) Fischer-
11 Tropsch fuel and blends with conventional
12 crude oil-derived fuel for heavy-duty and light-
13 duty diesel engines and the aviation sector; and

14 (B) the production costs associated with
15 domestic production of those ultra clean fuel
16 and prices for consumers.

17 (4) REPORTS.—The Administrator shall submit
18 to the Committee on Environment and Public Works
19 and the Committee on Energy and Natural Re-
20 sources of the Senate and the Committee on Energy
21 and Commerce of the House of Representatives—

22 (A) not later than 1 year, an interim re-
23 port on actions taken to carry out this sub-
24 section; and

1 (B) not later than 2 years, a final report
 2 on actions taken to carry out this subsection.

3 **SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLI-**
 4 **CATIONS FOR PERMITS TO DRILL.**

5 The second undesignated paragraph of the matter
 6 under the heading “MANAGEMENT OF LANDS AND RE-
 7 SOURCES” under the heading “BUREAU OF LAND MAN-
 8 AGEMENT” of title I of the Department of the Interior,
 9 Environment, and Related Agencies Appropriations Act,
 10 2008 (Public Law 110–161; 121 Stat. 2098) is amended
 11 by striking “to be reduced” and all that follows through
 12 “each new application,”.

13 **TITLE II—ALTERNATIVE**
 14 **RESOURCES**

15 **Subtitle A—Renewable Fuel and**
 16 **Advanced Energy Technology**

17 **SEC. 201. DEFINITION OF RENEWABLE BIOMASS.**

18 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
 19 7545(o)(1)) is amended by striking subparagraph (I) and
 20 inserting the following:

21 “(I) RENEWABLE BIOMASS.—The term ‘re-
 22 newable biomass’ means—

23 “(i) nonmerchantable materials or
 24 precommercial thinnings that—

1 “(I) are byproducts of preventive
2 treatments, such as trees, wood,
3 brush, thinnings, chips, and slash,
4 that are removed—

5 “(aa) to reduce hazardous
6 fuels;

7 “(bb) to reduce or contain
8 disease or insect infestation; or

9 “(cc) to restore forest
10 health;

11 “(II) would not otherwise be used
12 for higher-value products; and

13 “(III) are harvested from Na-
14 tional Forest System land or public
15 land (as defined in section 103 of the
16 Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1702))—

18 “(aa) where permitted by
19 law; and

20 “(bb) in accordance with ap-
21 plicable land management plans
22 and the requirements for old-
23 growth maintenance, restoration,
24 and management direction of
25 paragraphs (2), (3), and (4) of

1 subsection (e) and the require-
2 ments for large-tree retention of
3 subsection (f) of section 102 of
4 the Healthy Forests Restoration
5 Act of 2003 (16 U.S.C. 6512); or
6 “(ii) any organic matter that is avail-
7 able on a renewable or recurring basis
8 from non-Federal land or from land be-
9 longing to an Indian tribe, or an Indian in-
10 dividual, that is held in trust by the United
11 States or subject to a restriction against
12 alienation imposed by the United States,
13 including—
14 “(I) renewable plant material, in-
15 cluding—
16 “(aa) feed grains;
17 “(bb) other agricultural
18 commodities;
19 “(cc) other plants and trees;
20 and
21 “(dd) algae; and
22 “(II) waste material, including—
23 “(aa) crop residue;

1 “(bb) other vegetative waste
2 material (including wood waste
3 and wood residues);

4 “(cc) animal waste and by-
5 products (including fats, oils,
6 greases, and manure); and

7 “(dd) food waste and yard
8 waste.”.

9 **SEC. 202. REPEAL OF WAIVER FOR FUEL OR FUEL ADDI-**
10 **TIVES.**

11 (a) IN GENERAL.—Effective December 19, 2007, sec-
12 tion 251 of the Energy Independence and Security Act
13 of 2007 (121 Stat. 1549) is repealed.

14 (b) APPLICATION.—The amendment made by sub-
15 section (a) applies to any waivers granted on or after the
16 date of enactment of this Act.

17 **Subtitle B—Clean Coal-Derived**
18 **Fuels for Energy Security**

19 **SEC. 211. SHORT TITLE.**

20 This subtitle may be cited as the “Clean-Coal-Derived
21 Fuels for Energy Security Act of 2008”.

22 **SEC. 212. DEFINITIONS.**

23 In this subtitle:

24 (1) CLEAN COAL-DERIVED FUEL.—

1 (A) IN GENERAL.—The term “clean coal-
 2 derived fuel” means aviation fuel, motor vehicle
 3 fuel, home heating oil, or boiler fuel that is—

4 (i) substantially derived from the coal
 5 resources of the United States; and

6 (ii) refined or otherwise processed at a
 7 facility located in the United States that
 8 captures up to 100 percent of the carbon
 9 dioxide emissions that would otherwise be
 10 released at the facility.

11 (B) INCLUSIONS.—The term “clean coal-
 12 derived fuel” may include any other resource
 13 that is extracted, grown, produced, or recovered
 14 in the United States.

15 (2) COVERED FUEL.—The term “covered fuel”
 16 means—

17 (A) aviation fuel;

18 (B) motor vehicle fuel;

19 (C) home heating oil; and

20 (D) boiler fuel.

21 (3) SMALL REFINERY.—The term “small refin-
 22 ery” means a refinery for which the average aggre-
 23 gate daily crude oil throughput for a calendar year
 24 (as determined by dividing the aggregate throughput

1 for the calendar year by the number of days in the
 2 calendar year) does not exceed 75,000 barrels.

3 **SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.**

4 (a) PROGRAM.—

5 (1) IN GENERAL.—Not later than 1 year after
 6 the date of enactment of this Act, the President
 7 shall promulgate regulations to ensure that covered
 8 fuel sold or introduced into commerce in the United
 9 States (except in noncontiguous States or terri-
 10 tories), on an annual average basis, contains the ap-
 11 plicable volume of clean coal-derived fuel determined
 12 in accordance with paragraph (4).

13 (2) PROVISIONS OF REGULATIONS.—Regardless
 14 of the date of promulgation, the regulations promul-
 15 gated under paragraph (1)—

16 (A) shall contain compliance provisions ap-
 17 plicable to refineries, blenders, distributors, and
 18 importers, as appropriate, to ensure that—

19 (i) the requirements of this subsection
 20 are met; and

21 (ii) clean coal-derived fuels produced
 22 from facilities for the purpose of compli-
 23 ance with this subtitle result in life cycle
 24 greenhouse gas emissions that are not
 25 greater than gasoline; and

1 (B) shall not—

2 (i) restrict geographic areas in the
3 contiguous United States in which clean
4 coal-derived fuel may be used; or

5 (ii) impose any per-gallon obligation
6 for the use of clean coal-derived fuel.

7 (3) RELATIONSHIP TO OTHER REGULATIONS.—

8 Regulations promulgated under this paragraph shall,
9 to the maximum extent practicable, incorporate the
10 program structure, compliance and reporting re-
11 quirements established under the final regulations
12 promulgated to implement the renewable fuel pro-
13 gram established by the amendment made by section
14 1501(a)(2) of the Energy Policy Act of 2005 (Public
15 Law 109–58; 119 Stat. 1067).

16 (4) APPLICABLE VOLUME.—

17 (A) CALENDAR YEARS 2015 THROUGH
18 2022.—For the purpose of this subsection, the
19 applicable volume for any of calendar years
20 2015 through 2022 shall be determined in ac-
21 cordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2021	5.25
2022	6.0.

1 (B) CALENDAR YEAR 2023 AND THERE-
2 AFTER.—Subject to subparagraph (C), for the
3 purposes of this subsection, the applicable vol-
4 ume for calendar year 2023 and each calendar
5 year thereafter shall be determined by the
6 President, in coordination with the Secretary
7 and the Administrator of the Environmental
8 Protection Agency, based on a review of the im-
9 plementation of the program during calendar
10 years 2015 through 2022, including a review
11 of—

12 (i) the impact of clean coal-derived
13 fuels on the energy security of the United
14 States;

15 (ii) the expected annual rate of future
16 production of clean coal-derived fuels; and

17 (iii) the impact of the use of clean
18 coal-derived fuels on other factors, includ-
19 ing job creation, rural economic develop-
20 ment, and the environment.

21 (C) MINIMUM APPLICABLE VOLUME.—For
22 the purpose of this subsection, the applicable
23 volume for calendar year 2023 and each cal-

endar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through

1 2022, based on the estimate provided under
2 paragraph (1), the President shall determine
3 and publish in the Federal Register, with re-
4 spect to the following calendar year, the clean
5 coal-derived fuel obligation that ensures that
6 the requirements of subsection (a) are met.

7 (B) REQUIRED ELEMENTS.—The clean
8 coal-derived fuel obligation determined for a
9 calendar year under subparagraph (A) shall—

10 (i) be applicable to refineries, blend-
11 ers, and importers, as appropriate;

12 (ii) be expressed in terms of a volume
13 percentage of covered fuel sold or intro-
14 duced into commerce in the United States;
15 and

16 (iii) subject to paragraph (3)(A), con-
17 sist of a single applicable percentage that
18 applies to all categories of persons speci-
19 fied in clause (i).

20 (3) ADJUSTMENTS.—In determining the appli-
21 cable percentage for a calendar year, the President
22 shall make adjustments—

23 (A) to prevent the imposition of redundant
24 obligations on any person specified in para-
25 graph (2)(B)(i); and

1 (B) to account for the use of clean coal-de-
2 rived fuel during the previous calendar year by
3 small refineries that are exempt under sub-
4 section (f).

5 (c) VOLUME CONVERSION FACTORS FOR CLEAN
6 COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

7 (1) IN GENERAL.—For the purpose of sub-
8 section (a), the President shall assign values to spe-
9 cific types of clean coal-derived fuel for the purpose
10 of satisfying the fuel volume requirements of sub-
11 section (a)(4) in accordance with this subsection.

12 (2) ENERGY CONTENT RELATIVE TO DIESEL
13 FUEL.—For clean coal-derived fuels, 1 gallon of the
14 clean coal-derived fuel shall be considered to be the
15 equivalent of 1 gallon of diesel fuel multiplied by the
16 ratio that—

17 (A) the number of British thermal units of
18 energy produced by the combustion of 1 gallon
19 of the clean coal-derived fuel (as measured
20 under conditions determined by the Secretary);
21 bears to

22 (B) the number of British thermal units of
23 energy produced by the combustion of 1 gallon
24 of diesel fuel (as measured under conditions de-

1 terminated by the Secretary to be comparable to
2 conditions described in subparagraph (A)).

3 (d) CREDIT PROGRAM.—

4 (1) IN GENERAL.—The President, in consulta-
5 tion with the Secretary and the clean coal-derived
6 fuel requirement of this section.

7 (2) MARKET TRANSPARENCY.—In carrying out
8 the credit program under this subsection, the Presi-
9 dent shall facilitate price transparency in markets
10 for the sale and trade of credits, with due regard for
11 the public interest, the integrity of those markets,
12 fair competition, and the protection of consumers.

13 (e) WAIVERS.—

14 (1) IN GENERAL.—The President, in consulta-
15 tion with the Secretary and the Administrator of the
16 Environmental Protection Agency, may waive the re-
17 quirements of subsection (a) in whole or in part on
18 petition by 1 or more States by reducing the na-
19 tional quantity of clean coal-derived fuel required
20 under subsection (a), based on a determination by
21 the President (after public notice and opportunity
22 for comment), that—

23 (A) implementation of the requirement
24 would severely harm the economy or environ-

1 ment of a State, a region, or the United States;
2 or

3 (B) extreme and unusual circumstances
4 exist that prevent distribution of an adequate
5 supply of domestically-produced clean coal-de-
6 rived fuel to consumers in the United States.

7 (2) PETITIONS FOR WAIVERS.—The President,
8 in consultation with the Secretary and the Adminis-
9 trator of the Environmental Protection Agency, shall
10 approve or disapprove a State petition for a waiver
11 of the requirements of subsection (a) within 90 days
12 after the date on which the petition is received by
13 the President.

14 (3) TERMINATION OF WAIVERS.—A waiver
15 granted under paragraph (1) shall terminate after 1
16 year, but may be renewed by the President after
17 consultation with the Secretary and the Adminis-
18 trator of the Environmental Protection Agency.

19 (f) SMALL REFINERIES.—

20 (1) TEMPORARY EXEMPTION.—

21 (A) IN GENERAL.—The requirements of
22 subsection (a) shall not apply to small refineries
23 until calendar year 2018.

24 (B) EXTENSION OF EXEMPTION.—

1 (i) STUDY BY SECRETARY.—Not later
2 than December 31, 2013, the Secretary
3 shall submit to the President and Congress
4 a report describing the results of a study
5 to determine whether compliance with the
6 requirements of subsection (a) would im-
7 pose a disproportionate economic hardship
8 on small refineries.

9 (ii) EXTENSION OF EXEMPTION.—In
10 the case of a small refinery that the Sec-
11 retary determines under clause (i) would
12 be subject to a disproportionate economic
13 hardship if required to comply with sub-
14 section (a), the President shall extend the
15 exemption under subparagraph (A) for the
16 small refinery for a period of not less than
17 2 additional years.

18 (2) PETITIONS BASED ON DISPROPORTIONATE
19 ECONOMIC HARDSHIP.—

20 (A) EXTENSION OF EXEMPTION.—A small
21 refinery may at any time petition the President
22 for an extension of the exemption under para-
23 graph (1) for the reason of disproportionate
24 economic hardship.

1 (B) EVALUATION OF PETITIONS.—In eval-
 2 uating a petition under subparagraph (A), the
 3 President, in consultation with the Secretary,
 4 shall consider the findings of the study under
 5 paragraph (1)(B) and other economic factors.

6 (C) DEADLINE FOR ACTION ON PETI-
 7 TIONS.—The President shall act on any petition
 8 submitted by a small refinery for a hardship ex-
 9 emption not later than 90 days after the date
 10 of receipt of the petition.

11 (3) OPT-IN FOR SMALL REFINERIES.—A small
 12 refinery shall be subject to the requirements of sub-
 13 section (a) if the small refinery notifies the Presi-
 14 dent that the small refinery waives the exemption
 15 under paragraph (1).

16 (g) PENALTIES AND ENFORCEMENT.—

17 (1) CIVIL PENALTIES.—

18 (A) IN GENERAL.—Any person that vio-
 19 lates a regulation promulgated under subsection
 20 (a), or that fails to furnish any information re-
 21 quired under such a regulation, shall be liable
 22 to the United States for a civil penalty of not
 23 more than the total of—

24 (i) \$25,000 for each day of the viola-
 25 tion; and

1 (ii) the amount of economic benefit or
2 savings received by the person resulting
3 from the violation, as determined by the
4 President.

5 (B) COLLECTION.—Civil penalties under
6 subparagraph (A) shall be assessed by, and col-
7 lected in a civil action brought by, the Secretary
8 or such other officer of the United States as is
9 designated by the President.

10 (2) INJUNCTIVE AUTHORITY.—

11 (A) IN GENERAL.—The district courts of
12 the United States shall have jurisdiction to—

13 (i) restrain a violation of a regulation
14 promulgated under subsection (a);

15 (ii) award other appropriate relief;
16 and

17 (iii) compel the furnishing of informa-
18 tion required under the regulation.

19 (B) ACTIONS.—An action to restrain such
20 violations and compel such actions shall be
21 brought by and in the name of the United
22 States.

23 (C) SUBPOENAS.—In the action, a sub-
24 poena for a witness who is required to attend

1 a district court in any district may apply in any
2 other district.

3 (h) EFFECTIVE DATE.—Except as otherwise specifi-
4 cally provided in this section, this section takes effect on
5 January 1, 2016.

6 **Subtitle C—Oil Shale**

7 **SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULA-** 8 **TIONS FOR COMMERCIAL LEASING PROGRAM** 9 **FOR OIL SHALE RESOURCES ON PUBLIC** 10 **LAND.**

11 (a) REPEAL.—Section 433 of the Department of the
12 Interior, Environment, and Related Agencies Appropria-
13 tions Act, 2008 (Public Law 110–161; 121 Stat. 2152)
14 is repealed.

15 (b) REGULATIONS.—The Secretary of the Interior
16 shall promulgate regulations to ensure that 50 percent of
17 any new lease revenue generated by a commercial leasing
18 program for oil shale resources on public land shall be de-
19 posited into the Energy Independence Fund established
20 under section 301.

Subtitle D—United States Geological Survey

SEC. 231. FUNDING FOR UNITED STATES GEOLOGICAL SUR- VEY.

(a) IN GENERAL.—The Secretary of the Interior shall require the Director of the United States Geological Survey to increase activities relating to the Energy Resources Program and other United States Geological Survey resource assessment activities related to domestic oil and natural gas reserves.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$60,000,000 for each of fiscal years 2009 through 2013.

TITLE III—ENERGY INDEPENDENCE FUND

SEC. 301. ESTABLISHMENT.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund, to be known as the “Energy Independence Fund” (referred to in this section as the “Fund”), consisting of such amounts as are deposited in the fund under—

- (1) section 32(c)(1)(A) of the Outer Continental Shelf Lands Act;
- (2) section 122(1); and
- (3) section 211(b).

1 (b) USE OF FUND.—Amounts in the Fund shall be
2 available to offset the cost of domestic alternative fuel-re-
3 lated Federal programs carried out by the Secretary of
4 Agriculture, the Secretary of Energy, and the Secretary
5 of Transportation that—

6 (1) enhance and accelerate the use of domestic
7 renewable energy resources and alternative fuels
8 with particular emphasis on cellulosic ethanol and
9 biodiesel fuel;

10 (2) increase the development and deployment of
11 biofuels infrastructure, including—

12 (A) alternative fuel refueling pumps that
13 are capable of dispensing blends of gasoline
14 containing from 10 to 85 percent ethanol; and

15 (B) a biofuel dedicated pipeline;

16 (3) promote the use of energy-efficient products
17 and practices and encourage and reward sound en-
18 ergy conservation practices;

19 (4) expand research, development, and deploy-
20 ment of renewable energy and efficiency tech-
21 nologies;

22 (5) expand research, development, and deploy-
23 ment of hydrogen fuel cell technology; and

24 (6) expand research, development, and deploy-
25 ment of advanced battery technology.

1 (c) AVAILABILITY.—Amounts deposited in the Fund
2 for a fiscal year shall remain available until September
3 30 of the subsequent fiscal year.

4 **SEC. 302. ENERGY SECURITY INITIATIVE.**

5 The Secretary shall—

- 6 (1) develop a strategic and comprehensive plan
7 to eliminate, to the maximum extent practicable, all
8 foreign imports of oil from countries outside of
9 North America by 2028; and
- 10 (2) not later than 1 year after the date of en-
11 actment of this Act, submit to Congress a report de-
12 scribing the plan.

○