

113TH CONGRESS
2D SESSION

H. R. 4304

To make certain repeals and revisions to Federal labor laws, to decrease the regulatory burdens on small businesses, to provide for comprehensive energy reform, and to amend the securities laws to streamline access to capital.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2014

Mr. SCALISE (for himself, Mrs. BLACK, Mr. McHENRY, Mr. MULVANEY, Mr. BRADY of Texas, Mr. FLORES, Mr. LUETKEMEYER, Mr. ROE of Tennessee, Mr. PITTS, Mr. BYRNE, Mr. LANKFORD, Mrs. LUMMIS, Mr. AUSTIN SCOTT of Georgia, Mr. HUIZENGA of Michigan, Mr. LAMBORN, Mrs. BLACKBURN, Mr. FRANKS of Arizona, Mr. SESSIONS, Mr. HUDSON, Mr. BARTON, Mr. DUNCAN of South Carolina, Mr. WILSON of South Carolina, Mr. CHABOT, Mr. RICE of South Carolina, Mr. BENTIVOLIO, Mr. SALMON, Mr. ROONEY, Mr. YOHIO, Mr. WEBER of Texas, Mr. HARRIS, and Mr. DESJARLAIS) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Budget, Small Business, Education and the Workforce, Oversight and Government Reform, the Judiciary, Energy and Commerce, Transportation and Infrastructure, Science, Space, and Technology, Rules, Financial Services, Agriculture, and Ways and Means, 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 make certain repeals and revisions to Federal labor laws, to decrease the regulatory burdens on small businesses, to provide for comprehensive energy reform, and to amend the securities laws to streamline access to capital.

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 “Jumpstarting Oppor-
 5 tunities with Bold Solutions Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

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DIVISION I—LABOR

TITLE I—REPEAL OF DAVIS-

BACON ACT

SEC. 101. REPEAL OF DAVIS-BACON WAGE REQUIREMENTS.

(a) IN GENERAL.—Subchapter IV of chapter 31 of title 40, United States Code, is repealed.

(b) REFERENCE.—Any reference in any law to a wage requirement of subchapter IV of chapter 31 of title 40, United States Code, shall after the date of the enactment of this title be null and void.

SEC. 102. EFFECTIVE DATE AND LIMITATION.

The amendment made by section 101 shall take effect 30 days after the date of the enactment of this title but shall not affect any contract in existence on such date of enactment or made pursuant to invitation for bids outstanding on such date of enactment.

**TITLE II—UNION CONTRACT NOT
A BAR TO HIGHER WAGES**

SEC. 201. PAYMENT OF HIGHER WAGES.

Section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)) is amended—

(1) by striking “Representatives” and inserting “(1) Representatives”; and

(2) by adding at the end the following:

“(2) Notwithstanding a labor organization’s exclusive representation of employees in a unit, or the terms and conditions of any collective bargaining contract or agreement then in effect, nothing in either—

“(A) section 8(a)(1) or 8(a)(5), or

“(B) a collective bargaining contract or agreement renewed or entered into after the date of en-

1 actment of the Jumpstarting Opportunities with
2 Bold Solutions Act,
3 shall prohibit an employer from paying an employee in the
4 unit greater wages, pay, or other compensation for, or by
5 reason of, his or her services as an employee of such em-
6 ployer, than provided for in such contract or agreement.”.

7 **TITLE III—REPEAL OF PROVI-**
8 **SIONS RELATING TO OFFI-**
9 **CIAL TIME OF FEDERAL EM-**
10 **PLOYEES FOR PURPOSES OF**
11 **UNION ORGANIZING**

12 **SEC. 301. REPEAL OF CERTAIN PROVISIONS RELATING TO**
13 **OFFICIAL TIME OF FEDERAL EMPLOYEES**
14 **FOR PURPOSES OF UNION ORGANIZING.**

15 Section 7131 of title 5, United States Code, is
16 amended—

- 17 (1) by striking subsections (a) and (c);
18 (2) by redesignating subsections (b) and (d) as
19 subsections (a) and (b), respectively; and
20 (3) in subsection (b) (as so redesignated by
21 paragraph (2)), by striking “Except as provided in
22 the preceding subsections of this section—” and in-
23 serting “Except as provided in subsection (a)—”.

1 **TITLE IV—RULEMAKING, INVES-**
2 **TIGATIVE, AND ADJUDICA-**
3 **TIVE AUTHORITY OF THE NA-**
4 **TIONAL LABOR RELATIONS**
5 **BOARD**

6 **SEC. 401. AUTHORITIES OF THE NATIONAL LABOR RELA-**
7 **TIONS BOARD.**

8 (a) DUTIES OF THE GENERAL COUNSEL AND ADMIN-
9 ISTRATIVE LAW JUDGES.—The National Labor Relations
10 Act (29 U.S.C. 151 et seq.) is amended—

11 (1) in section 3(d), by striking “and issuance of
12 complaints under section 10, and in respect of the
13 prosecution of such complaints before the Board”;
14 and

15 (2) in section 4(a), by striking the fourth sen-
16 tence.

17 (b) CLARIFICATION OF THE BOARD’S RULEMAKING
18 AUTHORITY.—Section 6 of such Act (29 U.S.C. 156) is
19 amended by adding at the end the following: “Such rule-
20 making authority shall be limited to rules concerning the
21 internal functions of the Board and the Board is prohib-
22 ited from promulgating rules that affect the substantive
23 rights of any person, employer, employee, or labor organi-
24 zation.”.

1 (c) INVESTIGATORY POWER AND ADJUDICATORY AU-
2 THORITY OVER UNFAIR LABOR PRACTICE ALLEGA-
3 TIONS.—Section 10 of such Act (29 U.S.C. 60) is amend-
4 ed—

5 (1) in subsection (a)—

6 (A) by striking “prevent any person from
7 engaging in” and inserting “investigate”; and

8 (B) by striking “This power shall” and all
9 that follows through the end of the subsection;
10 (2) in subsection (b)—

11 (A) by striking “Whenever it is charged”
12 and inserting “Whenever it appears”;

13 (B) by striking “or is engaging in” and in-
14 serting “, is engaging in, or is about to engage
15 in”;

16 (C) by striking “the Board, or any agent”
17 and all that follows through “*Provided*, That no
18 complaint shall be issued” and inserting “the
19 aggrieved party may bring a civil action for
20 such relief (including injunctions) as may be
21 appropriate. Any such action may be brought in
22 the district court of the United States where
23 the violation occurred, or at the option of the
24 parties, in the United States District Court for

1 the District of Columbia. No civil action may be
2 brought”;

3 (D) by striking “charge with the Board
4 and the service of a copy thereof upon the per-
5 son against whom such charge is made” and in-
6 serting “civil action”; and

7 (E) by striking “Any such complaint may
8 be amended” and all that follows through “Any
9 such proceeding shall, so far as practicable,”
10 and inserting “Any such proceeding shall”;

11 (3) by striking subsections (e) through (k) and
12 redesignating subsection (l) as subsection (e); and

13 (4) in subsection (c) (as so redesignated)—

14 (A) by striking “Whenever it is charged”
15 and inserting “Whenever it is alleged”;

16 (B) in the first sentence, by striking
17 “charge” both places it appears and inserting
18 “allegation”; and

19 (C) by striking “and that a complaint
20 should issue, he shall” and all that follows
21 through the end of the subsection and inserting
22 “, the officer or regional attorney shall, on be-
23 half of the Board, submit a written summary of
24 the findings to all parties involved in the alleged
25 unfair labor practice.”.

1 **SEC. 402. REGULATIONS.**

2 Not later than 6 months after the date of the enact-
 3 ment of this title, the National Labor Relations Board
 4 shall review and revise all regulations promulgated before
 5 such date to implement the amendments made by this
 6 title.

7 **DIVISION II—DEREGULATION**
 8 **TITLE V—UNIFORM COST-BEN-**
 9 **EFIT ANALYSIS OF REGULA-**
 10 **TIONS**

11 **SEC. 501. UNIFORM USE OF COST-BENEFIT ANALYSIS.**

12 Section 553 of title 5, United States Code, is amend-
 13 ed by adding at the end the following:

14 “(f)(1) Prior to any rulemaking under this section,
 15 an agency shall comply with the following:

16 “(A) The agency shall identify, in the context
 17 of a coherent conceptual framework and supported
 18 with objective data—

19 “(i) the nature and significance of the
 20 market failure, regulatory failure, or other
 21 problem that necessitates regulatory action;

22 “(ii) the reasons why national economic
 23 and income growth, advancing technology, and
 24 other market developments will not obviate the
 25 need for the rulemaking;

1 “(iii) the reasons why regulation at the
2 State, local, or tribal level could not address the
3 problem better than at the Federal level;

4 “(iv) the reasons why reducing rather than
5 increasing the extent or stringency of existing
6 Federal regulation would not address the prob-
7 lem better; and

8 “(v) the particular authority by which the
9 agency may take action.

10 “(B) Before the agency increases the extent or
11 stringency of regulation based on its determinations
12 pursuant to subparagraph (A), it shall—

13 “(i) set an achievable objective for its regu-
14 latory action and identify the metrics by which
15 the agency will measure progress toward the ob-
16 jective;

17 “(ii) issue a notice of inquiry seeking pub-
18 lic comment on the identification of a new ob-
19 jective under clause (i); and

20 “(iii) give notice to the committees of Con-
21 gress with jurisdiction over the subject matter
22 of the rule.

23 “(C) The agency, if the agency is not seeking
24 to repeal a rule, shall develop at least 3 distinct reg-
25 ulatory options, in addition to not regulating, that

1 the agency estimates will provide the greatest bene-
2 fits for the least cost in meeting the regulatory ob-
3 jective set under subparagraph (B) and, in devel-
4 oping such regulatory options, shall apply the fol-
5 lowing principles:

6 “(i) The agency shall assume that individ-
7 uals are rational and not qualify that assump-
8 tion unless the agency—

9 “(I) has conclusive evidence of a detri-
10 mental systematic behavioral bias; and

11 “(II) can devise behavioral regulatory
12 options that do not preclude any choices of
13 market participants.

14 “(ii) The agency shall, to the extent prac-
15 ticable, attempt to engage private incentives to
16 solve a problem and not supplant private incen-
17 tives any more than necessary.

18 “(iii) The agency shall consider the adverse
19 effects that mandates and prohibitions may
20 have on innovation, economic growth, and em-
21 ployment.

22 “(iv) An agency’s risk assessment shall be
23 confined to its jurisdiction, subject to specific
24 regulatory authority. Agency assessments of the
25 risks of adverse health and environmental ef-

1 fects shall follow standardized parameters, as-
2 sumptions, and methodologies. An agency also
3 shall provide analyses of increases in risks,
4 whatever their nature, produced by the regu-
5 latory options under consideration.

6 “(v) The agency shall avoid incongruities
7 and duplication in regulation at the Federal,
8 State, local, and tribal levels.

9 “(vi) The agency shall compare and con-
10 trast the regulatory options developed and ex-
11 plain how each would meet the regulatory objec-
12 tive set pursuant to subparagraph (B).

13 “(D) The agency shall estimate the costs and
14 benefits of each regulatory option developed, not-
15 withstanding any provision of law that prohibits the
16 agency from using costs in rulemaking, at least to
17 the extent that the agency is able to—

18 “(i) exclude options whose costs exceed
19 their benefits;

20 “(ii) rank the options by cost from lowest
21 to highest;

22 “(iii) estimate the monetary cost of any
23 adverse effects on private property rights, iden-
24 tify the categories of persons who experience a
25 net loss from a regulatory option, and explain

1 why the negative effects cannot be lessened or
2 avoided;

3 “(iv) establish whether the cost of an op-
4 tion exceeds \$50,000,000 for any 12-month pe-
5 riod, except that the dollar amount shall be ad-
6 justed annually for inflation based on the GDP
7 deflator, and the President may order that a
8 lower dollar amount be used for a particular pe-
9 riod; and

10 “(v) identify the key uncertainties and as-
11 sumptions that drive the results and provide an
12 analysis of how the ranking of the options and
13 the threshold determination under clause (iv)
14 may change if key assumptions are changed.

15 “(E) The estimates pursuant to subparagraph
16 (D) shall—

17 “(i) follow the methodology established
18 pursuant to paragraph (2)(A);

19 “(ii) to the maximum extent practicable,
20 comply with any guidelines issued by the Ad-
21 ministrator of the Office of Information and
22 Regulatory Affairs pertaining to cost-benefit
23 analysis; and

24 “(iii) include, at a minimum—

25 “(I) agency administrative costs;

1 “(II) United States private sector
2 compliance costs;

3 “(III) Federal, State, local, and tribal
4 compliance costs;

5 “(IV) Federal, State, local, and tribal
6 revenue impacts;

7 “(V) impacts from the regulatory op-
8 tions developed on United States industries
9 in the role of suppliers and consumers to
10 each industry substantially affected, espe-
11 cially in terms of employment, costs, vol-
12 ume and quality of output, and prices;

13 “(VI) nationwide impacts on overall
14 economic output, productivity, consumer
15 and producer prices;

16 “(VII) international competitiveness
17 of United States companies; and

18 “(VIII) distortions in incentives and
19 markets, including an estimate of the re-
20 sulting loss to the United States economy.

21 “(F) The agency shall publish for public com-
22 ment all analyses, documentation, and data under
23 subparagraphs (A) through (D) for a public com-
24 ment period of at least 30 days (subject to applica-
25 ble limitations under law, including laws protecting

1 privacy, trade secrets, and intellectual property) and
2 correct deficiencies or omissions that the agency be-
3 comes aware of before choosing a rule to propose.

4 “(2)(A) Beginning not later than the date that is 180
5 days after the effective date of this section—

6 “(i) each agency shall, by rule, establish and
7 maintain the specific cost-benefit analysis method-
8 ology appropriate to the functions and responsibil-
9 ities of that agency and establish an appropriate pe-
10 riod for review of new rules to assess the cost effec-
11 tiveness of each such new rule at achieving the ob-
12 jective identified under paragraph (1)(B)(i) the new
13 rule was intended to address;

14 “(ii) the methodology so established shall—

15 “(I) include the standardized parameters,
16 assumptions, and methodologies for agency as-
17 sessments of risk under paragraph (1)(C)(iv);

18 “(II) comply, to the maximum extent prac-
19 ticable, with technical standards for methodolo-
20 gies and assumptions issued by the Adminis-
21 trator for the Office of Information and Regu-
22 latory Affairs;

23 “(III) include the scope of benefits and
24 costs consistent with the framework used and

1 the metrics identified in the establishment of
2 the regulatory objective under paragraph (1);

3 “(IV) not include consideration of inci-
4 dental benefits but only those benefits that were
5 considered in the establishment of the regu-
6 latory objective;

7 “(V) limit consideration of costs and bene-
8 fits to costs and benefits that accrue to the pop-
9 ulation of the United States;

10 “(VI) constrain the agency from presuming
11 that continued augmentation or tightening of
12 mandates and additional prohibitions cause
13 benefits and costs to change linearly but deter-
14 mine at what point benefits will rise less than,
15 and costs will rise more than, proportionally;

16 “(VII) include comparison of incremental
17 benefits to incremental costs from any action
18 the agency considers taking and refrain from
19 actions whose incremental benefits do not ex-
20 ceed their incremental costs; and

21 “(VIII) include analysis of effects on pri-
22 vate incentives and possible unintended con-
23 sequences; and

24 “(iii) the agency shall adhere to the method-
25 ology so established in all rulemakings.

1 “(B) If the agency does not select the least-cost regu-
2 latory option as its proposed rule, the agency shall justify
3 its selection, explaining—

4 “(i) how that selection furthers other goals or
5 requirements relevant to regulating matters within
6 the agency’s jurisdiction and why these should over-
7 ride cost savings; and

8 “(ii) why each of the other regulatory options
9 not chosen would not sufficiently further such other
10 goals or requirements.

11 “(C) If the agency makes a determination under
12 paragraph (1)(D) that the monetized cost of a rule exceeds
13 the applicable monetary limit under clause (iv) of such
14 paragraph for any 12-month period, the agency head
15 shall—

16 “(i) first issue an advanced notice of proposed
17 rulemaking;

18 “(ii) provide notice to the appropriate Congres-
19 sional committees and keep such committees in-
20 formed of the status of the rulemaking; and

21 “(iii) ensure that—

22 “(I) the agency shall notify the Adminis-
23 trator of the Small Business Administration,
24 the Director of the Office of Management and
25 Budget, and affected parties, and provide each

1 such person with information on the potential
2 effects of the proposed rule on affected parties
3 and the type of affected parties that might be
4 affected;

5 “(II) not later than 15 days after the date
6 of receipt of the materials described in sub-
7 clause (I), the Director, in consultation with the
8 Administrator, shall identify representatives of
9 affected parties, 25 percent of which shall rep-
10 resent small business concerns (as such term is
11 defined in section 3(a) of the Small Business
12 Act), when possible, and all the major stake-
13 holders shall have the opportunity to obtain ad-
14 vice and recommendations about the potential
15 effects of the proposed rule;

16 “(III) the agency shall convene a review
17 panel consisting wholly of full-time Federal offi-
18 cers, employees, and contractors in the agency
19 responsible for the proposed rule, the Director,
20 the Administrator, and the representatives of
21 affected parties identified pursuant to subclause
22 (II);

23 “(IV) the agency shall conduct a detailed
24 analysis of the costs and benefits of the regu-
25 latory option it is advancing, and, in doing so—

1 “(aa) the agency shall consider the
2 cumulative and interactive costs of regu-
3 latory requirements of Federal, State,
4 local, tribal, and (where applicable) inter-
5 national regulations; and

6 “(bb) the agency shall identify the key
7 uncertainties and assumptions that drive
8 the results and provide an analysis of how
9 the ranking of the regulatory options
10 changes if the key assumptions are
11 changed;

12 “(V) the panel shall review agency material
13 prepared in connection with this subsection, in-
14 cluding any draft proposed rule, and review the
15 advice and recommendations of each affected
16 party representative identified;

17 “(VI) not later than 60 days after the date
18 the agency convenes a review panel pursuant to
19 subclause (III), the review panel shall report on
20 the comments of the affected party representa-
21 tives and its findings as to issues related to the
22 provisions of this subsection, and such report
23 shall be made public as part of the rulemaking
24 record;

1 “(VII) where appropriate, the agency shall
2 modify the proposed rule or the cost-benefit
3 analysis under subclause (IV) based on the re-
4 port under subclause (VI);

5 “(VIII) subject to applicable limitations
6 under law, including laws protecting privacy,
7 trade secrets, and intellectual property, the
8 agency shall publish for comment all analyses,
9 documentation, and data under this paragraph
10 for a public comment period of at least 30 days
11 and correct deficiencies or omissions that the
12 agency becomes aware of before adopting a pro-
13 posed rule; and

14 “(IX) affected parties, including State,
15 local, or tribal governments, and other stake-
16 holders may participate in the rulemaking by
17 means such as—

18 “(aa) the publication of advanced and
19 general notices of proposed rulemaking in
20 publications likely to be obtained by af-
21 fected parties;

22 “(bb) the direct notification of inter-
23 ested affected parties;

24 “(cc) the conduct of open conferences
25 or public hearings including soliciting and

1 receiving comments over computer net-
2 works; and

3 “(dd) reducing the cost or complexity
4 of procedural rules to ease participation in
5 the rulemaking.

6 “(D) Every 4 years the agency shall conduct a review
7 of all rules of the agency in effect and determine based
8 on objective data whether its rules are working as in-
9 tended, furthering their objectives, imposing unanticipated
10 costs, and generating a net benefit or not, and shall amend
11 such rules if appropriate. The agency shall report to Con-
12 gress the findings of each such review.

13 “(E) Any person may petition an agency to amend
14 an existing rule made prior to the establishment of meth-
15 odology under this paragraph, and, if the agency denies
16 such a petition, that denial shall be subject to review under
17 chapter 7 of this title.

18 “(F) Notwithstanding any other provision of law, in-
19 cluding any provision of law that explicitly prohibits the
20 use of cost-benefit analysis in rulemaking, an agency shall
21 conduct cost-benefit analyses and report to Congress the
22 findings with specific recommendations for how to lower
23 regulatory costs by amending the statutes prohibiting the
24 use thereof.

25 “(3) For purposes of this subsection—

1 “(A) the term ‘regulatory options’ means any
2 action an agency may take to address an objective
3 identified under paragraph (1)(B)(i), including the
4 option not to act;

5 “(B) the term ‘private incentives’ means finan-
6 cial gains or losses that motivate actions by private
7 individuals and businesses, and does not include any
8 law or regulation that prescribes private actions or
9 outcomes; and

10 “(C) the term ‘incidental benefit’ means a
11 claimed benefit outside the specific regulatory objec-
12 tive or objectives identified under paragraph
13 (1)(B)(i) a rule is intended to address as identified
14 in paragraph (1)(A).

15 “(4) All determinations made under this subsection
16 shall be subject to review under chapter 7.”.

17 **SEC. 502. CONGRESSIONAL REVIEW.**

18 Section 801(a)(2) of title 5, United States Code, is
19 amended by adding at the end the following:

20 “(C) The Comptroller General shall exam-
21 ine the cost-benefit analysis for compliance with
22 the requirements of section 553(f), including
23 the agency methodology established under sec-
24 tion 553(f)(2)(A).

“(D) The Comptroller General shall examine any risk analysis under section 553(f)(1)(C)(iv) pertaining to the cost-benefit analysis for compliance with the requirements of section 553(f).

“(E) The Comptroller General also shall examine the agencies’ quadrennial regulatory reviews for consistency with the requirements of section 553(f) and report to Congress on the results.”.

TITLE VI—PERIODIC REVIEW AND TERMINATION OF REGULATIONS

SEC. 601. REVIEW OF REGULATIONS.

A covered rule shall be subject to review in accordance with this title. Upon completion of such review, the agency which has jurisdiction over such rule shall—

(1) issue a final report under section 406(c)(2) continuing such rule, or

(2) conduct a rulemaking in accordance with section 406(d) to modify, consolidate with another rule, or terminate such rule.

SEC. 602. RULES COVERED.

(a) COVERED RULES.—For purposes of this title, a covered rule is a rule that—

1 (1) is determined by the Administrator to be a
2 significant rule under subsection (b); or

3 (2) is any other rule designated by the agency
4 which has jurisdiction over such rule or the Adminis-
5 trator under this title for sunset review.

6 (b) SIGNIFICANT RULES.—For purposes of this title,
7 a significant rule is a rule that the Administrator deter-
8 mines—

9 (1) has resulted in or is likely to result in an
10 annual effect on the economy of \$100,000,000 or
11 more;

12 (2) is a major rule; or

13 (3) was issued pursuant to a significant regu-
14 latory action, as that term is defined in Executive
15 Order 12866 (as in effect on the first date that Ex-
16 ecutive order was in effect).

17 (c) PUBLIC PETITIONS.—

18 (1) IN GENERAL.—Any person adversely af-
19 fected by a rule that is not a significant rule may
20 submit a petition to the agency which has jurisdic-
21 tion over the rule requesting that such agency des-
22 ignate the rule for sunset review. Such agency shall
23 designate the rule for sunset review unless such
24 agency determines that it would not be in the public
25 interest to conduct a sunset review of the rule. In

1 making such determination, such agency shall take
2 into account the number and nature of other peti-
3 tions received on the same rule and whether or not
4 such petitions have been denied.

5 (2) FORM AND CONTENT OF PETITION.—A pe-
6 tition under paragraph (1)—

7 (A) shall be in writing, but is not otherwise
8 required to be in any particular form; and

9 (B) shall identify the rule for which sunset
10 review is requested with reasonable specificity
11 and state on its face that the petitioner seeks
12 sunset review of the rule.

13 (3) RESPONSE REQUIRED FOR NONCOMPLYING
14 PETITIONS.—If an agency determines that a petition
15 does not meet the requirements of this subsection,
16 the agency shall provide a response to the petitioner
17 within 30 days after receiving the petition, notifying
18 the petitioner of the problem and providing informa-
19 tion on how to formulate a petition that meets those
20 requirements.

21 (4) DECISION WITHIN 90 DAYS.—Within the 90-
22 day period beginning on the date of receiving a peti-
23 tion that meets the requirements of this subsection,
24 the agency shall transmit a response to the peti-
25 tioner stating whether the petition was granted or

1 denied, except that the agency may extend such pe-
2 riod by a total of not more than 30 days.

3 (5) PETITIONS DEEMED GRANTED FOR SUB-
4 STANTIAL INEXCUSABLE DELAY.—A petition for
5 sunset review of a rule is deemed to have been
6 granted by an agency, and such agency is deemed to
7 have designated the rule for sunset review, if a court
8 finds there is a substantial and inexcusable delay,
9 beyond the period specified in paragraph (4), in no-
10 tifying the petitioner of the agency's determination
11 to grant or deny the petition.

12 (6) PUBLIC LOG.—Each agency shall maintain
13 a public log of petitions submitted under this sub-
14 section, that includes the status or disposition of
15 each petition.

16 (d) CONGRESSIONAL REQUESTS.—

17 (1) IN GENERAL.—An appropriate committee of
18 the Congress, or a majority of the majority party
19 members or a majority of nonmajority party mem-
20 bers of such committee, may request in writing that
21 the Administrator designate any rule that is not a
22 significant rule for sunset review. The Administrator
23 shall designate such rule for sunset review within 30
24 days after receipt of such request unless the Admin-

1 administrator determines that it would not be in the public
2 interest to conduct a sunset review of such rule.

3 (2) NOTICE OF DENIAL.—If the Administrator
4 denies a congressional request under this subsection,
5 the Administrator shall transmit to the congressional
6 committee making the request a notice stating the
7 reasons for the denial.

8 (e) PUBLICATION OF NOTICE OF DESIGNATION FOR
9 SUNSET REVIEW.—After designating a rule under sub-
10 section (c) or (d) for sunset review, the agency or the Ad-
11 ministrator shall promptly publish a notice of that des-
12 ignation in the Federal Register.

13 **SEC. 603. CRITERIA FOR SUNSET REVIEW.**

14 (a) COMPLIANCE WITH OTHER LAWS.—In order for
15 any rule subject to sunset review to continue without
16 change or to be modified or consolidated in accordance
17 with this title, such rule must be authorized by law and
18 meet all applicable requirements that would apply if it
19 were issued as a new rule pursuant to section 553 of title
20 5, United States Code, or other statutory rulemaking pro-
21 cedures required for that rule. For purposes of this sec-
22 tion, the term “applicable requirements” includes any re-
23 quirement for cost-benefit analysis and any requirement
24 for standardized risk analysis and risk assessment.

1 (b) GOVERNING LAW.—If there is a conflict between
 2 applicable requirements and an Act under which a rule
 3 was issued, the conflict shall be resolved in the same man-
 4 ner as such conflict would be resolved if the agency were
 5 issuing a new rule.

6 **SEC. 604. SUNSET REVIEW PROCEDURES.**

7 (a) FUNCTIONS OF THE ADMINISTRATOR.—

8 (1) NOTICE OF RULES SUBJECT TO REVIEW.—

9 (A) INVENTORY AND FIRST LIST.—Within
 10 6 months after the date of the enactment of
 11 this title, the Administrator shall conduct an in-
 12 ventory of existing rules and publish a first list
 13 of covered rules. The list shall—

14 (i) specify the particular group to
 15 which each significant rule is assigned
 16 under paragraph (2), and state the review
 17 deadline for all significant rules in each
 18 such group; and

19 (ii) include other rules subject to sun-
 20 set review for any other reason, and state
 21 the review deadline for each such rule.

22 (B) SUBSEQUENT LISTS.—After publica-
 23 tion of the first list under subparagraph (A),
 24 the Administrator shall publish an updated list

1 of covered rules at least annually, specifying the
2 review deadline for each rule on the list.

3 (2) GROUPING OF SIGNIFICANT RULES IN FIRST
4 LIST.—

5 (A) STAGGERED REVIEW.—The Adminis-
6 trator shall assign each significant rule in effect
7 on the date of enactment of this title to one of
8 4 groups established by the Administrator to
9 permit orderly and prioritized sunset reviews,
10 and specify for each group an initial review
11 deadline in accordance with section 405(a)(1).

12 (B) PRIORITIZATIONS.—In determining
13 which rules shall be given priority in time in
14 that assignment, the Administrator shall con-
15 sult with appropriate agencies, and shall
16 prioritize rule based on—

17 (i) the grouping of related rules in ac-
18 cordance with paragraph (3);

19 (ii) the extent of the cost of each rule
20 and on the regulated community and the
21 public, with priority in time given to those
22 rules that impose the greatest cost;

23 (iii) consideration of the views of reg-
24 ulated persons, including State and local
25 governments;

1 (iv) whether a particular rule has re-
2 cently been subject to cost-benefit analysis
3 and risk assessment, with priority in time
4 given to those rules that have not been
5 subject to such analysis and assessment;

6 (v) whether a particular rule was
7 issued under a statutory provision that
8 provides relatively greater discretion to an
9 official in issuing the rule, with priority in
10 time given to those rules that were issued
11 under provisions that provide relatively
12 greater discretion;

13 (vi) the burden of reviewing each rule
14 on the reviewing agency; and

15 (vii) the need for orderly processing
16 and the timely completion of the sunset re-
17 views of existing rules.

18 (3) GROUPING OF RELATED RULES.—The Ad-
19 ministrator shall group related rules under para-
20 graph (2) (and designate other rules) for simulta-
21 neous sunset review based upon their subject matter
22 similarity, functional interrelationships, and other
23 relevant factors to ensure comprehensive and coordi-
24 nated review of redundant, overlapping, and con-
25 flicting rules and requirements. The Administrator

1 shall ensure simultaneous sunset reviews of covered
2 rules without regard to whether they were issued by
3 the same agency, and shall designate any other rule
4 for sunset review that is necessary for a comprehen-
5 sive sunset review whether or not such other rule is
6 otherwise a covered rule under this title.

7 (4) GUIDANCE.—The Administrator shall pro-
8 vide timely guidance to agencies on the conduct of
9 sunset reviews and the preparation of sunset review
10 notices and reports required by this title to ensure
11 uniform, complete, and timely sunset reviews and to
12 ensure notice and opportunity for public comment
13 consistent with section 406.

14 (5) REVIEW AND EVALUATION OF REPORTS.—
15 The Administrator shall review and evaluate each
16 preliminary and final report submitted by the agency
17 pursuant to this section. Within 90 days after re-
18 ceiving a preliminary report, the Administrator shall
19 transmit comments to the head of the agency re-
20 garding—

21 (A) the quality of the analysis in the re-
22 port, including whether the agency has properly
23 applied section 403;

24 (B) the consistency of the agency's pro-
25 posed action with actions of other agencies; and

1 (C) whether the rule should be continued
2 without change, modified, consolidated with an-
3 other rule, or terminated.

4 (b) AGENCY SUNSET REVIEW PROCEDURE.—

5 (1) SUNSET REVIEW NOTICE.—At least 30
6 months before the review deadline under section
7 405(a) for a covered rule issued by an agency, the
8 agency shall—

9 (A) publish a sunset review notice in ac-
10 cordance with section 406(a) in the Federal
11 Register and, to the extent reasonable and
12 practicable, in other publications or media that
13 are designed to reach those persons most af-
14 fected by the covered rule; and

15 (B) request the views of the Administrator
16 and the appropriate committees of the Congress
17 on whether to continue without change, modify,
18 consolidate, or terminate the covered rule.

19 (2) PRELIMINARY REPORT.—In reviewing a cov-
20 ered rule, the agency shall—

21 (A) consider public comments and other
22 recommendations generated by a sunset review
23 notice under paragraph (1); and

24 (B) at least 1 year before the review dead-
25 line under section 405(a) for the covered rule,

1 publish in the Federal Register, in accordance
2 with section 406(b), and transmit to the Ad-
3 ministrator and the appropriate committees of
4 the Congress a preliminary report.

5 (3) FINAL REPORT.—The agency shall consider
6 the public comments and other recommendations
7 generated by the preliminary report under para-
8 graph (2) for a covered rule, and shall consult with
9 the appropriate committees of the Congress before
10 issuing a final report. At least 90 days before the re-
11 view deadline of the covered rule, the agency shall
12 publish in the Federal Register, in accordance with
13 section 406(c)(2) or 406(d), and transmit a final re-
14 port to the Administrator and the appropriate com-
15 mittees of the Congress.

16 (4) OPEN PROCEDURES REGARDING SUNSET
17 REVIEW.—In any sunset review conducted pursuant
18 to this title, the agency conducting the review shall
19 make a written record describing the subject of all
20 contacts the agency or Administrator made with
21 non-governmental persons outside the agency relat-
22 ing to such review. The written record of such con-
23 tact shall be made available, upon request, to the
24 public.

1 (c) EFFECTIVENESS OF AGENCY RECOMMENDA-
 2 TION.—If a final report under subsection (b)(3) rec-
 3 ommends that a covered rule should be continued without
 4 change, the covered rule shall be continued. If a final re-
 5 port under subsection (b)(3) recommends that a covered
 6 rule should be modified, consolidated with another rule,
 7 or terminated, the rule may be modified, so consolidated,
 8 or terminated in accordance with section 406(d).

9 (d) PRESERVATION OF INDEPENDENCE OF FEDERAL
 10 BANK REGULATORY AGENCIES.—The head of any appro-
 11 priate Federal banking agency (as that term is defined
 12 in section 3(q) of the Federal Deposit Insurance Act (12
 13 U.S.C. 1813(q))), the Federal Housing Finance Board,
 14 the National Credit Union Administration, and the Office
 15 of Federal Housing Enterprise Oversight shall have the
 16 authority with respect to that agency that would otherwise
 17 be granted under section 405(a)(2)(B) to the Adminis-
 18 trator or other officer designated by the President.

19 **SEC. 605. REVIEW DEADLINES FOR COVERED RULES.**

20 (a) IN GENERAL.—For purposes of this title, the re-
 21 view deadline of a covered rule is as follows:

22 (1) EXISTING SIGNIFICANT RULES.—For a sig-
 23 nificant rule in effect on the date of the enactment
 24 of this title, the initial review deadline is the last day
 25 of the 4-year, 5-year, 6-year, or 7-year period begin-

ning on the date of the enactment of this title, as specified by the Administrator under section 404(a)(2)(A). For any significant rule that 6 months after the date of enactment is not assigned to such a group specified under section 404(a)(2)(A), the initial review deadline is the last day of the 4-year period beginning on the date of enactment of this title.

(2) NEW SIGNIFICANT RULES.—For a significant rule that first takes effect after the date of the enactment of this title, the initial review deadline is the last day of either—

(A) the 3-year period beginning on the date the rule takes effect, or

(B) if the Administrator determines as part of the rulemaking process that the rule is issued pursuant to negotiated rulemaking procedures or that compliance with the rule requires substantial capital investment, the 7-year period beginning on the date the rule takes effect.

(3) RULES COVERED PURSUANT TO PUBLIC PETITION OR CONGRESSIONAL REQUEST.—For any rule subject to sunset review pursuant to a public petition under section 402(c) or a congressional request

1 under section 402(d), the initial review deadline is
2 the last day of the 3-year period beginning on—

3 (A) the date the agency or Administrator
4 so designates the rule for review; or

5 (B) the date of issuance of a final court
6 order that the agency is deemed to have des-
7 ignated the rule for sunset review.

8 (4) RELATED RULE DESIGNATED FOR RE-
9 VIEW.—For a rule that the Administrator designates
10 under section 404(a)(3) for sunset review because it
11 is related to another covered rule and that is
12 grouped with that other rule for simultaneous re-
13 view, the initial review deadline is the same as the
14 review deadline for that other rule.

15 (b) TEMPORARY EXTENSION.—The review deadline
16 under subsection (a) for a covered rule may be extended
17 by the Administrator for not more than 6 months by pub-
18 lishing notice thereof in the Federal Register that de-
19 scribes reasons why the temporary extension is necessary
20 to respond to or prevent an emergency situation.

21 (c) DETERMINATIONS WHERE RULES HAVE BEEN
22 AMENDED.—For purposes of this title, if various provi-
23 sions of a covered rule were issued at different times, then
24 the rule as a whole shall be treated as if it were issued
25 on the later of—

1 (1) the date of issuance of the provision of the
2 rule that was issued first; or

3 (2) the date the most recent review and revision
4 of the rule under this title was completed.

5 **SEC. 606. SUNSET REVIEW NOTICES AND AGENCY REPORTS.**

6 (a) SUNSET REVIEW NOTICES.—The sunset review
7 notice under section 404(b)(1) for a rule shall—

8 (1) request comments regarding whether the
9 rule should be continued without change, modified,
10 consolidated with another rule, or terminated;

11 (2) if applicable, request comments regarding
12 whether the rule meets the applicable Federal cost-
13 benefit and risk assessment criteria; and

14 (3) solicit comments about the past implemen-
15 tation and effects of the rule, including—

16 (A) the direct and indirect costs incurred
17 because of the rule, including the net reduction
18 in the value of private property (whether real,
19 personal, tangible, or intangible), and whether
20 the incremental benefits of the rule exceeded
21 the incremental costs of the rule, both generally
22 and regarding each of the specific industries
23 and sectors it covers;

24 (B) whether the rule as a whole, or any
25 major feature of it, is outdated, obsolete, or un-

1 necessary, whether by change of technology, the
2 marketplace, or otherwise;

3 (C) the extent to which the rule or infor-
4 mation required to comply with the rule dupli-
5 cated, conflicted, or overlapped with require-
6 ments under rules of other agencies;

7 (D) in the case of a rule addressing a risk
8 to health or safety or the environment, what the
9 perceived risk was at the time of issuance and
10 to what extent the risk predictions were accu-
11 rate;

12 (E) whether the rule unnecessarily im-
13 peded domestic or international competition or
14 unnecessarily intruded on free market forces,
15 and whether the rule unnecessarily interfered
16 with opportunities or efforts to transfer to the
17 private sector duties carried out by the Govern-
18 ment;

19 (F) whether, and to what extent, the rule
20 imposed unfunded mandates on, or otherwise
21 affected, State and local governments;

22 (G) whether compliance with the rule re-
23 quired substantial capital investment and
24 whether terminating the rule on the next review

1 deadline would create an unfair advantage to
2 those who are not in compliance with it;

3 (H) whether the rule constituted the least
4 cost method of achieving its objective consistent
5 with the criteria of the Act under which the
6 rule was issued, and to what extent the rule
7 provided flexibility to those who were subject to
8 it;

9 (I) whether the rule was worded simply
10 and clearly, including clear identification of
11 those who were subject to the rule;

12 (J) whether the rule created negative unin-
13 tended consequences;

14 (K) the extent to which information re-
15 quirements under the rule can be reduced; and

16 (L) the extent to which the rule has con-
17 tributed positive benefits, particularly health or
18 safety or environmental benefits.

19 (b) PRELIMINARY REPORTS ON SUNSET REVIEWS.—
20 The preliminary report under section 404(b)(2) on the
21 sunset review of a rule shall request public comments and
22 contain—

23 (1) specific requests for factual findings and
24 recommended legal conclusions regarding the appli-
25 cation of section 403 to the rule, the continued need

1 for the rule, and whether the rule duplicates func-
2 tions of another rule;

3 (2) a request for comments on whether the rule
4 should be continued without change, modified, con-
5 solidated with another rule, or terminated; and

6 (3) if consolidation or modification of the rule
7 is recommended, suggestions for the proposed text of
8 the consolidated or modified rule.

9 (c) FINAL REPORTS ON SUNSET REVIEWS.—The re-
10 port under section 404(b)(3) on the sunset review of a
11 rule shall—

12 (1) contain the factual findings and legal con-
13 clusions of the agency conducting the review regard-
14 ing the application of section 403 to the rule and the
15 agency's proposed recommendation as to whether
16 the rule should be continued without change, modi-
17 fied, consolidated with another rule, or terminated;

18 (2) in the case of a rule that the agency pro-
19 poses to continue without change, so state;

20 (3) in the case of a rule that the agency pro-
21 poses to modify or consolidate with another rule,
22 contain—

23 (A) a notice of proposed rulemaking under
24 section 553 of title 5, United States Code or

1 under other statutory rulemaking procedures
2 required for that rule; and

3 (B) the text of the rule as so modified or
4 consolidated; and

5 (4) in the case of a rule that the agency pro-
6 poses to terminate, contain a notice of proposed
7 rulemaking for termination consistent with para-
8 graph (3)(A).

9 A final report described in paragraph (2) shall be pub-
10 lished in the Federal Register.

11 (d) RULEMAKING.—The final report under subsection
12 (c)(3) or (c)(4) shall be published in the Federal Register
13 and its publication shall constitute publication of the no-
14 tice required by subsection (c)(3)(A). After publication of
15 the final report under subsection (c)(3) or (c)(4) on a sun-
16 set review of a rule, the agency which conducted such re-
17 view shall conduct the rulemaking which is called for in
18 such report.

19 (e) LEGISLATIVE RECOMMENDATIONS.—In any case
20 in which the head of an agency determines that a rule
21 in a final report under subsection (c)(3) or (c)(4) cannot
22 be changed, modified, or consolidated with another rule
23 without legislative action, such head shall include in such
24 final report a description of what legislative changes are

1 required to implement the recommendations in such final
2 report with regard to such rule.

3 **SEC. 607. DESIGNATION OF AGENCY REGULATORY REVIEW**
4 **OFFICERS.**

5 The head of each agency shall designate an officer
6 of the agency as the Regulatory Review Officer of the
7 agency. The Regulatory Review Officer of an agency shall
8 be responsible for the implementation of this title by the
9 agency and shall report directly to the head of the agency
10 and the Administrator with respect to that responsibility.

11 **SEC. 608. RELATIONSHIP TO THE ADMINISTRATIVE PROCE-**
12 **DURE ACT.**

13 Nothing in this title is intended to supersede the pro-
14 visions of chapters 5, 6, and 7 of title 5, United States
15 Code.

16 **SEC. 609. EFFECT OF TERMINATION OF A COVERED RULE.**

17 (a) EFFECT OF TERMINATION, GENERALLY.—If a
18 covered rule is terminated pursuant to this title—

19 (1) this title shall not be construed to prevent
20 the President or an agency from exercising any au-
21 thority that otherwise exists to implement the stat-
22 ute under which the rule was issued;

23 (2) in an agency proceeding or court action be-
24 tween an agency and a non-agency party, the rule
25 shall be given no conclusive legal effect but may be

1 submitted as evidence of prior agency practice and
2 procedure; and

3 (3) this title shall not be construed to prevent
4 the continuation or institution of any enforcement
5 action that is based on a violation of the rule that
6 occurred before the effectiveness of the rule termi-
7 nated.

8 (b) EFFECT ON DEADLINES.—

9 (1) IN GENERAL.—Notwithstanding subsection
10 (a), any deadline for, relating to, or involving any
11 action dependent upon, any rule terminated under
12 this title is suspended until the agency that issued
13 the rule issues a new rule on the same matter, un-
14 less otherwise provided by a law.

15 (2) DEADLINE DEFINED.—In this subsection,
16 the term “deadline” means any date certain for ful-
17 filling any obligation or exercising any authority es-
18 tablished by or under any Federal rule, or by or
19 under any court order implementing any Federal
20 rule.

21 **SEC. 610. JUDICIAL REVIEW.**

22 (a) IN GENERAL.—A denial or substantial inexcus-
23 able delay in granting or denying a petition under section
24 402(c) shall be considered final agency action subject to
25 review under section 702 of title 5, United States Code.

1 A denial of a congressional request under section 402(d)
2 shall not be subject to judicial review.

3 (b) TIME LIMITATION ON FILING A CIVIL ACTION.—

4 Notwithstanding any other provisions of law, an action
5 seeking judicial review of a final agency action under this
6 title may not be brought—

7 (1) in the case of a final agency action denying
8 a public petition under section 402(c) or continuing
9 without change, modifying, consolidating, or termi-
10 nating a covered rule, more than 30 days after the
11 date of that agency action; or

12 (2) in the case of an action challenging a delay
13 in deciding on a petition for a rule under section
14 402(c), more than 1 year after the period applicable
15 to the rule under section 402(c)(4).

16 (c) AVAILABILITY OF JUDICIAL REVIEW UNAF-
17 FECTED.—Except to the extent that there is a direct con-
18 flict with the provisions of this title, nothing in this title
19 is intended to affect the availability or standard of judicial
20 review for agency regulatory action.

21 **SEC. 611. DEFINITIONS.**

22 In this title, the following definitions apply:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Administrator of the Office of In-

1 formation and Regulatory Affairs in the Office of
2 Management and Budget.

3 (2) AGENCY.—The term “agency” has the
4 meaning given that term in section 551(1) of title 5,
5 United States Code.

6 (3) APPROPRIATE COMMITTEE OF THE CON-
7 GRESS.—The term “appropriate committee of the
8 Congress” means, with respect to a rule, each stand-
9 ing committee of Congress having authority under
10 the Rules of the House of Representatives or the
11 Senate to report a bill to amend the provision of law
12 under which the rule is issued.

13 (4) MAJOR RULE.—The term “major rule”
14 means any rule that the Administrator of the Office
15 of Information and Regulatory Affairs in the Office
16 of Management and Budget finds has resulted in or
17 is likely to result in—

18 (A) an annual effect on the economy of
19 \$100,000,000 or more;

20 (B) a major increase in costs or prices for
21 consumers, individual industries, Federal,
22 State, or local government agencies, or geo-
23 graphic regions; or

24 (C) significant adverse effects on competi-
25 tion, employment, investment, productivity, in-

novation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

(5) RULE.—

(A) GENERAL RULE.—Subject to subparagraph (B), the term “rule” means any agency statement of general applicability and future effect, including agency guidance documents, designed to implement, interpret, or prescribe law or policy, or describing the procedures or practices of an agency, or intended to assist in such actions, but does not include—

(i) regulations or other agency statements issued in accordance with formal rulemaking provisions of sections 556 and 557 of title 5, United States Code, or in accordance with other statutory formal rulemaking procedures required for such regulations or statements;

(ii) regulations or other agency statements that are limited to agency organization, management, or personnel matters;

(iii) regulations or other agency statements issued with respect to a military or

1 foreign affairs function of the United
2 States;

3 (iv) regulations, statements, or other
4 agency actions that are reviewed and usu-
5 ally modified each year (or more fre-
6 quently), or are reviewed regularly and
7 usually modified based on changing eco-
8 nomic or seasonal conditions;

9 (v) regulations or other agency actions
10 that grant an approval, license, permit,
11 registration, or similar authority or that
12 grant or recognize an exemption or relieve
13 a restriction, or any agency action nec-
14 essary to permit new or improved applica-
15 tions of technology or to allow the manu-
16 facture, distribution, sale, or use of a sub-
17 stance or product; and

18 (vi) regulations or other agency state-
19 ments that the Administrator certifies in
20 writing are necessary for the enforcement
21 of the Federal criminal laws.

22 (B) SCOPE OF A RULE.—For purposes of
23 this title, each set of rules designated in the
24 Code of Federal Regulations as a part shall be
25 treated as one rule. Each set of rules that do

1 not appear in the Code of Federal Regulations
 2 and that are comparable to a part of that Code
 3 under guidelines established by the Adminis-
 4 trator shall be treated as one rule.

5 (6) SUNSET REVIEW.—The term “sunset re-
 6 view” means a review of the rule under this title.

7 **SEC. 612. SUNSET OF THIS TITLE.**

8 This title shall have no force or effect after the 10-
 9 year period beginning on the date of the enactment of this
 10 title.

11 **TITLE VII—REGULATION COSTS**
 12 **TO SMALL BUSINESSES AND**
 13 **GRACE PERIOD FOR REGU-**
 14 **LATORY VIOLATIONS**

15 **SEC. 701. SMALL BUSINESS ADMINISTRATION STUDY ON**
 16 **THE COST OF FEDERAL REGULATIONS.**

17 (a) IN GENERAL.—Beginning on the date that is 1
 18 year after the date of enactment of this title, and annually
 19 thereafter, the Administrator shall conduct an annual
 20 study of the total costs to small business concerns of Fed-
 21 eral regulations and the amount that such total costs have
 22 increased over the prior year.

23 (b) REQUIREMENT.—In conducting each study re-
 24 quired under subsection (a), the Administrator shall use
 25 the best available estimates of the costs and the benefits,

1 disaggregated by the agency issuing the regulation, of
2 each major rule (as defined in section 804 of title 5,
3 United States Code) made after the date of the study in
4 the prior year resulting in a net cost to small business
5 concerns during the period to which the report pertains,
6 and of the cumulative costs of such rules. Such estimates
7 may include estimates produced under the terms of Execu-
8 tive Order 12866.

9 (c) REPORT.—Not later than 90 days after com-
10 pleting a study required by this section, the Administrator
11 shall submit to the Committee on Small Business of the
12 House of Representatives and the Committee on Small
13 Business and Entrepreneurship of the Senate a report on
14 the findings of that study.

15 (d) FUNDING.—

16 (1) IN GENERAL.—The Administration shall
17 carry out this section using unobligated funds other-
18 wise made available to the Administration.

19 (2) SENSE OF CONGRESS REGARDING FUND-
20 ING.—It is the sense of Congress that no additional
21 funds should be made available to the Administra-
22 tion to carry out this title.

23 (e) DEFINITIONS.—In this section—

1 (1) the terms “Administration” and “Adminis-
2 trator” mean the Small Business Administration
3 and the Administrator thereof, respectively; and

4 (2) the term “small business concern” has the
5 same meaning as in section 3 of the Small Business
6 Act (15 U.S.C. 632).

7 **SEC. 702. GRACE PERIOD FOR REGULATORY VIOLATIONS.**

8 Section 558 of title 5, United States Code, is amend-
9 ed by adding at the end the following:

10 “(d) Before any enforcement action is taken on any
11 sanction on a business for any violation of a rule or pursu-
12 ant to an adjudication an agency shall—

13 “(1) not later than 10 business days after the
14 date on which the agency determines that a sanction
15 may be imposed on the business, provide notice to
16 the business that, if the business is a small business
17 as defined in subsection (k), the small business may
18 be subject to a sanction at the end of the grace pe-
19 riod described in paragraph (3);

20 “(2) delay any further action for a period of 15
21 calendar days;

22 “(3) for any small business, defer any further
23 action for a period of not less than 6 months, less
24 the 15 days described in paragraph (2), which shall
25 be extended by an additional period of 3 months on

1 application by the small business demonstrating rea-
2 sonable efforts made in good faith to remedy the vio-
3 lation or other conduct giving rise to the sanction;

4 “(4) make a further determination after the pe-
5 riod described in paragraph (3) as to whether or not
6 the small business would still be subject to the sanc-
7 tion as of the end of that period;

8 “(5) if the determination under paragraph (4)
9 is that the small business would not be subject to
10 the sanction, waive the sanction; and

11 “(6) if notice is given more than 10 business
12 days after the date on which the agency determines
13 that a sanction may be imposed on the business, and
14 the agency determines that the same sanction may
15 have been imposed on the business 10 business days
16 prior to the date of the notice, that date of notice
17 shall be the effective date commencing the grace pe-
18 riod described in paragraph (3).

19 “(e) The grace period described by subsection (d)
20 shall be applicable only once per business per rule, but
21 shall cover subsequent violations of the same rule until it
22 expires.

23 “(f) The grace period described by subsection (d)
24 shall not apply to a violation that puts anyone in imminent

1 danger, as defined by the Occupational Safety and Health
2 Act (29 U.S.C. 662 et seq.).

3 “(g) Nothing in subsection (d) shall be construed to
4 prevent a small business from appealing any sanction im-
5 posed in accordance with the procedures of the agency,
6 or from seeking review under chapter 7 of this title.

7 “(h) Any sanction by an agency on a small business
8 for any violation of a rule or pursuant to an adjudication,
9 absent proof of written notice of the sanction and the date
10 on which the agency determined that a sanction may be
11 imposed, or in violation of subsection (d)(3), shall be null
12 and void.

13 “(i) Federal agencies shall report annually to the Om-
14 budsman on the utilization of this directive and disclose
15 the penalty mitigation for small businesses.

16 “(j) The Ombudsman shall include in its annual re-
17 port to Congress the agency reports described by sub-
18 section (i) and a summary of the findings.

19 “(k) For purposes of this section—

20 “(1) term ‘small business’ is defined as any sole
21 proprietorship, partnership, corporation, limited li-
22 ability company, or other business entity, that—

23 “(A) had less than \$10,000,000 in gross
24 receipts in the preceding calendar year;

1 “(B) is considered a ‘small-business con-
2 cern’ as such term is defined pursuant to Sec-
3 tion 3(a) of the Small Business Act (15 U.S.C.
4 632(a));

5 “(C) employed fewer than 200 individuals
6 in the preceding calendar year; or

7 “(D) had CPI adjusted gross receipts of
8 less than \$10,000,000 in the preceding year;

9 “(2) the term ‘Ombudsman’ has the same
10 meaning given such term in section 30(a) of the
11 Small Business Act (15 U.S.C. 657(a));

12 “(3) the term ‘consumer price index’ means the
13 consumer price index for all urban consumers pub-
14 lished by the Department of Labor; and

15 “(4) the term ‘CPI adjusted gross receipts’
16 means the amount of gross receipts, divided by the
17 consumer price index for calendar year 2012, and
18 multiplied by the consumer price index for the pre-
19 ceding calendar year, rounded to the nearest mul-
20 tiple of \$100,000 (or, if midway between multiples
21 of \$100,000, to the next higher multiple of
22 \$100,000).”.

1 **TITLE VIII—MAJOR RULES OF**
 2 **THE EXECUTIVE BRANCH BE**
 3 **APPROVED BY CONGRESS**

4 **SEC. 801. CONGRESSIONAL REVIEW OF AGENCY RULE-**
 5 **MAKING.**

6 Chapter 8 of title 5, United States Code, is amended
 7 to read as follows:

8 **“CHAPTER 8—CONGRESSIONAL REVIEW**
 9 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

10 **“§ 801. Congressional review**

11 “(a)(1)(A) Before a rule may take effect, the Federal
 12 agency promulgating such rule shall submit to each House
 13 of the Congress and to the Comptroller General a report
 14 containing—

15 “(i) a copy of the rule;

16 “(ii) a concise general statement relating to the
 17 rule;

18 “(iii) a classification of the rule as a major or
 19 nonmajor rule, including an explanation of the clas-
 20 sification specifically addressing each criteria for a

1 major rule contained within clauses (i) through (iii)
2 of section 804(2)(A) or within section 804(2)(B);

3 “(iv) a list of any other related regulatory ac-
4 tions taken by or that will be taken by the Federal
5 agency promulgating the rule that are intended to
6 implement the same statutory provision or regu-
7 latory objective as well as the individual and aggre-
8 gate economic effects of those actions;

9 “(v) a list of any other related regulatory ac-
10 tions taken by or that will be taken by any other
11 Federal agency with authority to implement the
12 same statutory provision or regulatory objective that
13 are intended to implement such provision or objec-
14 tive, of which the Federal agency promulgating the
15 rule is aware, as well as the individual and aggre-
16 gate economic effects of those actions; and

17 “(vi) the proposed effective date of the rule.

18 “(B) On the date of the submission of the report
19 under subparagraph (A), the Federal agency promulgating
20 the rule shall submit to the Comptroller General and make
21 available to each House of Congress—

22 “(i) a complete copy of the cost-benefit analysis
23 of the rule, if any, including an analysis of any jobs
24 added or lost, differentiating between public and pri-
25 vate sector jobs;

1 “(ii) the agency’s actions pursuant to sections
2 603, 604, 605, 607, and 609 of this title;

3 “(iii) the agency’s actions pursuant to sections
4 202, 203, 204, and 205 of the Unfunded Mandates
5 Reform Act of 1995; and

6 “(iv) any other relevant information or require-
7 ments under any other Act and any relevant Execu-
8 tive orders.

9 “(C) Upon receipt of a report submitted under sub-
10 paragraph (A), each House shall provide copies of the re-
11 port to the chairman and ranking member of each stand-
12 ing committee with jurisdiction under the rules of the
13 House of Representatives or the Senate to report a bill
14 to amend the provision of law under which the rule is
15 issued.

16 “(2)(A) The Comptroller General shall provide a re-
17 port on each major rule to the committees of jurisdiction
18 by the end of 15 calendar days after the submission or
19 publication date. The report of the Comptroller General
20 shall include an assessment of the agency’s compliance
21 with procedural steps required by paragraph (1)(B) and
22 an assessment of whether the major rule imposes any new
23 limits or mandates on private-sector activity.

1 “(B) Federal agencies shall cooperate with the Comp-
2 troller General by providing information relevant to the
3 Comptroller General’s report under subparagraph (A).

4 “(3) A major rule relating to a report submitted
5 under paragraph (1) shall take effect upon enactment of
6 a joint resolution of approval described in section 802 or
7 as provided for in the rule following enactment of a joint
8 resolution of approval described in section 802, whichever
9 is later.

10 “(4) A nonmajor rule shall take effect as provided
11 by section 803 after submission to Congress under para-
12 graph (1).

13 “(5) If a joint resolution of approval relating to a
14 major rule is not enacted within the period provided in
15 subsection (b)(2), then a joint resolution of approval relat-
16 ing to the same rule may not be considered under this
17 chapter in the same Congress by either the House of Rep-
18 resentatives or the Senate.

19 “(b)(1) A major rule shall not take effect unless the
20 Congress enacts a joint resolution of approval described
21 under section 802.

22 “(2) If a joint resolution described in subsection (a)
23 is not enacted into law by the end of 70 session days or
24 legislative days, as applicable, beginning on the date on
25 which the report referred to in section 801(a)(1)(A) is re-

1 ceived by Congress (excluding days either House of Con-
2 gress is adjourned for more than 3 days during a session
3 of Congress), then the rule described in that resolution
4 shall be deemed not to be approved and such rule shall
5 not take effect.

6 “(c)(1) Notwithstanding any other provision of this
7 section (except subject to paragraph (3)), a major rule
8 may take effect for one 90-calendar-day period if the
9 President makes a determination under paragraph (2) and
10 submits written notice of such determination to the Con-
11 gress.

12 “(2) Paragraph (1) applies to a determination made
13 by the President by Executive order that the major rule
14 should take effect because such rule is—

15 “(A) necessary because of an imminent threat
16 to health or safety or other emergency;

17 “(B) necessary for the enforcement of criminal
18 laws;

19 “(C) necessary for national security; or

20 “(D) issued pursuant to any statute imple-
21 menting an international trade agreement.

22 “(3) An exercise by the President of the authority
23 under this subsection shall have no effect on the proce-
24 dures under section 802.

1 “(d)(1) In addition to the opportunity for review oth-
2 erwise provided under this chapter, in the case of any rule
3 for which a report was submitted in accordance with sub-
4 section (a)(1)(A) during the period beginning on the date
5 occurring—

6 “(A) in the case of the Senate, 60 session days,
7 or

8 “(B) in the case of the House of Representa-
9 tives, 60 legislative days,
10 before the date the Congress is scheduled to adjourn a
11 session of Congress through the date on which the same
12 or succeeding Congress first convenes its next session, sec-
13 tions 802 and 803 shall apply to such rule in the suc-
14 ceeding session of Congress.

15 “(2)(A) In applying sections 802 and 803 for pur-
16 poses of such additional review, a rule described under
17 paragraph (1) shall be treated as though—

18 “(i) such rule were published in the Federal
19 Register on—

20 “(I) in the case of the Senate, the 15th
21 session day, or

22 “(II) in the case of the House of Rep-
23 resentatives, the 15th legislative day,
24 after the succeeding session of Congress first con-
25 venes; and

1 “(ii) a report on such rule were submitted to
2 Congress under subsection (a)(1) on such date.

3 “(B) Nothing in this paragraph shall be construed
4 to affect the requirement under subsection (a)(1) that a
5 report shall be submitted to Congress before a rule can
6 take effect.

7 “(3) A rule described under paragraph (1) shall take
8 effect as otherwise provided by law (including other sub-
9 sections of this section).

10 **“§ 802. Congressional approval procedure for major**
11 **rules**

12 “(a)(1) For purposes of this section, the term ‘joint
13 resolution’ means only a joint resolution addressing a re-
14 port classifying a rule as major pursuant to section
15 801(a)(1)(A)(iii) that—

16 “(A) bears no preamble;

17 “(B) bears the following title (with blanks filled
18 as appropriate): ‘Approving the rule submitted by
19 _____ relating to _____.’;

20 “(C) includes after its resolving clause only the
21 following (with blanks filled as appropriate): ‘That
22 Congress approves the rule submitted by _____ re-
23 lating to _____.’; and

24 “(D) is introduced pursuant to paragraph (2).

1 “(2) After a House of Congress receives a report
2 classifying a rule as major pursuant to section
3 801(a)(1)(A)(iii), the majority leader of that House (or
4 his or her respective designee) shall introduce (by request,
5 if appropriate) a joint resolution described in paragraph
6 (1)—

7 “(A) in the case of the House of Representa-
8 tives, within three legislative days; and

9 “(B) in the case of the Senate, within three ses-
10 sion days.

11 “(3) A joint resolution described in paragraph (1)
12 shall not be subject to amendment at any stage of pro-
13 ceeding.

14 “(b) A joint resolution described in subsection (a)
15 shall be referred in each House of Congress to the commit-
16 tees having jurisdiction over the provision of law under
17 which the rule is issued.

18 “(c) In the Senate, if the committee or committees
19 to which a joint resolution described in subsection (a) has
20 been referred have not reported it at the end of 15 session
21 days after its introduction, such committee or committees
22 shall be automatically discharged from further consider-
23 ation of the resolution and it shall be placed on the cal-
24 endar. A vote on final passage of the resolution shall be
25 taken on or before the close of the 15th session day after

1 the resolution is reported by the committee or committees
2 to which it was referred, or after such committee or com-
3 mittees have been discharged from further consideration
4 of the resolution.

5 “(d)(1) In the Senate, when the committee or com-
6 mittees to which a joint resolution is referred have re-
7 ported, or when a committee or committees are discharged
8 (under subsection (c)) from further consideration of a
9 joint resolution described in subsection (a), it is at any
10 time thereafter in order (even though a previous motion
11 to the same effect has been disagreed to) for a motion
12 to proceed to the consideration of the joint resolution, and
13 all points of order against the joint resolution (and against
14 consideration of the joint resolution) are waived. The mo-
15 tion is not subject to amendment, or to a motion to post-
16 pone, or to a motion to proceed to the consideration of
17 other business. A motion to reconsider the vote by which
18 the motion is agreed to or disagreed to shall not be in
19 order. If a motion to proceed to the consideration of the
20 joint resolution is agreed to, the joint resolution shall re-
21 main the unfinished business of the Senate until disposed
22 of.

23 “(2) In the Senate, debate on the joint resolution,
24 and on all debatable motions and appeals in connection
25 therewith, shall be limited to not more than 2 hours, which

1 shall be divided equally between those favoring and those
2 opposing the joint resolution. A motion to further limit
3 debate is in order and not debatable. An amendment to,
4 or a motion to postpone, or a motion to proceed to the
5 consideration of other business, or a motion to recommit
6 the joint resolution is not in order.

7 “(3) In the Senate, immediately following the conclu-
8 sion of the debate on a joint resolution described in sub-
9 section (a), and a single quorum call at the conclusion of
10 the debate if requested in accordance with the rules of the
11 Senate, the vote on final passage of the joint resolution
12 shall occur.

13 “(4) Appeals from the decisions of the Chair relating
14 to the application of the rules of the Senate to the proce-
15 dure relating to a joint resolution described in subsection
16 (a) shall be decided without debate.

17 “(e) In the House of Representatives, if any com-
18 mittee to which a joint resolution described in subsection
19 (a) has been referred has not reported it to the House
20 at the end of 15 legislative days after its introduction,
21 such committee shall be discharged from further consider-
22 ation of the joint resolution, and it shall be placed on the
23 appropriate calendar. On the second and fourth Thursdays
24 of each month it shall be in order at any time for the
25 Speaker to recognize a Member who favors passage of a

1 joint resolution that has appeared on the calendar for at
2 least 5 legislative days to call up that joint resolution for
3 immediate consideration in the House without intervention
4 of any point of order. When so called up a joint resolution
5 shall be considered as read and shall be debatable for 1
6 hour equally divided and controlled by the proponent and
7 an opponent, and the previous question shall be considered
8 as ordered to its passage without intervening motion. It
9 shall not be in order to reconsider the vote on passage.
10 If a vote on final passage of the joint resolution has not
11 been taken by the third Thursday on which the Speaker
12 may recognize a Member under this subsection, such vote
13 shall be taken on that day.

14 “(f)(1) If, before passing a joint resolution described
15 in subsection (a), one House receives from the other a
16 joint resolution having the same text, then—

17 “(A) the joint resolution of the other House
18 shall not be referred to a committee; and

19 “(B) the procedure in the receiving House shall
20 be the same as if no joint resolution had been re-
21 ceived from the other House until the vote on pas-
22 sage, when the joint resolution received from the
23 other House shall supplant the joint resolution of
24 the receiving House.

1 “(2) This subsection shall not apply to the House of
2 Representatives if the joint resolution received from the
3 Senate is a revenue measure.

4 “(g) If either House has not taken a vote on final
5 passage of the joint resolution by the last day of the period
6 described in section 801(b)(2), then such vote shall be
7 taken on that day.

8 “(h) This section and section 803 are enacted by
9 Congress—

10 “(1) as an exercise of the rulemaking power of
11 the Senate and House of Representatives, respec-
12 tively, and as such is deemed to be part of the rules
13 of each House, respectively, but applicable only with
14 respect to the procedure to be followed in that
15 House in the case of a joint resolution described in
16 subsection (a) and superseding other rules only
17 where explicitly so; and

18 “(2) with full recognition of the Constitutional
19 right of either House to change the rules (so far as
20 they relate to the procedure of that House) at any
21 time, in the same manner and to the same extent as
22 in the case of any other rule of that House.

1 **“§ 803. Congressional disapproval procedure for**
2 **nonmajor rules**

3 “(a) For purposes of this section, the term ‘joint res-
4 olution’ means only a joint resolution introduced in the
5 period beginning on the date on which the report referred
6 to in section 801(a)(1)(A) is received by Congress and
7 ending 60 days thereafter (excluding days either House
8 of Congress is adjourned for more than 3 days during a
9 session of Congress), the matter after the resolving clause
10 of which is as follows: ‘That Congress disapproves the
11 nonmajor rule submitted by the _____ relating to
12 _____, and such rule shall have no force or effect.’ (The
13 blank spaces being appropriately filled in).

14 “(b) A joint resolution described in subsection (a)
15 shall be referred to the committees in each House of Con-
16 gress with jurisdiction.

17 “(c) In the Senate, if the committee to which is re-
18 ferred a joint resolution described in subsection (a) has
19 not reported such joint resolution (or an identical joint
20 resolution) at the end of 15 session days after the date
21 of introduction of the joint resolution, such committee may
22 be discharged from further consideration of such joint res-
23 olution upon a petition supported in writing by 30 Mem-
24 bers of the Senate, and such joint resolution shall be
25 placed on the calendar.

1 “(d)(1) In the Senate, when the committee to which
2 a joint resolution is referred has reported, or when a com-
3 mittee is discharged (under subsection (c)) from further
4 consideration of a joint resolution described in subsection
5 (a), it is at any time thereafter in order (even though a
6 previous motion to the same effect has been disagreed to)
7 for a motion to proceed to the consideration of the joint
8 resolution, and all points of order against the joint resolu-
9 tion (and against consideration of the joint resolution) are
10 waived. The motion is not subject to amendment, or to
11 a motion to postpone, or to a motion to proceed to the
12 consideration of other business. A motion to reconsider the
13 vote by which the motion is agreed to or disagreed to shall
14 not be in order. If a motion to proceed to the consideration
15 of the joint resolution is agreed to, the joint resolution
16 shall remain the unfinished business of the Senate until
17 disposed of.

18 “(2) In the Senate, debate on the joint resolution,
19 and on all debatable motions and appeals in connection
20 therewith, shall be limited to not more than 10 hours,
21 which shall be divided equally between those favoring and
22 those opposing the joint resolution. A motion to further
23 limit debate is in order and not debatable. An amendment
24 to, or a motion to postpone, or a motion to proceed to

1 the consideration of other business, or a motion to recom-
2 mit the joint resolution is not in order.

3 “(3) In the Senate, immediately following the conclu-
4 sion of the debate on a joint resolution described in sub-
5 section (a), and a single quorum call at the conclusion of
6 the debate if requested in accordance with the rules of the
7 Senate, the vote on final passage of the joint resolution
8 shall occur.

9 “(4) Appeals from the decisions of the Chair relating
10 to the application of the rules of the Senate to the proce-
11 dure relating to a joint resolution described in subsection
12 (a) shall be decided without debate.

13 “(e) In the Senate the procedure specified in sub-
14 section (c) or (d) shall not apply to the consideration of
15 a joint resolution respecting a nonmajor rule—

16 “(1) after the expiration of the 60 session days
17 beginning with the applicable submission or publica-
18 tion date, or

19 “(2) if the report under section 801(a)(1)(A)
20 was submitted during the period referred to in sec-
21 tion 801(d)(1), after the expiration of the 60 session
22 days beginning on the 15th session day after the
23 succeeding session of Congress first convenes.

24 “(f) If, before the passage by one House of a joint
25 resolution of that House described in subsection (a), that

1 House receives from the other House a joint resolution
2 described in subsection (a), then the following procedures
3 shall apply:

4 “(1) The joint resolution of the other House
5 shall not be referred to a committee.

6 “(2) With respect to a joint resolution described
7 in subsection (a) of the House receiving the joint
8 resolution—

9 “(A) the procedure in that House shall be
10 the same as if no joint resolution had been re-
11 ceived from the other House; but

12 “(B) the vote on final passage shall be on
13 the joint resolution of the other House.

14 **“§ 804. Definitions**

15 “For purposes of this chapter—

16 “(1) The term ‘Federal agency’ means any
17 agency as that term is defined in section 551(1).

18 “(2) The term ‘major rule’ means any rule, in-
19 cluding an interim final rule, that the Administrator
20 of the Office of Information and Regulatory Affairs
21 of the Office of Management and Budget finds—

22 “(A) has resulted in or is likely to result
23 in—

24 “(i) an annual effect on the economy
25 of \$50,000,000 or more;

1 “(ii) a major increase in costs or
2 prices for consumers, individual industries,
3 Federal, State, or local government agen-
4 cies, or geographic regions; or

5 “(iii) significant adverse effects on
6 competition, employment, investment, pro-
7 ductivity, innovation, or on the ability of
8 United States-based enterprises to compete
9 with foreign-based enterprises in domestic
10 and export markets;

11 “(B) is made by the Administrator of the
12 Environmental Protection Agency and that
13 would have a significant impact on a substan-
14 tial number of agricultural entities, as deter-
15 mined by the Secretary of Agriculture (who
16 shall publish such determination in the Federal
17 Register);

18 “(C) is a rule that implements or provides
19 for the imposition or collection of a carbon tax;
20 or

21 “(D) is made under the Patient Protection
22 and Affordable Care Act (Public Law 111–
23 148).

24 “(3) The term ‘nonmajor rule’ means any rule
25 that is not a major rule.

1 “(4) The term ‘rule’ has the meaning given
2 such term in section 551, except that such term does
3 not include any rule of particular applicability, in-
4 cluding a rule that approves or prescribes for the fu-
5 ture rates, wages, prices, services, or allowances
6 therefore, corporate or financial structures, reorga-
7 nizations, mergers, or acquisitions thereof, or ac-
8 counting practices or disclosures bearing on any of
9 the foregoing.

10 “(5) The term ‘submission date or publication
11 date’, except as otherwise provided in this chapter,
12 means—

13 “(A) in the case of a major rule, the date
14 on which the Congress receives the report sub-
15 mitted under section 801(a)(1); and

16 “(B) in the case of a nonmajor rule, the
17 later of—

18 “(i) the date on which the Congress
19 receives the report submitted under section
20 801(a)(1); and

21 “(ii) the date on which the nonmajor
22 rule is published in the Federal Register, if
23 so published.

24 “(6) The term ‘agricultural entity’ means any
25 entity involved in or related to agricultural enter-

1 prise, including enterprises that are engaged in the
2 business of production of food and fiber, ranching
3 and raising of livestock, aquaculture, and all other
4 farming and agricultural related industries.

5 “(7) The term ‘carbon tax’ means a fee, levy,
6 or price on—

7 “(A) emissions, including carbon dioxide
8 emissions generated by the burning of coal, nat-
9 ural gas, or oil; or

10 “(B) coal, natural gas, or oil based on
11 emissions, including carbon dioxide emissions
12 that would be generated through the fuel’s com-
13 bustion.

14 **“§ 805. Judicial review**

15 “(a) No determination, finding, action, or omission
16 under this chapter shall be subject to judicial review.

17 “(b) Notwithstanding subsection (a), a court may de-
18 termine whether a Federal agency has completed the nec-
19 essary requirements under this chapter for a rule to take
20 effect.

21 “(c) The enactment of a joint resolution of approval
22 under section 802 shall not be interpreted to serve as a
23 grant or modification of statutory authority by Congress
24 for the promulgation of a rule, shall not extinguish or af-
25 fect any claim, whether substantive or procedural, against

1 any alleged defect in a rule, and shall not form part of
2 the record before the court in any judicial proceeding con-
3 cerning a rule except for purposes of determining whether
4 or not the rule is in effect.

5 **“§ 806. Exemption for monetary policy**

6 “Nothing in this chapter shall apply to rules that con-
7 cern monetary policy proposed or implemented by the
8 Board of Governors of the Federal Reserve System or the
9 Federal Open Market Committee.

10 **“§ 807. Effective date of certain rules**

11 “Notwithstanding section 801—

12 “(1) any rule that establishes, modifies, opens,
13 closes, or conducts a regulatory program for a com-
14 mercial, recreational, or subsistence activity related
15 to hunting, fishing, or camping; or

16 “(2) any rule other than a major rule which an
17 agency for good cause finds (and incorporates the
18 finding and a brief statement of reasons therefore in
19 the rule issued) that notice and public procedure
20 thereon are impracticable, unnecessary, or contrary
21 to the public interest,

22 shall take effect at such time as the Federal agency pro-
23 mulgating the rule determines.”.

1 **SEC. 802. BUDGETARY EFFECTS OF RULES SUBJECT TO**
2 **SECTION 802 OF TITLE 5, UNITED STATES**
3 **CODE.**

4 Section 257(b)(2) of the Balanced Budget and Emer-
5 gency Deficit Control Act of 1985 is amended by adding
6 at the end the following new subparagraph:

7 “(E) BUDGETARY EFFECTS OF RULES
8 SUBJECT TO SECTION 802 OF TITLE 5, UNITED
9 STATES CODE.—Any rules subject to the con-
10 gressional approval procedure set forth in sec-
11 tion 802 of chapter 8 of title 5, United States
12 Code, affecting budget authority, outlays, or re-
13 cepts shall be assumed to be effective unless it
14 is not approved in accordance with such sec-
15 tion.”.

16 **SEC. 803. GOVERNMENT ACCOUNTABILITY OFFICE STUDY**
17 **OF RULES.**

18 (a) IN GENERAL.—The Comptroller General of the
19 United States shall conduct a study to determine, as of
20 the date of the enactment of this Act—

21 (1) how many rules (as such term is defined in
22 section 804 of title 5, United States Code) were in
23 effect;

24 (2) how many major rules (as such term is de-
25 fined in section 804 of title 5, United States Code)
26 were in effect; and

1 (3) the total estimated economic cost imposed
2 by all such rules.

3 (b) REPORT.—Not later than one year after the date
4 of the enactment of this Act, the Comptroller General of
5 the United States shall submit a report to Congress that
6 contains the findings of the study conducted under sub-
7 section (a).

8 **TITLE IX—SIMPLIFICATION OF**
9 **MERGERS, ACQUISITIONS**
10 **AND SALES OF SMALL BUSI-**
11 **NESS**

12 **SEC. 901. REGISTRATION EXEMPTION FOR MERGER AND**
13 **ACQUISITION BROKERS.**

14 (a) REGISTRATION EXEMPTION.—Section 15(b) of
15 the Securities Exchange Act of 1934 (15 U.S.C. 78o(b))
16 is amended by adding at the end the following:

17 “(13) REGISTRATION EXEMPTION FOR MERGER
18 AND ACQUISITION BROKERS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), an M&A broker shall be ex-
21 empt from registration under this section.

22 “(B) EXCLUDED ACTIVITIES.—An M&A
23 broker is not exempt from registration under
24 this paragraph if such broker does any of the
25 following:

1 “(i) Directly or indirectly, in connec-
2 tion with the transfer of ownership of an
3 eligible privately held company, receives,
4 holds, transmits, or has custody of the
5 funds or securities to be exchanged by the
6 parties to the transaction.

7 “(ii) Engages on behalf of an issuer in
8 a public offering of any class of securities
9 that is registered, or is required to be reg-
10 istered, with the Commission under section
11 12 or with respect to which the issuer files,
12 or is required to file, periodic information,
13 documents, and reports under subsection
14 (d).

15 “(C) RULE OF CONSTRUCTION.—Nothing
16 in this paragraph shall be construed to limit
17 any other authority of the Commission to ex-
18 empt any person, or any class of persons, from
19 any provision of this title, or from any provision
20 of any rule or regulation thereunder.

21 “(D) DEFINITIONS.—In this paragraph:

22 “(i) CONTROL.—The term ‘control’
23 means the power, directly or indirectly, to
24 direct the management or policies of a
25 company, whether through ownership of

1 securities, by contract, or otherwise. There
2 is a presumption of control for any person
3 who—

4 “(I) is a director, general part-
5 ner, member or manager of a limited
6 liability company, or officer exercising
7 executive responsibility (or has similar
8 status or functions);

9 “(II) has the right to vote 20
10 percent or more of a class of voting
11 securities or the power to sell or direct
12 the sale of 20 percent or more of a
13 class of voting securities; or

14 “(III) in the case of a partner-
15 ship or limited liability company, has
16 the right to receive upon dissolution,
17 or has contributed, 20 percent or
18 more of the capital.

19 “(ii) ELIGIBLE PRIVATELY HELD
20 COMPANY.—The term ‘eligible privately
21 held company’ means a company that
22 meets both of the following conditions:

23 “(I) The company does not have
24 any class of securities registered, or
25 required to be registered, with the

1 Commission under section 12 or with
2 respect to which the company files, or
3 is required to file, periodic informa-
4 tion, documents, and reports under
5 subsection (d).

6 “(II) In the fiscal year ending
7 immediately before the fiscal year in
8 which the services of the M&A broker
9 are initially engaged with respect to
10 the securities transaction, the com-
11 pany meets either or both of the fol-
12 lowing conditions (determined in ac-
13 cordance with the historical financial
14 accounting records of the company):

15 “(aa) The earnings of the
16 company before interest, taxes,
17 depreciation, and amortization
18 are less than \$25,000,000.

19 “(bb) The gross revenues of
20 the company are less than
21 \$250,000,000.

22 “(iii) M&A BROKER.—The term ‘M&A
23 broker’ means a broker, and any person
24 associated with a broker, engaged in the
25 business of effecting securities transactions

1 solely in connection with the transfer of
2 ownership of an eligible privately held com-
3 pany, regardless of whether the broker acts
4 on behalf of a seller or buyer, through the
5 purchase, sale, exchange, issuance, repur-
6 chase, or redemption of, or a business com-
7 bination involving, securities or assets of
8 the eligible privately held company, if the
9 broker reasonably believes that—

10 “(I) upon consummation of the
11 transaction, any person acquiring se-
12 curities or assets of the eligible pri-
13 vately held company, acting alone or
14 in concert, will control and, directly or
15 indirectly, will be active in the man-
16 agement of the eligible privately held
17 company or the business conducted
18 with the assets of the eligible privately
19 held company; and

20 “(II) if any person is offered se-
21 curities in exchange for securities or
22 assets of the eligible privately held
23 company, such person will, prior to
24 becoming legally bound to consum-
25 mate the transaction, receive or have

1 reasonable access to the most recent
2 year-end balance sheet, income state-
3 ment, statement of changes in finan-
4 cial position, and statement of owner's
5 equity of the issuer of the securities
6 offered in exchange, and, if the finan-
7 cial statements of the issuer are au-
8 dited, the related report of the inde-
9 pendent auditor, a balance sheet
10 dated not more than 120 days before
11 the date of the offer, and information
12 pertaining to the management, busi-
13 ness, results of operations for the pe-
14 riod covered by the foregoing financial
15 statements, and material loss contin-
16 gencies of the issuer.

17 “(E) INFLATION ADJUSTMENT.—

18 “(i) IN GENERAL.—On the date that
19 is 5 years after the date of the enactment
20 of the Small Business Mergers, Acquisi-
21 tions, Sales, and Brokerage Simplification
22 Act of 2014, and every 5 years thereafter,
23 each dollar amount in subparagraph
24 (D)(ii)(II) shall be adjusted by—

1 “(I) dividing the annual value of
2 the Employment Cost Index For
3 Wages and Salaries, Private Industry
4 Workers (or any successor index), as
5 published by the Bureau of Labor
6 Statistics, for the calendar year pre-
7 ceding the calendar year in which the
8 adjustment is being made by the an-
9 nual value of such index (or suc-
10 cessor) for the calendar year ending
11 December 31, 2012; and

12 “(II) multiplying such dollar
13 amount by the quotient obtained
14 under subclause (I).

15 “(ii) ROUNDING.—Each dollar
16 amount determined under clause (i) shall
17 be rounded to the nearest multiple of
18 \$100,000.”.

19 (b) EFFECTIVE DATE.—This title and any amend-
20 ment made by this title shall take effect on the date that
21 is 90 days after the date of the enactment of this Act.

DIVISION III—ENERGY
TITLE X—OFFSHORE ENERGY
AND JOBS ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the “Offshore Energy and Jobs Act”.

Subtitle A—Outer Continental Shelf Leasing Program Reforms

SEC. 1011. OUTER CONTINENTAL SHELF LEASING PROGRAM REFORMS.

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

“(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area.

1 “(B) The Secretary shall include in each pro-
2 posed oil and gas leasing program under this section
3 any State subdivision of an outer Continental Shelf
4 planning area that the Governor of the State that
5 represents that subdivision requests be made avail-
6 able for leasing. The Secretary may not remove such
7 a subdivision from the program until publication of
8 the final program, and shall include and consider all
9 such subdivisions in any environmental review con-
10 ducted and statement prepared for such program
11 under section 102(2) of the National Environmental
12 Policy Act of 1969 (42 U.S.C. 4332(2)).

13 “(C) In this paragraph the term ‘available un-
14 leased acreage’ means that portion of the outer Con-
15 tinental Shelf that is not under lease at the time of
16 a proposed lease sale, and that has not otherwise
17 been made unavailable for leasing by law.

18 “(6)(A) In the 5-year oil and gas leasing pro-
19 gram, the Secretary shall make available for leasing
20 any outer Continental Shelf planning areas that—

21 “(i) are estimated to contain more than
22 2,500,000,000 barrels of oil; or

23 “(ii) are estimated to contain more than
24 7,500,000,000,000 cubic feet of natural gas.

1 “(B) To determine the planning areas described
 2 in subparagraph (A), the Secretary shall use the
 3 document entitled ‘Minerals Management Service
 4 Assessment of Undiscovered Technically Recoverable
 5 Oil and Gas Resources of the Nation’s Outer Conti-
 6 nental Shelf, 2006’.”.

7 **SEC. 1012. DOMESTIC OIL AND NATURAL GAS PRODUCTION**
 8 **GOAL.**

9 Section 18(b) of the Outer Continental Shelf Lands
 10 Act (43 U.S.C. 1344(b)) is amended to read as follows:

11 “(b) DOMESTIC OIL AND NATURAL GAS PRODUC-
 12 TION GOAL.—

13 “(1) IN GENERAL.—In developing a 5-year oil
 14 and gas leasing program, and subject to paragraph
 15 (2), the Secretary shall determine a domestic stra-
 16 tegic production goal for the development of oil and
 17 natural gas as a result of that program. Such goal
 18 shall be—

19 “(A) the best estimate of the possible in-
 20 crease in domestic production of oil and natural
 21 gas from the outer Continental Shelf;

22 “(B) focused on meeting domestic demand
 23 for oil and natural gas and reducing the de-
 24 pendence of the United States on foreign en-
 25 ergy; and

1 “(C) focused on the production increases
2 achieved by the leasing program at the end of
3 the 15-year period beginning on the effective
4 date of the program.

5 “(2) PROGRAM GOAL.—For purposes of the 5-
6 year oil and gas leasing program, the production
7 goal referred to in paragraph (1) shall be an in-
8 crease by 2032 of—

9 “(A) no less than 3,000,000 barrels in the
10 amount of oil produced per day; and

11 “(B) no less than 10,000,000,000 cubic
12 feet in the amount of natural gas produced per
13 day.

14 “(3) REPORTING.—The Secretary shall report
15 annually, beginning at the end of the 5-year period
16 for which the program applies, to the Committee on
17 Natural Resources of the House of Representatives
18 and the Committee on Energy and Natural Re-
19 sources of the Senate on the progress of the pro-
20 gram in meeting the production goal. The Secretary
21 shall identify in the report projections for production
22 and any problems with leasing, permitting, or pro-
23 duction that will prevent meeting the goal.”.

1 **SEC. 1013. DEVELOPMENT AND SUBMITTAL OF NEW 5-YEAR**
2 **OIL AND GAS LEASING PROGRAM.**

3 (a) IN GENERAL.—The Secretary of the Interior
4 shall—

5 (1) by not later than July 15, 2014, publish
6 and submit to Congress a new proposed oil and gas
7 leasing program under section 18 of the Outer Con-
8 tinental Shelf Lands Act (43 U.S.C. 1344) for the
9 5-year period beginning on such date and ending
10 July 15, 2020; and

11 (2) by not later than July 15, 2015, approve a
12 final oil and gas leasing program under such section
13 for such period.

14 (b) CONSIDERATION OF ALL AREAS.—In preparing
15 such program the Secretary shall include consideration of
16 areas of the Continental Shelf off the coasts of all States
17 (as such term is defined in section 2 of that Act, as
18 amended by this title), that are subject to leasing under
19 this title.

20 (c) TECHNICAL CORRECTION.—Section 18(d)(3) of
21 the Outer Continental Shelf Lands Act (43 U.S.C.
22 1344(d)(3)) is amended by striking “or after eighteen
23 months following the date of enactment of this section,
24 whichever first occurs,”.

1 **SEC. 1014. RULE OF CONSTRUCTION.**

2 Nothing in this title shall be construed to authorize
3 the issuance of a lease under the Outer Continental Shelf
4 Lands Act (43 U.S.C. 1331 et seq.) to any person des-
5 ignated for the imposition of sanctions pursuant to—

6 (1) the Iran Sanctions Act of 1996 (50 U.S.C.
7 1701 note), the Comprehensive Iran Sanctions, Ac-
8 countability and Divestiture Act of 2010 (22 U.S.C.
9 8501 et seq.), the Iran Threat Reduction and Syria
10 Human Rights Act of 2012 (22 U.S.C. 8701 et
11 seq.), section 1245 of the National Defense Author-
12 ization Act for Fiscal Year 2012 (22 U.S.C. 8513a),
13 or the Iran Freedom and Counter-Proliferation Act
14 of 2012 (22 U.S.C. 8801 et seq.);

15 (2) Executive Order No. 13622 (July 30,
16 2012), Executive Order No. 13628 (October 9,
17 2012), or Executive Order No. 13645 (June 3,
18 2013);

19 (3) Executive Order No. 13224 (September 23,
20 2001) or Executive Order No. 13338 (May 11,
21 2004); or

22 (4) the Syria Accountability and Lebanese Sov-
23 ereignty Restoration Act of 2003 (22 U.S.C. 2151
24 note).

1 **Subtitle B—Directing the President**
2 **To Conduct New OCS Sales in**
3 **Virginia, South Carolina, and**
4 **California**

5 **SEC. 1021. REQUIREMENT TO CONDUCT PROPOSED OIL**
6 **AND GAS LEASE SALE 220 ON THE OUTER**
7 **CONTINENTAL SHELF OFFSHORE VIRGINIA.**

8 (a) IN GENERAL.—Notwithstanding the exclusion of
9 Lease Sale 220 in the Final Outer Continental Shelf Oil
10 & Gas Leasing Program 2012–2017, the Secretary of the
11 Interior shall conduct offshore oil and gas Lease Sale 220
12 under section 8 of the Outer Continental Shelf Lands Act
13 (43 U.S.C. 1337) as soon as practicable, but not later
14 than one year after the date of enactment of this Act.

15 (b) REQUIREMENT TO MAKE REPLACEMENT LEASE
16 BLOCKS AVAILABLE.—For each lease block in a proposed
17 lease sale under this section for which the Secretary of
18 Defense, in consultation with the Secretary of the Interior,
19 under the Memorandum of Agreement referred to in sec-
20 tion 1025(b), issues a statement proposing deferral from
21 a lease offering due to defense-related activities that are
22 irreconcilable with mineral exploration and development,
23 the Secretary of the Interior, in consultation with the Sec-
24 retary of Defense, shall make available in the same lease
25 sale one other lease block in the Virginia lease sale plan-

1 ning area that is acceptable for oil and gas exploration
2 and production in order to mitigate conflict.

3 (c) BALANCING MILITARY AND ENERGY PRODUC-
4 TION GOALS.—In recognition that the Outer Continental
5 Shelf oil and gas leasing program and the domestic energy
6 resources produced therefrom are integral to national se-
7 curity, the Secretary of the Interior and the Secretary of
8 Defense shall work jointly in implementing this section in
9 order to ensure achievement of the following common
10 goals:

11 (1) Preserving the ability of the Armed Forces
12 of the United States to maintain an optimum state
13 of readiness through their continued use of the
14 Outer Continental Shelf.

15 (2) Allowing effective exploration, development,
16 and production of our Nation’s oil, gas, and renew-
17 able energy resources.

18 (d) DEFINITIONS.—In this section:

19 (1) LEASE SALE 220.—The term “Lease Sale
20 220” means such lease sale referred to in the Re-
21 quest for Comments on the Draft Proposed 5-Year
22 Outer Continental Shelf (OCS) Oil and Gas Leasing
23 Program for 2010–2015 and Notice of Intent To
24 Prepare an Environmental Impact Statement (EIS)

1 for the Proposed 5-Year Program published January
2 21, 2009 (74 Fed. Reg. 3631).

3 (2) VIRGINIA LEASE SALE PLANNING AREA.—
4 The term “Virginia lease sale planning area” means
5 the area of the outer Continental Shelf (as that term
6 is defined in the Outer Continental Shelf Lands Act
7 (33 U.S.C. 1331 et seq.)) that is bounded by—

8 (A) a northern boundary consisting of a
9 straight line extending from the northernmost
10 point of Virginia’s seaward boundary to the
11 point on the seaward boundary of the United
12 States exclusive economic zone located at 37 de-
13 grees 17 minutes 1 second North latitude, 71
14 degrees 5 minutes 16 seconds West longitude;
15 and

16 (B) a southern boundary consisting of a
17 straight line extending from the southernmost
18 point of Virginia’s seaward boundary to the
19 point on the seaward boundary of the United
20 States exclusive economic zone located at 36 de-
21 grees 31 minutes 58 seconds North latitude, 71
22 degrees 30 minutes 1 second West longitude.

23 **SEC. 1022. SOUTH CAROLINA LEASE SALE.**

24 Notwithstanding inclusion of the South Atlantic
25 Outer Continental Shelf Planning Area in the Final Outer

1 Continental Shelf Oil & Gas Leasing Program 2012–2017,
 2 the Secretary of the Interior shall conduct a lease sale not
 3 later than 2 years after the date of the enactment of this
 4 Act for areas off the coast of South Carolina determined
 5 by the Secretary to have the most geologically promising
 6 hydrocarbon resources and constituting not less than 25
 7 percent of the leasable area within the South Carolina off-
 8 shore administrative boundaries depicted in the notice en-
 9 titled “Federal Outer Continental Shelf (OCS) Adminis-
 10 trative Boundaries Extending from the Submerged Lands
 11 Act Boundary seaward to the Limit of the United States
 12 Outer Continental Shelf”, published January 3, 2006 (71
 13 Fed. Reg. 127).

14 **SEC. 1023. SOUTHERN CALIFORNIA EXISTING INFRASTRUC-**
 15 **TURE LEASE SALE.**

16 (a) IN GENERAL.—The Secretary of the Interior shall
 17 offer for sale leases of tracts in the Santa Maria and
 18 Santa Barbara/Ventura Basins of the Southern California
 19 OCS Planning Area as soon as practicable, but not later
 20 than December 31, 2014.

21 (b) USE OF EXISTING STRUCTURES OR ONSHORE-
 22 BASED DRILLING.—The Secretary of the Interior shall in-
 23 clude in leases offered for sale under this lease sale such
 24 terms and conditions as are necessary to require that de-
 25 velopment and production may occur only from offshore

1 infrastructure in existence on the date of the enactment
2 of this Act or from onshore-based, extended-reach drilling.

3 **SEC. 1024. ENVIRONMENTAL IMPACT STATEMENT RE-**
4 **QUIREMENT.**

5 (a) IN GENERAL.—For the purposes of this title, the
6 Secretary of the Interior shall prepare a multisale environ-
7 mental impact statement under section 102 of the Na-
8 tional Environmental Policy Act of 1969 (42 U.S.C. 4332)
9 for all lease sales required under this subtitle.

10 (b) ACTIONS TO BE CONSIDERED.—Notwithstanding
11 section 102 of the National Environmental Policy Act of
12 1969 (42 U.S.C. 4332), in such statement—

13 (1) the Secretary is not required to identify
14 nonleasing alternative courses of action or to analyze
15 the environmental effects of such alternative courses
16 of action; and

17 (2) the Secretary shall only—

18 (A) identify a preferred action for leasing
19 and not more than one alternative leasing pro-
20 posal; and

21 (B) analyze the environmental effects and
22 potential mitigation measures for such pre-
23 ferred action and such alternative leasing pro-
24 posal.

1 **SEC. 1025. NATIONAL DEFENSE.**

2 (a) NATIONAL DEFENSE AREAS.—This title does not
3 affect the existing authority of the Secretary of Defense,
4 with the approval of the President, to designate national
5 defense areas on the Outer Continental Shelf pursuant to
6 section 12(d) of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1341(d)).

8 (b) PROHIBITION ON CONFLICTS WITH MILITARY
9 OPERATIONS.—No person may engage in any exploration,
10 development, or production of oil or natural gas on the
11 Outer Continental Shelf under a lease issued under this
12 title that would conflict with any military operation, as
13 determined in accordance with the Memorandum of Agree-
14 ment between the Department of Defense and the Depart-
15 ment of the Interior on Mutual Concerns on the Outer
16 Continental Shelf signed July 20, 1983, and any revision
17 or replacement for that agreement that is agreed to by
18 the Secretary of Defense and the Secretary of the Interior
19 after that date but before the date of issuance of the lease
20 under which such exploration, development, or production
21 is conducted.

22 **SEC. 1026. OPENING THE EASTERN GULF OF MEXICO FOR**
23 **EXPLORATION.**

24 (a) REPEAL.—Section 104 of the Gulf of Mexico En-
25 ergy Security Act of 2006 (title I of division C of Public
26 Law 109–432; 43 U.S.C. 1331 note) is repealed.

1 (b) EXCHANGES NOT AFFECTED.—Subsection (a) of
 2 this section shall not affect any exchange made before the
 3 date of the enactment of this Act.

4 **Subtitle C—Equitable Sharing of**
 5 **Outer Continental Shelf Revenues**

6 **SEC. 1031. DISPOSITION OF OUTER CONTINENTAL SHELF**
 7 **REVENUES TO COASTAL STATES.**

8 (a) IN GENERAL.—Section 9 of the Outer Conti-
 9 nental Shelf Lands Act (43 U.S.C. 1338) is amended—
 10 (1) in the existing text—

11 (A) in the first sentence, by striking “All
 12 rentals,” and inserting the following:

13 “(c) DISPOSITION OF REVENUE UNDER OLD
 14 LEASES.—All rentals,”; and

15 (B) in subsection (c) (as designated by the
 16 amendment made by subparagraph (A) of this
 17 paragraph), by striking “for the period from
 18 June 5, 1950, to date, and thereafter” and in-
 19 serting “in the period beginning June 5, 1950,
 20 and ending on the date of enactment of the Off-
 21 shore Energy and Jobs Act”;

22 (2) by adding after subsection (c) (as so des-
 23 ignated) the following:

24 “(d) DEFINITIONS.—In this section:

1 “(1) COASTAL STATE.—The term ‘coastal
2 State’ includes a territory of the United States.

3 “(2) NEW LEASING REVENUES.—The term ‘new
4 leasing revenues’—

5 “(A) means amounts received by the
6 United States as bonuses, rents, and royalties
7 under leases for oil and gas, wind, tidal, or
8 other energy exploration, development, and pro-
9 duction on new areas of the outer Continental
10 Shelf that are authorized to be made available
11 for leasing as a result of enactment of the Off-
12 shore Energy and Jobs Act and leasing under
13 that Act; and

14 “(B) does not include amounts received by
15 the United States under any lease of an area lo-
16 cated in the boundaries of the Central Gulf of
17 Mexico and Western Gulf of Mexico Outer Con-
18 tinental Shelf Planning Areas on the date of en-
19 actment of the Offshore Energy and Jobs Act,
20 including a lease issued before, on, or after
21 such date of enactment.”; and

22 (3) by inserting before subsection (c) (as so
23 designated) the following:

24 “(a) PAYMENT OF NEW LEASING REVENUES TO
25 COASTAL STATES.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), of the amount of new leasing revenues re-
3 ceived by the United States each fiscal year, 37.5
4 percent shall be allocated and paid in accordance
5 with subsection (b) to coastal States that are af-
6 fected States with respect to the leases under which
7 those revenues are received by the United States.

8 “(2) PHASE-IN.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), paragraph (1) shall be ap-
11 plied—

12 “(i) with respect to new leasing reve-
13 nues under leases awarded under the first
14 leasing program under section 18(a) that
15 takes effect after the date of enactment of
16 the Offshore Energy and Jobs Act, by sub-
17 stituting ‘12.5 percent’ for ‘37.5 percent’;
18 and

19 “(ii) with respect to new leasing reve-
20 nues under leases awarded under the sec-
21 ond leasing program under section 18(a)
22 that takes effect after the date of enact-
23 ment of the Offshore Energy and Jobs
24 Act, by substituting ‘25 percent’ for ‘37.5
25 percent’.

1 “(B) EXEMPTED LEASE SALES.—This
2 paragraph shall not apply with respect to any
3 lease issued under title II of the Offshore En-
4 ergy and Jobs Act.

5 “(b) ALLOCATION OF PAYMENTS.—

6 “(1) IN GENERAL.—The amount of new leasing
7 revenues received by the United States with respect
8 to a leased tract that are required to be paid to
9 coastal States in accordance with this subsection
10 each fiscal year shall be allocated among and paid
11 to coastal States that are within 200 miles of the
12 leased tract, in amounts that are inversely propor-
13 tional to the respective distances between the point
14 on the coastline of each such State that is closest to
15 the geographic center of the lease tract, as deter-
16 mined by the Secretary.

17 “(2) MINIMUM AND MAXIMUM ALLOCATION.—
18 The amount allocated to a coastal State under para-
19 graph (1) each fiscal year with respect to a leased
20 tract shall be—

21 “(A) in the case of a coastal State that is
22 the nearest State to the geographic center of
23 the leased tract, not less than 25 percent of the
24 total amounts allocated with respect to the
25 leased tract;

1 “(B) in the case of any other coastal State,
2 not less than 10 percent, and not more than 15
3 percent, of the total amounts allocated with re-
4 spect to the leased tract; and

5 “(C) in the case of a coastal State that is
6 the only coastal State within 200 miles of a
7 leased tract, 100 percent of the total amounts
8 allocated with respect to the leased tract.

9 “(3) ADMINISTRATION.—Amounts allocated to
10 a coastal State under this subsection—

11 “(A) shall be available to the coastal State
12 without further appropriation;

13 “(B) shall remain available until expended;

14 “(C) shall be in addition to any other
15 amounts available to the coastal State under
16 this Act; and

17 “(D) shall be distributed in the fiscal year
18 following receipt.

19 “(4) USE OF FUNDS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), a coastal State may use
22 funds allocated and paid to it under this sub-
23 section for any purpose as determined by the
24 laws of that State.

1 “(B) RESTRICTION ON USE FOR MATCH-
2 ING.—Funds allocated and paid to a coastal
3 State under this subsection may not be used as
4 matching funds for any other Federal pro-
5 gram.”.

6 (b) LIMITATION ON APPLICATION.—This section and
7 the amendment made by this section shall not affect the
8 application of section 105 of the Gulf of Mexico Energy
9 Security Act of 2006 (title I of division C of Public Law
10 109–432; (43 U.S.C. 1331 note)), as in effect before the
11 enactment of this Act, with respect to revenues received
12 by the United States under oil and gas leases issued for
13 tracts located in the Western and Central Gulf of Mexico
14 Outer Continental Shelf Planning Areas, including such
15 leases issued on or after the date of the enactment of this
16 Act.

17 **Subtitle D—Reorganization of Min-**
18 **erals Management Agencies of**
19 **the Department of the Interior**

20 **SEC. 1041. ESTABLISHMENT OF UNDER SECRETARY FOR**
21 **ENERGY, LANDS, AND MINERALS AND ASSIST-**
22 **ANT SECRETARY OF OCEAN ENERGY AND**
23 **SAFETY.**

24 There shall be in the Department of the Interior—

1 (1) an Under Secretary for Energy, Lands, and
2 Minerals, who shall—

3 (A) be appointed by the President, by and
4 with the advise and consent of the Senate;

5 (B) report to the Secretary of the Interior
6 or, if directed by the Secretary, to the Deputy
7 Secretary of the Interior;

8 (C) be paid at the rate payable for level III
9 of the Executive Schedule; and

10 (D) be responsible for—

11 (i) the safe and responsible develop-
12 ment of our energy and mineral resources
13 on Federal lands in appropriate accordance
14 with United States energy demands; and

15 (ii) ensuring multiple-use missions of
16 the Department of the Interior that pro-
17 mote the safe and sustained development
18 of energy and minerals resources on public
19 lands (as that term is defined in the Fed-
20 eral Land Policy and Management Act of
21 1976 (43 U.S.C. 1701 et seq.));

22 (2) an Assistant Secretary of Ocean Energy
23 and Safety, who shall—

24 (A) be appointed by the President, by and
25 with the advise and consent of the Senate;

1 (B) report to the Under Secretary for En-
2 ergy, Lands, and Minerals;

3 (C) be paid at the rate payable for level IV
4 of the Executive Schedule; and

5 (D) be responsible for ensuring safe and
6 efficient development of energy and minerals on
7 the Outer Continental Shelf of the United
8 States; and

9 (3) an Assistant Secretary of Land and Min-
10 erals Management, who shall—

11 (A) be appointed by the President, by and
12 with the advise and consent of the Senate;

13 (B) report to the Under Secretary for En-
14 ergy, Lands, and Minerals;

15 (C) be paid at the rate payable for level IV
16 of the Executive Schedule; and

17 (D) be responsible for ensuring safe and
18 efficient development of energy and minerals on
19 public lands and other Federal onshore lands
20 under the jurisdiction of the Department of the
21 Interior, including implementation of the Min-
22 eral Leasing Act (30 U.S.C. 181 et seq.) and
23 the Surface Mining Control and Reclamation
24 Act (30 U.S.C. 1201 et seq.) and administra-
25 tion of the Office of Surface Mining.

1 **SEC. 1042. BUREAU OF OCEAN ENERGY.**

2 (a) ESTABLISHMENT.—There is established in the
3 Department of the Interior a Bureau of Ocean Energy (re-
4 ferred to in this section as the “Bureau”), which shall—

5 (1) be headed by a Director of Ocean Energy
6 (referred to in this section as the “Director”); and

7 (2) be administered under the direction of the
8 Assistant Secretary of Ocean Energy and Safety.

9 (b) DIRECTOR.—

10 (1) APPOINTMENT.—The Director shall be ap-
11 pointed by the Secretary of the Interior.

12 (2) COMPENSATION.—The Director shall be
13 compensated at the rate provided for level V of the
14 Executive Schedule under section 5316 of title 5,
15 United States Code.

16 (c) DUTIES.—

17 (1) IN GENERAL.—The Secretary of the Inte-
18 rior shall carry out through the Bureau all func-
19 tions, powers, and duties vested in the Secretary re-
20 lating to the administration of a comprehensive pro-
21 gram of offshore mineral and renewable energy re-
22 sources management.

23 (2) SPECIFIC AUTHORITIES.—The Director
24 shall promulgate and implement regulations—

25 (A) for the proper issuance of leases for
26 the exploration, development, and production of

1 nonrenewable and renewable energy and min-
2 eral resources on the Outer Continental Shelf;

3 (B) relating to resource identification, ac-
4 cess, evaluation, and utilization;

5 (C) for development of leasing plans, lease
6 sales, and issuance of leases for such resources;
7 and

8 (D) regarding issuance of environmental
9 impact statements related to leasing and post
10 leasing activities including exploration, develop-
11 ment, and production, and the use of third
12 party contracting for necessary environmental
13 analysis for the development of such resources.

14 (3) LIMITATION.—The Secretary shall not carry
15 out through the Bureau any function, power, or duty
16 that is—

17 (A) required by section 1043 to be carried
18 out through the Ocean Energy Safety Service;
19 or

20 (B) required by section 1044 to be carried
21 out through the Office of Natural Resources
22 Revenue.

23 (d) RESPONSIBILITIES OF LAND MANAGEMENT
24 AGENCIES.—Nothing in this section shall affect the au-
25 thorities of the Bureau of Land Management under the

1 Federal Land Policy and Management Act of 1976 (43
2 U.S.C. 1701 et seq.) or of the Forest Service under the
3 National Forest Management Act of 1976 (Public Law
4 94–588).

5 **SEC. 1043. OCEAN ENERGY SAFETY SERVICE.**

6 (a) ESTABLISHMENT.—There is established in the
7 Department of the Interior an Ocean Energy Safety Serv-
8 ice (referred to in this section as the “Service”), which
9 shall—

10 (1) be headed by a Director of Energy Safety
11 (referred to in this section as the “Director”); and

12 (2) be administered under the direction of the
13 Assistant Secretary of Ocean Energy and Safety.

14 (b) DIRECTOR.—

15 (1) APPOINTMENT.—The Director shall be ap-
16 pointed by the Secretary of the Interior.

17 (2) COMPENSATION.—The Director shall be
18 compensated at the rate provided for level V of the
19 Executive Schedule under section 5316 of title 5,
20 United States Code.

21 (c) DUTIES.—

22 (1) IN GENERAL.—The Secretary of the Inte-
23 rior shall carry out through the Service all functions,
24 powers, and duties vested in the Secretary relating
25 to the administration of safety and environmental

1 enforcement activities related to offshore mineral
2 and renewable energy resources on the Outer Conti-
3 nental Shelf pursuant to the Outer Continental Shelf
4 Lands Act (43 U.S.C. 1331 et seq.) including the
5 authority to develop, promulgate, and enforce regu-
6 lations to ensure the safe and sound exploration, de-
7 velopment, and production of mineral and renewable
8 energy resources on the Outer Continental Shelf in
9 a timely fashion.

10 (2) SPECIFIC AUTHORITIES.—The Director
11 shall be responsible for all safety activities related to
12 exploration and development of renewable and min-
13 eral resources on the Outer Continental Shelf, in-
14 cluding—

15 (A) exploration, development, production,
16 and ongoing inspections of infrastructure;

17 (B) the suspending or prohibiting, on a
18 temporary basis, any operation or activity, in-
19 cluding production under leases held on the
20 Outer Continental Shelf, in accordance with
21 section 5(a)(1) of the Outer Continental Shelf
22 Lands Act (43 U.S.C. 1334(a)(1));

23 (C) cancelling any lease, permit, or right-
24 of-way on the Outer Continental Shelf, in ac-
25 cordance with section 5(a)(2) of the Outer Con-

1 tinental Shelf Lands Act (43 U.S.C.
2 1334(a)(2));

3 (D) compelling compliance with applicable
4 Federal laws and regulations relating to worker
5 safety and other matters;

6 (E) requiring comprehensive safety and en-
7 vironmental management programs for persons
8 engaged in activities connected with the explo-
9 ration, development, and production of mineral
10 or renewable energy resources;

11 (F) developing and implementing regula-
12 tions for Federal employees to carry out any in-
13 spection or investigation to ascertain compli-
14 ance with applicable regulations, including
15 health, safety, or environmental regulations;

16 (G) implementing the Offshore Technology
17 Research and Risk Assessment Program under
18 section 21 of the Outer Continental Shelf
19 Lands Act (43 U.S.C. 1347);

20 (H) summoning witnesses and directing
21 the production of evidence;

22 (I) levying fines and penalties and disquali-
23 fying operators;

24 (J) carrying out any safety, response, and
25 removal preparedness functions; and

1 (K) the processing of permits, exploration
2 plans, development plans.

3 (d) EMPLOYEES.—

4 (1) IN GENERAL.—The Secretary shall ensure
5 that the inspection force of the Bureau consists of
6 qualified, trained employees who meet qualification
7 requirements and adhere to the highest professional
8 and ethical standards.

9 (2) QUALIFICATIONS.—The qualification re-
10 quirements referred to in paragraph (1)—

11 (A) shall be determined by the Secretary,
12 subject to subparagraph (B); and

13 (B) shall include—

14 (i) three years of practical experience
15 in oil and gas exploration, development, or
16 production; or

17 (ii) a degree in an appropriate field of
18 engineering from an accredited institution
19 of higher learning.

20 (3) ASSIGNMENT.—In assigning oil and gas in-
21 spectors to the inspection and investigation of indi-
22 vidual operations, the Secretary shall give due con-
23 sideration to the extent possible to their previous ex-
24 perience in the particular type of oil and gas oper-
25 ation in which such inspections are to be made.

1 (4) BACKGROUND CHECKS.—The Director shall
2 require that an individual to be hired as an inspec-
3 tion officer undergo an employment investigation
4 (including a criminal history record check).

5 (5) LANGUAGE REQUIREMENTS.—Individuals
6 hired as inspectors must be able to read, speak, and
7 write English well enough to—

8 (A) carry out written and oral instructions
9 regarding the proper performance of inspection
10 duties; and

11 (B) write inspection reports and state-
12 ments and log entries in the English language.

13 (6) VETERANS PREFERENCE.—The Director
14 shall provide a preference for the hiring of an indi-
15 vidual as a inspection officer if the individual is a
16 member or former member of the Armed Forces and
17 is entitled, under statute, to retired, retirement, or
18 retainer pay on account of service as a member of
19 the Armed Forces.

20 (7) ANNUAL PROFICIENCY REVIEW.—

21 (A) ANNUAL PROFICIENCY REVIEW.—The
22 Director shall provide that an annual evaluation
23 of each individual assigned inspection duties is
24 conducted and documented.

1 (B) CONTINUATION OF EMPLOYMENT.—An
2 individual employed as an inspector may not
3 continue to be employed in that capacity unless
4 the evaluation demonstrates that the indi-
5 vidual—

6 (i) continues to meet all qualifications
7 and standards;

8 (ii) has a satisfactory record of per-
9 formance and attention to duty based on
10 the standards and requirements in the in-
11 spection program; and

12 (iii) demonstrates the current knowl-
13 edge and skills necessary to courteously,
14 vigilantly, and effectively perform inspec-
15 tion functions.

16 (8) LIMITATION ON RIGHT TO STRIKE.—Any
17 individual that conducts permitting or inspections
18 under this section may not participate in a strike, or
19 assert the right to strike.

20 (9) PERSONNEL AUTHORITY.—Notwithstanding
21 any other provision of law, the Director may employ,
22 appoint, discipline and terminate for cause, and fix
23 the compensation, terms, and conditions of employ-
24 ment of Federal service for individuals as the em-
25 ployees of the Service in order to restore and main-

1 tain the trust of the people of the United States in
2 the accountability of the management of our Na-
3 tion's energy safety program.

4 (10) TRAINING ACADEMY.—

5 (A) IN GENERAL.—The Secretary shall es-
6 tablish and maintain a National Offshore En-
7 ergy Safety Academy (referred to in this para-
8 graph as the “Academy”) as an agency of the
9 Ocean Energy Safety Service.

10 (B) FUNCTIONS OF ACADEMY.—The Sec-
11 retary, through the Academy, shall be respon-
12 sible for—

13 (i) the initial and continued training
14 of both newly hired and experienced off-
15 shore oil and gas inspectors in all aspects
16 of health, safety, environmental, and oper-
17 ational inspections;

18 (ii) the training of technical support
19 personnel of the Bureau;

20 (iii) any other training programs for
21 offshore oil and gas inspectors, Bureau
22 personnel, Department personnel, or other
23 persons as the Secretary shall designate;
24 and

1 (iv) certification of the successful
2 completion of training programs for newly
3 hired and experienced offshore oil and gas
4 inspectors.

5 (C) COOPERATIVE AGREEMENTS.—

6 (i) IN GENERAL.—In performing func-
7 tions under this paragraph, and subject to
8 clause (ii), the Secretary may enter into
9 cooperative educational and training agree-
10 ments with educational institutions, related
11 Federal academies, other Federal agencies,
12 State governments, safety training firms,
13 and oil and gas operators and related in-
14 dustries.

15 (ii) TRAINING REQUIREMENT.—Such
16 training shall be conducted by the Acad-
17 emy in accordance with curriculum needs
18 and assignment of instructional personnel
19 established by the Secretary.

20 (11) USE OF DEPARTMENT PERSONNEL.—In
21 performing functions under this subsection, the Sec-
22 retary shall use, to the extent practicable, the facili-
23 ties and personnel of the Department of the Interior.
24 The Secretary may appoint or assign to the Acad-
25 emy such officers and employees as the Secretary

1 considers necessary for the performance of the du-
2 ties and functions of the Academy.

3 (12) ADDITIONAL TRAINING PROGRAMS.—

4 (A) IN GENERAL.—The Secretary shall
5 work with appropriate educational institutions,
6 operators, and representatives of oil and gas
7 workers to develop and maintain adequate pro-
8 grams with educational institutions and oil and
9 gas operators that are designed—

10 (i) to enable persons to qualify for po-
11 sitions in the administration of this title;
12 and

13 (ii) to provide for the continuing edu-
14 cation of inspectors or other appropriate
15 Department of the Interior personnel.

16 (B) FINANCIAL AND TECHNICAL ASSIST-
17 ANCE.—The Secretary may provide financial
18 and technical assistance to educational institu-
19 tions in carrying out this paragraph.

20 (e) LIMITATION.—The Secretary shall not carry out
21 through the Service any function, power, or duty that is—

22 (1) required by section 1042 to be carried out
23 through Bureau of Ocean Energy; or

24 (2) required by section 1044 to be carried out
25 through the Office of Natural Resources Revenue.

1 **SEC. 1044. OFFICE OF NATURAL RESOURCES REVENUE.**

2 (a) ESTABLISHMENT.—There is established in the
3 Department of the Interior an Office of Natural Resources
4 Revenue (referred to in this section as the “Office”) to
5 be headed by a Director of Natural Resources Revenue
6 (referred to in this section as the “Director”).

7 (b) APPOINTMENT AND COMPENSATION.—

8 (1) IN GENERAL.—The Director shall be ap-
9 pointed by the Secretary of the Interior.

10 (2) COMPENSATION.—The Director shall be
11 compensated at the rate provided for Level V of the
12 Executive Schedule under section 5316 of title 5,
13 United States Code.

14 (c) DUTIES.—

15 (1) IN GENERAL.—The Secretary of the Inte-
16 rior shall carry out, through the Office, all functions,
17 powers, and duties vested in the Secretary and relat-
18 ing to the administration of offshore royalty and rev-
19 enue management functions.

20 (2) SPECIFIC AUTHORITIES.—The Secretary
21 shall carry out, through the Office, all functions,
22 powers, and duties previously assigned to the Min-
23 erals Management Service (including the authority
24 to develop, promulgate, and enforce regulations) re-
25 garding offshore royalty and revenue collection; roy-
26 alty and revenue distribution; auditing and compli-

1 ance; investigation and enforcement of royalty and
2 revenue regulations; and asset management for on-
3 shore and offshore activities.

4 (d) LIMITATION.—The Secretary shall not carry out
5 through the Office any function, power, or duty that is—

6 (1) required by section 1042 to be carried out
7 through Bureau of Ocean Energy; or

8 (2) required by section 1043 to be carried out
9 through the Ocean Energy Safety Service.

10 **SEC. 1045. ETHICS AND DRUG TESTING.**

11 (a) CERTIFICATION.—The Secretary of the Interior
12 shall certify annually that all Department of the Interior
13 officers and employees having regular, direct contact with
14 lessees, contractors, concessionaires, and other businesses
15 interested before the Government as a function of their
16 official duties, or conducting investigations, issuing per-
17 mits, or responsible for oversight of energy programs, are
18 in full compliance with all Federal employee ethics laws
19 and regulations under the Ethics in Government Act of
20 1978 (5 U.S.C. App.) and part 2635 of title 5, Code of
21 Federal Regulations, and all guidance issued under sub-
22 section (c).

23 (b) DRUG TESTING.—The Secretary shall conduct a
24 random drug testing program of all Department of the
25 Interior personnel referred to in subsection (a).

1 (c) GUIDANCE.—Not later than 90 days after the
2 date of enactment of this Act, the Secretary shall issue
3 supplementary ethics and drug testing guidance for the
4 employees for which certification is required under sub-
5 section (a). The Secretary shall update the supplementary
6 ethics guidance not less than once every 3 years there-
7 after.

8 **SEC. 1046. ABOLISHMENT OF MINERALS MANAGEMENT**
9 **SERVICE.**

10 (a) ABOLISHMENT.—The Minerals Management
11 Service is abolished.

12 (b) COMPLETED ADMINISTRATIVE ACTIONS.—

13 (1) IN GENERAL.—Completed administrative
14 actions of the Minerals Management Service shall
15 not be affected by the enactment of this Act, but
16 shall continue in effect according to their terms until
17 amended, modified, superseded, terminated, set
18 aside, or revoked in accordance with law by an offi-
19 cer of the United States or a court of competent ju-
20 risdiction, or by operation of law.

21 (2) COMPLETED ADMINISTRATIVE ACTION DE-
22 FINED.—For purposes of paragraph (1), the term
23 “completed administrative action” includes orders,
24 determinations, memoranda of understanding,
25 memoranda of agreements, rules, regulations, per-

1 sonnel actions, permits, agreements, grants, con-
2 tracts, certificates, licenses, registrations, and privi-
3 leges.

4 (c) PENDING PROCEEDINGS.—Subject to the author-
5 ity of the Secretary of the Interior and the officers of the
6 Department of the Interior under this title—

7 (1) pending proceedings in the Minerals Man-
8 agement Service, including notices of proposed rule-
9 making, and applications for licenses, permits, cer-
10 tificates, grants, and financial assistance, shall con-
11 tinue, notwithstanding the enactment of this title or
12 the vesting of functions of the Service in another
13 agency, unless discontinued or modified under the
14 same terms and conditions and to the same extent
15 that such discontinuance or modification could have
16 occurred if this title had not been enacted; and

17 (2) orders issued in such proceedings, and ap-
18 peals therefrom, and payments made pursuant to
19 such orders, shall issue in the same manner and on
20 the same terms as if this title had not been enacted,
21 and any such orders shall continue in effect until
22 amended, modified, superseded, terminated, set
23 aside, or revoked by an officer of the United States
24 or a court of competent jurisdiction, or by operation
25 of law.

1 (d) PENDING CIVIL ACTIONS.—Subject to the au-
2 thority of the Secretary of the Interior or any officer of
3 the Department of the Interior under this title, pending
4 civil actions shall continue notwithstanding the enactment
5 of this Act, and in such civil actions, proceedings shall be
6 had, appeals taken, and judgments rendered and enforced
7 in the same manner and with the same effect as if such
8 enactment had not occurred.

9 (e) REFERENCES.—References relating to the Min-
10 erals Management Service in statutes, Executive orders,
11 rules, regulations, directives, or delegations of authority
12 that precede the effective date of this title are deemed to
13 refer, as appropriate, to the Department, to its officers,
14 employees, or agents, or to its corresponding organiza-
15 tional units or functions. Statutory reporting requirements
16 that applied in relation to the Minerals Management Serv-
17 ice immediately before the effective date of this title shall
18 continue to apply.

19 **SEC. 1047. CONFORMING AMENDMENTS TO EXECUTIVE**
20 **SCHEDULE PAY RATES.**

21 (a) UNDER SECRETARY FOR ENERGY, LANDS, AND
22 MINERALS.—Section 5314 of title 5, United States Code,
23 is amended by inserting after the item relating to “Under
24 Secretaries of the Treasury (3).” the following:

1 “Under Secretary for Energy, Lands, and Min-
2 erals, Department of the Interior.”.

3 (b) ASSISTANT SECRETARIES.—Section 5315 of title
4 5, United States Code, is amended by striking “Assistant
5 Secretaries of the Interior (6).” and inserting the fol-
6 lowing:

7 “Assistant Secretaries, Department of the Inte-
8 rior (7).”.

9 (c) DIRECTORS.—Section 5316 of title 5, United
10 States Code, is amended by striking “Director, Bureau of
11 Mines, Department of the Interior.” and inserting the fol-
12 lowing new items:

13 “Director, Bureau of Ocean Energy, Depart-
14 ment of the Interior.

15 “Director, Ocean Energy Safety Service, De-
16 partment of the Interior.

17 “Director, Office of Natural Resources Rev-
18 enue, Department of the Interior.”.

19 **SEC. 1048. OUTER CONTINENTAL SHELF ENERGY SAFETY**
20 **ADVISORY BOARD.**

21 (a) ESTABLISHMENT.—The Secretary of the Interior
22 shall establish, under the Federal Advisory Committee
23 Act, an Outer Continental Shelf Energy Safety Advisory
24 Board (referred to in this section as the “Board”)—

1 (1) to provide the Secretary and the Directors
2 established by this title with independent scientific
3 and technical advice on safe, responsible, and timely
4 mineral and renewable energy exploration, develop-
5 ment, and production activities; and

6 (2) to review operations of the National Off-
7 shore Energy Health and Safety Academy estab-
8 lished under section 1043(d), including submitting
9 to the Secretary recommendations of curriculum to
10 ensure training scientific and technical advance-
11 ments.

12 (b) MEMBERSHIP.—

13 (1) SIZE.—The Board shall consist of not more
14 than 11 members, who—

15 (A) shall be appointed by the Secretary
16 based on their expertise in oil and gas drilling,
17 well design, operations, well containment and
18 oil spill response; and

19 (B) must have significant scientific, engi-
20 neering, management, and other credentials and
21 a history of working in the field related to safe
22 energy exploration, development, and produc-
23 tion activities.

24 (2) CONSULTATION AND NOMINATIONS.—The
25 Secretary shall consult with the National Academy

1 of Sciences and the National Academy of Engineer-
2 ing to identify potential candidates for the Board
3 and shall take nominations from the public.

4 (3) TERM.—The Secretary shall appoint Board
5 members to staggered terms of not more than 4
6 years, and shall not appoint a member for more
7 than 2 consecutive terms.

8 (4) BALANCE.—In appointing members to the
9 Board, the Secretary shall ensure a balanced rep-
10 resentation of industry and research interests.

11 (c) CHAIR.—The Secretary shall appoint the Chair
12 for the Board from among its members.

13 (d) MEETINGS.—The Board shall meet not less than
14 3 times per year and shall host, at least once per year,
15 a public forum to review and assess the overall energy
16 safety performance of Outer Continental Shelf mineral
17 and renewable energy resource activities.

18 (e) OFFSHORE DRILLING SAFETY ASSESSMENTS
19 AND RECOMMENDATIONS.—As part of its duties under
20 this section, the Board shall, by not later than 180 days
21 after the date of enactment of this section and every 5
22 years thereafter, submit to the Secretary a report that—

23 (1) assesses offshore oil and gas well control
24 technologies, practices, voluntary standards, and
25 regulations in the United States and elsewhere; and

1 (2) as appropriate, recommends modifications
2 to the regulations issued under this title to ensure
3 adequate protection of safety and the environment,
4 including recommendations on how to reduce regula-
5 tions and administrative actions that are duplicative
6 or unnecessary.

7 (f) REPORTS.—Reports of the Board shall be sub-
8 mitted by the Board to the Committee on Natural Re-
9 sources of the House of Representatives and the Com-
10 mittee on Energy and Natural Resources of the Senate
11 and made available to the public in electronically acces-
12 sible form.

13 (g) TRAVEL EXPENSES.—Members of the Board,
14 other than full-time employees of the Federal Government,
15 while attending meeting of the Board or while otherwise
16 serving at the request of the Secretary or the Director
17 while serving away from their homes or regular places of
18 business, may be allowed travel expenses, including per
19 diem in lieu of subsistence, as authorized by section 5703
20 of title 5, United States Code, for individuals in the Gov-
21 ernment serving without pay.

22 **SEC. 1049. OUTER CONTINENTAL SHELF INSPECTION FEES.**

23 Section 22 of the Outer Continental Shelf Lands Act
24 (43 U.S.C. 1348) is amended by adding at the end of the
25 section the following:

1 “(g) INSPECTION FEES.—

2 “(1) ESTABLISHMENT.—The Secretary of the
3 Interior shall collect from the operators of facilities
4 subject to inspection under subsection (c) non-re-
5 fundable fees for such inspections—

6 “(A) at an aggregate level equal to the
7 amount necessary to offset the annual expenses
8 of inspections of outer Continental Shelf facili-
9 ties (including mobile offshore drilling units) by
10 the Department of the Interior; and

11 “(B) using a schedule that reflects the dif-
12 ferences in complexity among the classes of fa-
13 cilities to be inspected.

14 “(2) OCEAN ENERGY SAFETY FUND.—There is
15 established in the Treasury a fund, to be known as
16 the ‘Ocean Energy Enforcement Fund’ (referred to
17 in this subsection as the ‘Fund’), into which shall be
18 deposited all amounts collected as fees under para-
19 graph (1) and which shall be available as provided
20 under paragraph (3).

21 “(3) AVAILABILITY OF FEES.—

22 “(A) IN GENERAL.—Notwithstanding sec-
23 tion 3302 of title 31, United States Code, all
24 amounts deposited in the Fund—

1 “(i) shall be credited as offsetting col-
2 lections;

3 “(ii) shall be available for expenditure
4 for purposes of carrying out inspections of
5 outer Continental Shelf facilities (including
6 mobile offshore drilling units) and the ad-
7 ministration of the inspection program
8 under this section;

9 “(iii) shall be available only to the ex-
10 tent provided for in advance in an appro-
11 priations Act; and

12 “(iv) shall remain available until ex-
13 pended.

14 “(B) USE FOR FIELD OFFICES.—Not less
15 than 75 percent of amounts in the Fund may
16 be appropriated for use only for the respective
17 Department of the Interior field offices where
18 the amounts were originally assessed as fees.

19 “(4) INITIAL FEES.—Fees shall be established
20 under this subsection for the fiscal year in which
21 this subsection takes effect and the subsequent 10
22 years, and shall not be raised without advise and
23 consent of the Congress, except as determined by the
24 Secretary to be appropriate as an adjustment equal
25 to the percentage by which the Consumer Price

1 Index for the month of June of the calendar year
2 preceding the adjustment exceeds the Consumer
3 Price Index for the month of June of the calendar
4 year in which the claim was determined or last ad-
5 justed.

6 “(5) ANNUAL FEES.—Annual fees shall be col-
7 lected under this subsection for facilities that are
8 above the waterline, excluding drilling rigs, and are
9 in place at the start of the fiscal year. Fees for fiscal
10 year 2014 shall be—

11 “(A) \$10,500 for facilities with no wells,
12 but with processing equipment or gathering
13 lines;

14 “(B) \$17,000 for facilities with 1 to 10
15 wells, with any combination of active or inactive
16 wells; and

17 “(C) \$31,500 for facilities with more than
18 10 wells, with any combination of active or in-
19 active wells.

20 “(6) FEES FOR DRILLING RIGS.—Fees for drill-
21 ing rigs shall be assessed under this subsection for
22 all inspections completed in fiscal years 2015
23 through 2024. Fees for fiscal year 2015 shall be—

1 “(A) \$30,500 per inspection for rigs oper-
2 ating in water depths of 1,000 feet or more;
3 and

4 “(B) \$16,700 per inspection for rigs oper-
5 ating in water depths of less than 1,000 feet.

6 “(7) BILLING.—The Secretary shall bill des-
7 ignated operators under paragraph (5) within 60
8 days after the date of the inspection, with payment
9 required within 30 days of billing. The Secretary
10 shall bill designated operators under paragraph (6)
11 within 30 days of the end of the month in which the
12 inspection occurred, with payment required within
13 30 days after billing.

14 “(8) SUNSET.—No fee may be collected under
15 this subsection for any fiscal year after fiscal year
16 2024.

17 “(9) ANNUAL REPORTS.—

18 “(A) IN GENERAL.—Not later than 60
19 days after the end of each fiscal year beginning
20 with fiscal year 2014, the Secretary shall sub-
21 mit to the Committee on Energy and Natural
22 Resources of the Senate and the Committee on
23 Natural Resources of the House of Representa-
24 tives a report on the operation of the Fund dur-
25 ing the fiscal year.

1 “(B) CONTENTS.—Each report shall in-
2 clude, for the fiscal year covered by the report,
3 the following:

4 “(i) A statement of the amounts de-
5 posited into the Fund.

6 “(ii) A description of the expenditures
7 made from the Fund for the fiscal year, in-
8 cluding the purpose of the expenditures
9 and the additional hiring of personnel.

10 “(iii) A statement of the balance re-
11 maining in the Fund at the end of the fis-
12 cal year.

13 “(iv) An accounting of pace of permit
14 approvals.

15 “(v) If fee increases are proposed
16 after the initial 10-year period referred to
17 in paragraph (5), a proper accounting of
18 the potential adverse economic impacts
19 such fee increases will have on offshore
20 economic activity and overall production,
21 conducted by the Secretary.

22 “(vi) Recommendations to increase
23 the efficacy and efficiency of offshore in-
24 spections.

1 “(vii) Any corrective actions levied
2 upon offshore inspectors as a result of any
3 form of misconduct.”.

4 **SEC. 1050. PROHIBITION ON ACTION BASED ON NATIONAL**
5 **OCEAN POLICY DEVELOPED UNDER EXECU-**
6 **TIVE ORDER NO. 13547.**

7 (a) PROHIBITION.—The Bureau of Ocean Energy
8 and the Ocean Energy Safety Service may not develop,
9 propose, finalize, administer, or implement, any limitation
10 on activities under their jurisdiction as a result of the
11 coastal and marine spatial planning component of the Na-
12 tional Ocean Policy developed under Executive Order No.
13 13547.

14 (b) REPORT ON EXPENDITURES.—Not later than 60
15 days after the date of enactment of this Act, the President
16 shall submit a report to the Committee on Natural Re-
17 sources of the House of Representatives and the Com-
18 mittee on Energy and Natural Resources of the Senate
19 identifying all Federal expenditures in fiscal years 2012,
20 2013, and 2014, by the Bureau of Ocean Energy and the
21 Ocean Energy Safety Service and their predecessor agen-
22 cies, by agency, account, and any pertinent subaccounts,
23 for the development, administration, or implementation of
24 the coastal and marine spatial planning component of the
25 National Ocean Policy developed under Executive Order

1 No. 13547, including staff time, travel, and other related
 2 expenses.

3 **Subtitle E—United States** 4 **Territories**

5 **SEC. 1061. APPLICATION OF OUTER CONTINENTAL SHELF** 6 **LANDS ACT WITH RESPECT TO TERRITORIES** 7 **OF THE UNITED STATES.**

8 Section 2 of the Outer Continental Shelf Lands Act
 9 (43 U.S.C. 1331) is amended—

10 (1) in paragraph (a), by inserting after “con-
 11 trol” the following: “or lying within the United
 12 States exclusive economic zone and the Continental
 13 Shelf adjacent to any territory of the United
 14 States”;

15 (2) in paragraph (p), by striking “and” after
 16 the semicolon at the end;

17 (3) in paragraph (q), by striking the period at
 18 the end and inserting “; and”; and

19 (4) by adding at the end the following:

20 “(r) The term ‘State’ includes each territory of the
 21 United States.”.

22 **Subtitle F—Judicial Review**

23 **SEC. 1071. TIME FOR FILING COMPLAINT.**

24 (a) IN GENERAL.—Any cause of action that arises
 25 from a covered energy decision must be filed not later than

1 the end of the 60-day period beginning on the date of the
2 covered energy decision. Any cause of action not filed with-
3 in this time period shall be barred.

4 (b) EXCEPTION.—Subsection (a) shall not apply to
5 a cause of action brought by a party to a covered energy
6 lease.

7 **SEC. 1072. DISTRICT COURT DEADLINE.**

8 (a) IN GENERAL.—All proceedings that are subject
9 to section 1071—

10 (1) shall be brought in the United States dis-
11 trict court for the district in which the Federal prop-
12 erty for which a covered energy lease is issued is lo-
13 cated or the United States District Court of the Dis-
14 trict of Columbia;

15 (2) shall be resolved as expeditiously as pos-
16 sible, and in any event not more than 170 days after
17 such cause or claim is filed; and

18 (3) shall take precedence over all other pending
19 matters before the district court.

20 (b) FAILURE TO COMPLY WITH DEADLINE.—If an
21 interlocutory or final judgment, decree, or order has not
22 been issued by the district court by the deadline described
23 under this section, the cause or claim shall be dismissed
24 with prejudice and all rights relating to such cause or
25 claim shall be terminated.

1 **SEC. 1073. ABILITY TO SEEK APPELLATE REVIEW.**

2 An interlocutory or final judgment, decree, or order
3 of the district court in a proceeding that is subject to sec-
4 tion 1071 may be reviewed by the United States Court
5 of Appeals for the District of Columbia Circuit. The Dis-
6 trict of Columbia Circuit shall resolve any such appeal as
7 expeditiously as possible and, in any event, not more than
8 180 days after such interlocutory or final judgment, de-
9 cree, or order of the district court was issued.

10 **SEC. 1074. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

11 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
12 SIONS.—In any judicial review of any Federal action under
13 this subtitle, any administrative findings and conclusions
14 relating to the challenged Federal action shall be pre-
15 sumed to be correct unless shown otherwise by clear and
16 convincing evidence contained in the administrative
17 record.

18 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
19 judicial review of any action, or failure to act, under this
20 subtitle, the Court shall not grant or approve any prospec-
21 tive relief unless the Court finds that such relief is nar-
22 rowly drawn, extends no further than necessary to correct
23 the violation of a Federal law requirement, and is the least
24 intrusive means necessary to correct the violation con-
25 cerned.

1 **SEC. 1075. LEGAL FEES.**

2 Any person filing a petition seeking judicial review
3 of any action, or failure to act, under this subtitle who
4 is not a prevailing party shall pay to the prevailing parties
5 (including intervening parties), other than the United
6 States, fees and other expenses incurred by that party in
7 connection with the judicial review, unless the Court finds
8 that the position of the person was substantially justified
9 or that special circumstances make an award unjust.

10 **SEC. 1076. EXCLUSION.**

11 This subtitle shall not apply with respect to disputes
12 between the parties to a lease issued pursuant to an au-
13 thorizing leasing statute regarding the obligations of such
14 lease or the alleged breach thereof.

15 **SEC. 1077. DEFINITIONS.**

16 In this subtitle, the following definitions apply:

17 (1) COVERED ENERGY DECISION.—The term
18 “covered energy decision” means any action or deci-
19 sion by a Federal official regarding the issuance of
20 a covered energy lease.

21 (2) COVERED ENERGY LEASE.—The term “cov-
22 ered energy lease” means any lease under this title
23 or under an oil and gas leasing program under this
24 title.

Subtitle G—Miscellaneous Provisions

SEC. 1081. RULES REGARDING DISTRIBUTION OF REVENUES UNDER GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall issue rules to provide more clarity, certainty, and stability to the revenue streams contemplated by the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note).

(b) CONTENTS.—The rules shall include clarification of the timing and methods of disbursements of funds under section 105(b)(2) of such Act.

SEC. 1082. SEISMIC TESTING IN THE ATLANTIC OUTER CONTINENTAL SHELF.

Not later than December 31, 2014, the Bureau of Ocean Energy Management shall publish a record of decision on the Atlantic G&G Programmatic Final Environmental Impact Statement.

SEC. 1083. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES.

The Gulf of Mexico Energy Security Act of 2006 (title I of division C of Public Law 109–432; (43 U.S.C. 1331 note)) is amended—

1 (1) by striking “2016” each place it appears
2 and inserting “2014”; and

3 (2) by striking section 105(f).

4 **TITLE XI—ALASKAN ENERGY**
5 **FOR AMERICAN JOBS ACT**

6 **SEC. 2001. SHORT TITLE.**

7 This title may be cited as the “Alaskan Energy for
8 American Jobs Act”.

9 **SEC. 2002. DEFINITIONS.**

10 In this title:

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

14 (2) PEER REVIEWED.—The term “peer re-
15 viewed” means reviewed—

16 (A) by individuals chosen by the National
17 Academy of Sciences with no contractual rela-
18 tionship with, or those who have no application
19 for a grant or other funding pending with, the
20 Federal agency with leasing jurisdiction; or

21 (B) if individuals described in subpara-
22 graph (A) are not available, by the top individ-
23 uals in the specified biological fields, as deter-
24 mined by the National Academy of Sciences.

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

4 **SEC. 2003. LEASING PROGRAM FOR LANDS WITHIN THE**
5 **COASTAL PLAIN.**

6 (a) IN GENERAL.—The Secretary shall take such ac-
7 tions as are necessary—

8 (1) to establish and implement, in accordance
9 with this title and acting through the Director of the
10 Bureau of Land Management in consultation with
11 the Director of the United States Fish and Wildlife
12 Service, a competitive oil and gas leasing program
13 that will result in the exploration, development, and
14 production of the oil and gas resources of the Coast-
15 al Plain; and

16 (2) to administer the provisions of this title
17 through regulations, lease terms, conditions, restric-
18 tions, prohibitions, stipulations, and other provisions
19 that ensure the oil and gas exploration, development,
20 and production activities on the Coastal Plain will
21 result in no significant adverse effect on fish and
22 wildlife, their habitat, subsistence resources, and the
23 environment, including, in furtherance of this goal,
24 by requiring the application of the best commercially
25 available technology for oil and gas exploration, de-

1 velopment, and production to all exploration, devel-
2 opment, and production operations under this title
3 in a manner that ensures the receipt of fair market
4 value by the public for the mineral resources to be
5 leased.

6 (b) REPEAL OF EXISTING RESTRICTION.—

7 (1) REPEAL.—Section 1003 of the Alaska Na-
8 tional Interest Lands Conservation Act (16 U.S.C.
9 3143) is repealed.

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

13 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
14 TAIN OTHER LAWS.—

15 (1) COMPATIBILITY.—For purposes of the Na-
16 tional Wildlife Refuge System Administration Act of
17 1966 (16 U.S.C. 668dd et seq.), the oil and gas
18 leasing program and activities authorized by this
19 section in the Coastal Plain are deemed to be com-
20 patible with the purposes for which the Arctic Na-
21 tional Wildlife Refuge was established, and no fur-
22 ther findings or decisions are required to implement
23 this determination.

24 (2) ADEQUACY OF THE DEPARTMENT OF THE
25 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT

1 STATEMENT.—The “Final Legislative Environ-
2 mental Impact Statement” (April 1987) on the
3 Coastal Plain prepared pursuant to section 1002 of
4 the Alaska National Interest Lands Conservation
5 Act (16 U.S.C. 3142) and section 102(2)(C) of the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4332(2)(C)) is deemed to satisfy the require-
8 ments under the National Environmental Policy Act
9 of 1969 that apply with respect to prelease activities
10 under this title, including actions authorized to be
11 taken by the Secretary to develop and promulgate
12 the regulations for the establishment of a leasing
13 program authorized by this title before the conduct
14 of the first lease sale.

15 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
16 TIONS.—Before conducting the first lease sale under
17 this title, the Secretary shall prepare an environ-
18 mental impact statement under the National Envi-
19 ronmental Policy Act of 1969 with respect to the ac-
20 tions authorized by this title that are not referred to
21 in paragraph (2). Notwithstanding any other law,
22 the Secretary is not required to identify nonleasing
23 alternative courses of action or to analyze the envi-
24 ronmental effects of such courses of action. The Sec-
25 retary shall only identify a preferred action for such

1 leasing and a single leasing alternative, and analyze
2 the environmental effects and potential mitigation
3 measures for those two alternatives. The identifica-
4 tion of the preferred action and related analysis for
5 the first lease sale under this title shall be completed
6 within 18 months after the date of enactment of this
7 Act. The Secretary shall only consider public com-
8 ments that specifically address the Secretary's pre-
9 ferred action and that are filed within 20 days after
10 publication of an environmental analysis. Notwith-
11 standing any other law, compliance with this para-
12 graph is deemed to satisfy all requirements for the
13 analysis and consideration of the environmental ef-
14 fects of proposed leasing under this title.

15 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
16 ITY.—Nothing in this title shall be considered to expand
17 or limit State and local regulatory authority.

18 (e) SPECIAL AREAS.—

19 (1) IN GENERAL.—The Secretary, after con-
20 sultation with the State of Alaska, the city of
21 Kaktovik, and the North Slope Borough, may des-
22 ignate up to a total of 45,000 acres of the Coastal
23 Plain as a Special Area if the Secretary determines
24 that the Special Area is of such unique character
25 and interest so as to require special management

1 and regulatory protection. The Secretary shall des-
2 ignate as such a Special Area the Sadlerochit Spring
3 area, comprising approximately 4,000 acres.

4 (2) MANAGEMENT.—Each such Special Area
5 shall be managed so as to protect and preserve the
6 area's unique and diverse character including its
7 fish, wildlife, and subsistence resource values.

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

15 (4) DIRECTIONAL DRILLING.—Notwithstanding
16 the other provisions of this subsection, the Secretary
17 may lease all or a portion of a Special Area under
18 terms that permit the use of horizontal drilling tech-
19 nology from sites on leases tracts located outside the
20 Special Area.

21 (f) LIMITATION ON CLOSED AREAS.—The Sec-
22 retary's sole authority to close lands within the Coastal
23 Plain to oil and gas leasing and to exploration, develop-
24 ment, and production is that set forth in this title.

25 (g) REGULATIONS.—

1 (1) IN GENERAL.—The Secretary shall pre-
2 scribe such regulations as may be necessary to carry
3 out this title, including regulations relating to pro-
4 tection of the fish and wildlife, their habitat, subsist-
5 ence resources, and environment of the Coastal
6 Plain, by no later than 15 months after the date of
7 enactment of this Act.

8 (2) REVISION OF REGULATIONS.—The Sec-
9 retary shall, through a rulemaking conducted in ac-
10 cordance with section 553 of title 5, United States
11 Code, periodically review and, if appropriate, revise
12 the regulations issued under subsection (a) to reflect
13 a preponderance of the best available scientific evi-
14 dence that has been peer reviewed and obtained by
15 following appropriate, documented scientific proce-
16 dures, the results of which can be repeated using
17 those same procedures.

18 **SEC. 2004. LEASE SALES.**

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

23 (b) PROCEDURES.—The Secretary shall, by regula-
24 tion and no later than 180 days after the date of enact-
25 ment of this title, establish procedures for—

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

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

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

10 (c) LEASE SALE BIDS.—Lease sales under this title
11 may be conducted through an Internet leasing program,
12 if the Secretary determines that such a system will result
13 in savings to the taxpayer, an increase in the number of
14 bidders participating, and higher returns than oral bidding
15 or a sealed bidding system.

16 (d) SALE ACREAGES AND SCHEDULE.—

17 (1) The Secretary shall offer for lease under
18 this title those tracts the Secretary considers to have
19 the greatest potential for the discovery of hydro-
20 carbons, taking into consideration nominations re-
21 ceived pursuant to subsection (b)(1).

22 (2) The Secretary shall offer for lease under
23 this title no less than 50,000 acres for lease within
24 22 months after the date of the enactment of this
25 title.

1 (3) The Secretary shall offer for lease under
2 this title no less than an additional 50,000 acres at
3 6-, 12-, and 18-month intervals following offering
4 under paragraph (2).

5 (4) The Secretary shall conduct four additional
6 sales under the same terms and schedule no later
7 than two years after the date of the last sale under
8 paragraph (3), if sufficient interest in leasing exists
9 to warrant, in the Secretary's judgment, the conduct
10 of such sales.

11 (5) The Secretary shall evaluate the bids in
12 each sale and issue leases resulting from such sales,
13 within 90 days after the date of the completion of
14 such sale.

15 **SEC. 2005. GRANT OF LEASES BY THE SECRETARY.**

16 (a) IN GENERAL.—The Secretary may grant to the
17 highest responsible qualified bidder in a lease sale con-
18 ducted under section 2004 any lands to be leased on the
19 Coastal Plain upon payment by the such bidder of such
20 bonus as may be accepted by the Secretary.

21 (b) SUBSEQUENT TRANSFERS.—No lease issued
22 under this title may be sold, exchanged, assigned, sublet,
23 or otherwise transferred except with the approval of the
24 Secretary. Prior to any such approval the Secretary shall

1 consult with, and give due consideration to the views of,
2 the Attorney General.

3 **SEC. 2006. LEASE TERMS AND CONDITIONS.**

4 An oil or gas lease issued under this title shall—

5 (1) provide for the payment of a royalty of not
6 less than 12½ percent in amount or value of the
7 production removed or sold under the lease, as de-
8 termined by the Secretary under the regulations ap-
9 plicable to other Federal oil and gas leases;

10 (2) provide that the Secretary may close, on a
11 seasonal basis, portions of the Coastal Plain to ex-
12 ploratory drilling activities as necessary to protect
13 caribou calving areas and other species of fish and
14 wildlife based on a preponderance of the best avail-
15 able scientific evidence that has been peer reviewed
16 and obtained by following appropriate, documented
17 scientific procedures, the results of which can be re-
18 peated using those same procedures;

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

1 lessee or by any of the subcontractors or agents of
2 the lessee;

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

7 (5) provide that the standard of reclamation for
8 lands required to be reclaimed under this title shall
9 be, as nearly as practicable, a condition capable of
10 supporting the uses which the lands were capable of
11 supporting prior to any exploration, development, or
12 production activities, or upon application by the les-
13 see, to a higher or better use as certified by the Sec-
14 retary;

15 (6) contain terms and conditions relating to
16 protection of fish and wildlife, their habitat, subsist-
17 ence resources, and the environment as required
18 pursuant to section 2003(a)(2);

19 (7) provide that the lessee, its agents, and its
20 contractors use best efforts to provide a fair share,
21 as determined by the level of obligation previously
22 agreed to in the 1974 agreement implementing sec-
23 tion 29 of the Federal Agreement and Grant of
24 Right-of-Way for the Operation of the Trans-Alaska
25 Pipeline, of employment and contracting for Alaska

1 Natives and Alaska Native corporations from
2 throughout the State;

3 (8) prohibit the export of oil produced under
4 the lease; and

5 (9) contain such other provisions as the Sec-
6 retary determines necessary to ensure compliance
7 with this title and the regulations issued under this
8 title.

9 **SEC. 2007. POLICIES REGARDING BUYING, BUILDING, AND**
10 **WORKING FOR AMERICA.**

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

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

19 (2) Congress will monitor the deployment of
20 personnel and material onshore and offshore to en-
21 courage the development of American technology
22 and manufacturing to enable United States workers
23 to benefit from this title through good jobs and ca-
24 reers, as well as the establishment of important in-

1 industrial facilities to support expanded access to
2 American resources.

3 (b) REQUIREMENT.—The Secretary of the Interior
4 shall when possible, and practicable, encourage the use of
5 United States workers and equipment manufactured in
6 the United States in all construction related to mineral
7 development on the Coastal Plain.

8 **SEC. 2008. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

9 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
10 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
11 The Secretary shall, consistent with the requirements of
12 section 2003, administer this title through regulations,
13 lease terms, conditions, restrictions, prohibitions, stipula-
14 tions, and other provisions that—

15 (1) ensure the oil and gas exploration, develop-
16 ment, and production activities on the Coastal Plain
17 will result in no significant adverse effect on fish
18 and wildlife, their habitat, and the environment;

19 (2) require the application of the best commer-
20 cially available technology for oil and gas explo-
21 ration, development, and production on all new ex-
22 ploration, development, and production operations;
23 and

24 (3) ensure that the maximum amount of sur-
25 face acreage covered by production and support fa-

1 cilities, including airstrips and any areas covered by
2 gravel berms or piers for support of pipelines, does
3 not exceed 10,000 acres on the Coastal Plain for
4 each 100,000 acres of area leased.

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

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

8 (1) a site-specific analysis be made of the prob-
9 able effects, if any, that the drilling or related activi-
10 ties will have on fish and wildlife, their habitat, sub-
11 sistence resources, and the environment;

12 (2) a plan be implemented to avoid, minimize,
13 and mitigate (in that order and to the extent prac-
14 ticable) any significant adverse effect identified
15 under paragraph (1); and

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

19 (c) REGULATIONS TO PROTECT COASTAL PLAIN
20 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
21 AND THE ENVIRONMENT.—Before implementing the leas-
22 ing program authorized by this title, the Secretary shall
23 prepare and promulgate regulations, lease terms, condi-
24 tions, restrictions, prohibitions, stipulations, and other
25 measures designed to ensure that the activities undertaken

1 on the Coastal Plain under this title are conducted in a
2 manner consistent with the purposes and environmental
3 requirements of this title.

4 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
5 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
6 proposed regulations, lease terms, conditions, restrictions,
7 prohibitions, and stipulations for the leasing program
8 under this title shall require compliance with all applicable
9 provisions of Federal and State environmental law, and
10 shall also require the following:

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

16 (2) Seasonal limitations on exploration, develop-
17 ment, and related activities, where necessary, to
18 avoid significant adverse effects during periods of
19 concentrated fish and wildlife breeding, denning,
20 nesting, spawning, and migration based on a prepon-
21 derance of the best available scientific evidence that
22 has been peer reviewed and obtained by following
23 appropriate, documented scientific procedures, the
24 results of which can be repeated using those same
25 procedures.

1 (3) That exploration activities, except for sur-
2 face geological studies, be limited to the period be-
3 tween approximately November 1 and May 1 each
4 year and that exploration activities shall be sup-
5 ported, if necessary, by ice roads, winter trails with
6 adequate snow cover, ice pads, ice airstrips, and air
7 transport methods, except that such exploration ac-
8 tivities may occur at other times if the Secretary
9 finds that such exploration will have no significant
10 adverse effect on the fish and wildlife, their habitat,
11 and the environment of the Coastal Plain.

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

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

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

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

23 (6) Stringent reclamation and rehabilitation re-
24 quirements, consistent with the standards set forth
25 in this title, requiring the removal from the Coastal

1 Plain of all oil and gas development and production
2 facilities, structures, and equipment upon completion
3 of oil and gas production operations, except that the
4 Secretary may exempt from the requirements of this
5 paragraph those facilities, structures, or equipment
6 that the Secretary determines would assist in the
7 management of the Arctic National Wildlife Refuge
8 and that are donated to the United States for that
9 purpose.

10 (7) Appropriate prohibitions or restrictions on
11 access by all modes of transportation.

12 (8) Appropriate prohibitions or restrictions on
13 sand and gravel extraction.

14 (9) Consolidation of facility siting.

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

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

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

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

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

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

12 (16) Field crew environmental briefings.

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

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

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

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

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

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

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

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

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

19 (f) FACILITY CONSOLIDATION PLANNING.—

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

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

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

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

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

11 (D) Utilizing existing facilities wherever
12 practicable.

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

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

17 (1) manage public lands in the Coastal Plain
18 subject to section 811 of the Alaska National Inter-
19 est Lands Conservation Act (16 U.S.C. 3121); and

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

23 **SEC. 2009. EXPEDITED JUDICIAL REVIEW.**

24 (a) FILING OF COMPLAINT.—

1 (1) DEADLINE.—Subject to paragraph (2), any
2 complaint seeking judicial review—

3 (A) of any provision of this title shall be
4 filed by not later than 1 year after the date of
5 enactment of this Act; or

6 (B) of any action of the Secretary under
7 this title shall be filed—

8 (i) except as provided in clause (ii),
9 within the 90-day period beginning on the
10 date of the action being challenged; or

11 (ii) in the case of a complaint based
12 solely on grounds arising after such period,
13 within 90 days after the complainant knew
14 or reasonably should have known of the
15 grounds for the complaint.

16 (2) VENUE.—Any complaint seeking judicial re-
17 view of any provision of this title or any action of
18 the Secretary under this title may be filed only in
19 the United States Court of Appeals for the District
20 of Columbia.

21 (3) LIMITATION ON SCOPE OF CERTAIN RE-
22 VIEW.—Judicial review of a Secretarial decision to
23 conduct a lease sale under this title, including the
24 environmental analysis thereof, shall be limited to
25 whether the Secretary has complied with this title

1 and shall be based upon the administrative record of
2 that decision. The Secretary's identification of a pre-
3 ferred course of action to enable leasing to proceed
4 and the Secretary's analysis of environmental effects
5 under this title shall be presumed to be correct un-
6 less shown otherwise by clear and convincing evi-
7 dence to the contrary.

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

12 (c) LIMITATION ON ATTORNEYS' FEES AND COURT
13 COSTS.—No person seeking judicial review of any action
14 under this title shall receive payment from the Federal
15 Government for their attorneys' fees and other court costs,
16 including under any provision of law enacted by the Equal
17 Access to Justice Act (5 U.S.C. 504 note).

18 **SEC. 2010. TREATMENT OF REVENUES.**

19 Notwithstanding any other provision of law, 50 per-
20 cent of the amount of bonus, rental, and royalty revenues
21 from Federal oil and gas leasing and operations author-
22 ized under this title shall be deposited in the Treasury.

23 **SEC. 2011. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

24 (a) IN GENERAL.—The Secretary shall issue rights-
25 of-way and easements across the Coastal Plain for the

1 transportation of oil and gas produced under leases under
2 this title—

3 (1) except as provided in paragraph (2), under
4 section 28 of the Mineral Leasing Act (30 U.S.C.
5 185), without regard to title XI of the Alaska Na-
6 tional Interest Lands Conservation Act (16 U.S.C.
7 3161 et seq.); and

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

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

21 (c) REGULATIONS.—The Secretary shall include in
22 regulations under section 2003(g) provisions granting
23 rights-of-way and easements described in subsection (a)
24 of this section.

1 **SEC. 2012. CONVEYANCE.**

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

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

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

1 **TITLE XII—STATE CONTROL ON**
2 **ALL AVAILABLE FEDERAL LAND**

3 **SEC. 3001. STATE CONTROL ON ALL AVAILABLE FEDERAL**
4 **LAND.**

5 (a) DEFINITIONS.—In this section:

6 (1) AVAILABLE FEDERAL LAND.—The term
7 “available Federal land” means any Federal land
8 that, as of May 31, 2013—

9 (A) is located within the boundaries of a
10 State;

11 (B) is not held by the United States in
12 trust for the benefit of a federally recognized
13 Indian tribe;

14 (C) is not a unit of the National Park Sys-
15 tem;

16 (D) is not a unit of the National Wildlife
17 Refuge System; and

18 (E) is not a Congressionally designated
19 wilderness area.

20 (2) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 (3) STATE.—The term “State” means—

23 (A) a State; and

24 (B) the District of Columbia.

25 (b) STATE PROGRAMS.—

1 (1) IN GENERAL.—A State—

2 (A) may establish a program covering the
3 leasing and permitting processes, regulatory re-
4 quirements, and any other provisions by which
5 the State would exercise its rights on available
6 Federal land in the State; and

7 (B) as a condition of certification under
8 subsection (c)(2) shall submit a declaration to
9 the Departments of the Interior, Agriculture,
10 and Energy that a program under subpara-
11 graph (A) has been established or amended.

12 (2) AMENDMENT OF PROGRAMS.—A State may
13 amend a program developed and certified under this
14 section at any time.

15 (3) CERTIFICATION OF AMENDED PROGRAMS.—
16 Any program amended under paragraph (2) shall be
17 certified under subsection (c)(2).

18 (c) LEASING, PERMITTING, AND REGULATORY PRO-
19 GRAMS.—

20 (1) SATISFACTION OF FEDERAL REQUIRE-
21 MENTS.—Each program certified under this section
22 shall be considered to satisfy all applicable require-
23 ments of Federal law (including regulations), includ-
24 ing—

1 (A) the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.);

3 (B) the Endangered Species Act of 1973
4 (16 U.S.C. 1531 et seq.); and

5 (C) the National Historic Preservation Act
6 (16 U.S.C. 470 et seq.).

7 (2) FEDERAL CERTIFICATION AND TRANSFER
8 OF DEVELOPMENT RIGHTS.—Upon submission of a
9 declaration by a State under subsection (b)(1)(B)—

10 (A) the program under subsection
11 (b)(1)(A) shall be certified; and

12 (B) the State shall receive all rights from
13 the Federal Government to develop all resources
14 covered by the program.

15 (3) ISSUANCE OF PERMITS AND LEASES.—If a
16 State elects to issue a permit or lease for the devel-
17 opment of any resource on any available Federal
18 land within the borders of the State in accordance
19 with a program certified under paragraph (2), the
20 permit or lease shall be considered to meet all appli-
21 cable requirements of Federal law (including regula-
22 tions).

23 (d) JUDICIAL REVIEW.—Activities carried out in ac-
24 cordance with this title shall not be subject to judicial re-
25 view.

1 (e) ADMINISTRATIVE PROCEDURE ACT.—Activities
 2 carried out in accordance with this title shall not be sub-
 3 ject to subchapter II of chapter 5, and chapter 7, of title
 4 5, United States Code (commonly known as the “Adminis-
 5 trative Procedure Act”).

6 **TITLE XIII—FEDERAL LANDS**
 7 **JOBS AND ENERGY SECURITY**
 8 **Subtitle A—Federal Lands Jobs**
 9 **and Energy Security**

10 **SEC. 4001. SHORT TITLE.**

11 This subtitle may be cited as the “Federal Lands
 12 Jobs and Energy Security Act”.

13 **SEC. 4002. POLICIES REGARDING BUYING, BUILDING, AND**
 14 **WORKING FOR AMERICA.**

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

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

23 (2) to ensure a robust onshore energy produc-
 24 tion industry and ensure that the benefits of devel-
 25 opment support local communities, under this title,

1 the Secretary shall make every effort to promote the
2 development of onshore American energy, and shall
3 take into consideration the socioeconomic impacts,
4 infrastructure requirements, and fiscal stability for
5 local communities located within areas containing
6 onshore energy resources; and

7 (3) the Congress will monitor the deployment of
8 personnel and material onshore to encourage the de-
9 velopment of American manufacturing to enable
10 United States workers to benefit from this subtitle
11 through good jobs and careers, as well as the estab-
12 lishment of important industrial facilities to support
13 expanded access to American resources.

14 (b) REQUIREMENT.—The Secretary of the Interior
15 shall when possible, and practicable, encourage the use of
16 United States workers and equipment manufactured in
17 the United States in all construction related to mineral
18 resource development under this subtitle.

19 **CHAPTER 1—ONSHORE OIL AND GAS**
20 **PERMIT STREAMLINING**

21 **SEC. 4101. SHORT TITLE.**

22 This chapter may be cited as the “Streamlining Per-
23 mitting of American Energy Act of 2014”.

1 **Subchapter A—Application for Permits To**
2 **Drill Process Reform**

3 **SEC. 4111. PERMIT TO DRILL APPLICATION TIMELINE.**

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

6 “(2) APPLICATIONS FOR PERMITS TO DRILL RE-
7 FORM AND PROCESS.—

8 “(A) TIMELINE.—The Secretary shall de-
9 cide whether to issue a permit to drill within 30
10 days after receiving an application for the per-
11 mit. The Secretary may extend such period for
12 up to 2 periods of 15 days each, if the Sec-
13 retary has given written notice of the delay to
14 the applicant. The notice shall be in the form
15 of a letter from the Secretary or a designee of
16 the Secretary, and shall include the names and
17 titles of the persons processing the application,
18 the specific reasons for the delay, and a specific
19 date a final decision on the application is ex-
20 pected.

21 “(B) NOTICE OF REASONS FOR DENIAL.—
22 If the application is denied, the Secretary shall
23 provide the applicant—

24 “(i) in writing, clear and comprehen-
25 sive reasons why the application was not

1 accepted and detailed information con-
2 cerning any deficiencies; and

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

5 “(C) APPLICATION DEEMED APPROVED.—

6 If the Secretary has not made a decision on the
7 application by the end of the 60-day period be-
8 ginning on the date the application is received
9 by the Secretary, the application is deemed ap-
10 proved, except in cases in which existing reviews
11 under the National Environmental Policy Act of
12 1969 (42 U.S.C. 4321 et seq.) or Endangered
13 Species Act of 1973 (16 U.S.C. 1531 et seq.)
14 are incomplete.

15 “(D) DENIAL OF PERMIT.—If the Sec-
16 retary decides not to issue a permit to drill in
17 accordance with subparagraph (A), the Sec-
18 retary shall—

19 “(i) provide to the applicant a descrip-
20 tion of the reasons for the denial of the
21 permit;

22 “(ii) allow the applicant to resubmit
23 an application for a permit to drill during
24 the 10-day period beginning on the date

1 the applicant receives the description of
2 the denial from the Secretary; and

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

7 “(E) FEE.—

8 “(i) IN GENERAL.—Notwithstanding
9 any other law, the Secretary shall collect a
10 single \$6,500 permit processing fee per ap-
11 plication from each applicant at the time
12 the final decision is made whether to issue
13 a permit under subparagraph (A). This fee
14 shall not apply to any resubmitted applica-
15 tion.

16 “(ii) TREATMENT OF PERMIT PROC-
17 ESSING FEE.—Of all fees collected under
18 this paragraph, 50 percent shall be trans-
19 ferred to the field office where they are col-
20 lected and used to process protests, leases,
21 and permits under this Act subject to ap-
22 propriation.”.

1 **SEC. 4112. SOLAR AND WIND RIGHT-OF-WAY RENTAL RE-**
2 **FORM.**

3 (a) IN GENERAL.—Subject to subsection (b), and
4 notwithstanding any other provision of law, of fees col-
5 lected each fiscal year as annual wind energy and solar
6 energy right-of-way authorization fees required under sec-
7 tion 504(g) of the Federal Land Policy and Management
8 Act of 1976 (43 U.S.C. 1764(g))—

9 (1) no less than 25 percent shall be available,
10 subject to appropriation, for use for solar and wind
11 permitting and management activities by Depart-
12 ment of the Interior field offices responsible for the
13 land where the fees were collected;

14 (2) no less than 25 percent shall be available,
15 subject to appropriation, for Bureau of Land Man-
16 agement solar and wind permit approval activities;
17 and

18 (3) no less than 25 percent shall be available,
19 subject to appropriation, to the Secretary of the In-
20 terior for department-wide solar and wind permitting
21 activities.

22 (b) LIMITATION.—The amount used under subsection
23 (a) each fiscal year shall not exceed \$5,000,000.

1 **Subchapter B—Administrative Protest**
2 **Documentation Reform**

3 **SEC. 4121. ADMINISTRATIVE PROTEST DOCUMENTATION**
4 **REFORM.**

5 Section 17(p) of the Mineral Leasing Act (30 U.S.C.
6 226(p)) is further amended by adding at the end the fol-
7 lowing:

8 “(4) PROTEST FEE.—

9 “(A) IN GENERAL.—The Secretary shall
10 collect a \$5,000 documentation fee to accom-
11 pany each protest for a lease, right-of-way, or
12 application for permit to drill.

13 “(B) TREATMENT OF FEES.—Of all fees
14 collected under this paragraph, 50 percent shall
15 remain in the field office where they are col-
16 lected and used to process protests subject to
17 appropriation.”.

18 **Subchapter C—Permit Streamlining**

19 **SEC. 4131. IMPROVE FEDERAL ENERGY PERMIT COORDINA-**
20 **TION.**

21 (a) ESTABLISHMENT.—The Secretary of the Interior
22 (referred to in this section as the “Secretary”) shall estab-
23 lish a Federal Permit Streamlining Project (referred to
24 in this section as the “Project”) in every Bureau of Land

1 Management field office with responsibility for permitting
2 energy projects on Federal land.

3 (b) MEMORANDUM OF UNDERSTANDING.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of enactment of this Act, the Secretary
6 shall enter into a memorandum of understanding for
7 purposes of this section with—

8 (A) the Secretary of Agriculture;

9 (B) the Administrator of the Environ-
10 mental Protection Agency; and

11 (C) the Chief of the Army Corps of Engi-
12 neers.

13 (2) STATE PARTICIPATION.—The Secretary
14 may request that the Governor of any State with en-
15 ergy projects on Federal lands to be a signatory to
16 the memorandum of understanding.

17 (c) DESIGNATION OF QUALIFIED STAFF.—

18 (1) IN GENERAL.—Not later than 30 days after
19 the date of the signing of the memorandum of un-
20 derstanding under subsection (b), all Federal signa-
21 tory parties shall, if appropriate, assign to each of
22 the Bureau of Land Management field offices an
23 employee who has expertise in the regulatory issues
24 relating to the office in which the employee is em-

1 ployed, including, as applicable, particular expertise
2 in—

3 (A) the consultations and the preparation
4 of biological opinions under section 7 of the En-
5 dangered Species Act of 1973 (16 U.S.C.
6 1536);

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

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

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

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

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

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

23 (B) be responsible for all issues relating to
24 the energy projects that arise under the au-
25 thorities of the employee’s home agency; and

1 (C) participate as part of the team of per-
2 sonnel working on proposed energy projects,
3 planning, and environmental analyses on Fed-
4 eral lands.

5 (d) ADDITIONAL PERSONNEL.—The Secretary shall
6 assign to each Bureau of Land Management field office
7 identified in subsection (a) any additional personnel that
8 are necessary to ensure the effective approval and imple-
9 mentation of energy projects administered by the Bureau
10 of Land Management field offices, including inspection
11 and enforcement relating to energy development on Fed-
12 eral land, in accordance with the multiple use mandate
13 of the Federal Land Policy and Management Act of 1976
14 (43 U.S.C. 1701 et seq.).

15 (e) FUNDING.—Funding for the additional personnel
16 shall come from the Department of the Interior reforms
17 identified in sections 4111, 4112, and 4121.

18 (f) SAVINGS PROVISION.—Nothing in this section af-
19 fects—

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

22 (2) any delegation of authority made by the
23 head of a Federal agency whose employees are par-
24 ticipating in the Project.

1 (g) DEFINITION.—For purposes of this section the
2 term “energy projects” includes oil, natural gas, coal, and
3 other energy projects as defined by the Secretary.

4 **SEC. 4132. ADMINISTRATION OF CURRENT LAW.**

5 Notwithstanding any other law, the Secretary of the
6 Interior shall not require a finding of extraordinary cir-
7 cumstances in administering section 390 of the Energy
8 Policy Act of 2005 (42 U.S.C. 15942).

9 **Subchapter D—Judicial Review**

10 **SEC. 4141. DEFINITIONS.**

11 In this subchapter—

12 (1) the term “covered civil action” means a civil
13 action containing a claim under section 702 of title
14 5, United States Code, regarding agency action (as
15 defined for the purposes of that section) affecting a
16 covered energy project on Federal lands of the
17 United States; and

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

1 obligations under such lease, including regarding
2 any alleged breach of the lease.

3 **SEC. 4142. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
4 **RELATING TO COVERED ENERGY PROJECTS.**

5 Venue for any covered civil action shall lie in the dis-
6 trict court where the project or leases exist or are pro-
7 posed.

8 **SEC. 4143. TIMELY FILING.**

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

13 **SEC. 4144. EXPEDITION IN HEARING AND DETERMINING**
14 **THE ACTION.**

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

17 **SEC. 4145. STANDARD OF REVIEW.**

18 In any judicial review of a covered civil action, admin-
19 istrative findings and conclusions relating to the chal-
20 lenged Federal action or decision shall be presumed to be
21 correct, and the presumption may be rebutted only by the
22 preponderance of the evidence contained in the adminis-
23 trative record.

1 **SEC. 4146. LIMITATION ON INJUNCTION AND PROSPECTIVE**
2 **RELIEF.**

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

14 **SEC. 4147. LIMITATION ON ATTORNEYS' FEES.**

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

21 **SEC. 4148. LEGAL STANDING.**

22 Challengers filing appeals with the Department of the
23 Interior Board of Land Appeals shall meet the same
24 standing requirements as challengers before a United
25 States district court.

1 **Subchapter E—Knowing America’s Oil and**
2 **Gas Resources**

3 **SEC. 4151. FUNDING OIL AND GAS RESOURCE ASSESS-**
4 **MENTS.**

5 (a) IN GENERAL.—The Secretary of the Interior shall
6 provide matching funding for joint projects with States to
7 conduct oil and gas resource assessments on Federal lands
8 with significant oil and gas potential.

9 (b) COST SHARING.—The Federal share of the cost
10 of activities under this section shall not exceed 50 percent.

11 (c) RESOURCE ASSESSMENT.—Any resource assess-
12 ment under this section shall be conducted by a State, in
13 consultation with the United States Geological Survey.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Secretary to carry
16 out this section a total of \$50,000,000 for fiscal years
17 2014 through 2017.

18 **CHAPTER 2—OIL AND GAS LEASING**
19 **CERTAINTY**

20 **SEC. 4161. SHORT TITLE.**

21 This chapter may be cited as the “Providing Leasing
22 Certainty for American Energy Act of 2014”.

1 **SEC. 4162. MINIMUM ACREAGE REQUIREMENT FOR ON-**
2 **SHORE LEASE SALES.**

3 In conducting lease sales as required by section 17(a)
4 of the Mineral Leasing Act (30 U.S.C. 226(a)), each year
5 the Secretary of the Interior shall perform the following:

6 (1) The Secretary shall offer for sale no less
7 than 25 percent of the annual nominated acreage
8 not previously made available for lease. Acreage of-
9 fered for lease pursuant to this paragraph shall not
10 be subject to protest and shall be eligible for cat-
11 egorical exclusions under section 390 of the Energy
12 Policy Act of 2005 (42 U.S.C. 15942), except that
13 it shall not be subject to the test of extraordinary
14 circumstances.

15 (2) In administering this section, the Secretary
16 shall only consider leasing of Federal lands that are
17 available for leasing at the time the lease sale oc-
18 curs.

19 **SEC. 4163. LEASING CERTAINTY.**

20 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
21 226(a)) is amended by inserting “(1)” before “All lands”,
22 and by adding at the end the following:

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

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

6 “(C) No later than 18 months after an area is des-
7 ignated as open under the current land use plan the Sec-
8 retary shall make available nominated areas for lease
9 under the criteria in section 2.

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

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

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

22 “(G) No additional lease stipulations may be added
23 after the parcel is sold without consultation and agree-
24 ment of the lessee, unless the Secretary deems such stipu-

1 lations as emergency actions to conserve the resources of
 2 the United States.”.

3 **SEC. 4164. LEASING CONSISTENCY.**

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

9 **SEC. 4165. REDUCE REDUNDANT POLICIES.**

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

12 **SEC. 4166. STREAMLINED CONGRESSIONAL NOTIFICATION.**

13 Section 31(e) of the Mineral Leasing Act (30 U.S.C.
 14 188(e)) is amended in the matter following paragraph (4)
 15 by striking “at least thirty days in advance of the rein-
 16 statement” and inserting “in an annual report”.

17 **CHAPTER 3—OIL SHALE**

18 **SEC. 4171. SHORT TITLE.**

19 This chapter may be cited as the “Protecting Invest-
 20 ment in Oil Shale the Next Generation of Environmental,
 21 Energy, and Resource Security Act” or the “PIONEERS
 22 Act”.

1 **SEC. 4172. EFFECTIVENESS OF OIL SHALE REGULATIONS,**
2 **AMENDMENTS TO RESOURCE MANAGEMENT**
3 **PLANS, AND RECORD OF DECISION.**

4 (a) REGULATIONS.—Notwithstanding any other law
5 or regulation to the contrary, the final regulations regard-
6 ing oil shale management published by the Bureau of
7 Land Management on November 18, 2008 (73 Fed. Reg.
8 69,414) are deemed to satisfy all legal and procedural re-
9 quirements under any law, including the Federal Land
10 Policy and Management Act of 1976 (43 U.S.C. 1701 et
11 seq.), the Endangered Species Act of 1973 (16 U.S.C.
12 1531 et seq.), and the National Environmental Policy Act
13 of 1969 (42 U.S.C. 4321 et seq.), and the Secretary of
14 the Interior shall implement those regulations, including
15 the oil shale leasing program authorized by the regula-
16 tions, without any other administrative action necessary.

17 (b) AMENDMENTS TO RESOURCE MANAGEMENT
18 PLANS AND RECORD OF DECISION.—Notwithstanding
19 any other law or regulation to the contrary, the November
20 17, 2008 U.S. Bureau of Land Management Approved Re-
21 source Management Plan Amendments/Record of Decision
22 for Oil Shale and Tar Sands Resources to Address Land
23 Use Allocations in Colorado, Utah, and Wyoming and
24 Final Programmatic Environmental Impact Statement are
25 deemed to satisfy all legal and procedural requirements
26 under any law, including the Federal Land Policy and

1 Management Act of 1976 (43 U.S.C. 1701 et seq.), the
2 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
3 and the National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.), and the Secretary of the Interior
5 shall implement the oil shale leasing program authorized
6 by the regulations referred to in subsection (a) in those
7 areas covered by the resource management plans amended
8 by such amendments, and covered by such record of deci-
9 sion, without any other administrative action necessary.

10 **SEC. 4173. OIL SHALE LEASING.**

11 (a) **ADDITIONAL RESEARCH AND DEVELOPMENT**
12 **LEASE SALES.**—The Secretary of the Interior shall hold
13 a lease sale within 180 days after the date of enactment
14 of this Act offering an additional 10 parcels for lease for
15 research, development, and demonstration of oil shale re-
16 sources, under the terms offered in the solicitation of bids
17 for such leases published on January 15, 2009 (74 Fed.
18 Reg. 10).

19 (b) **COMMERCIAL LEASE SALES.**—No later than Jan-
20 uary 1, 2016, the Secretary of the Interior shall hold no
21 less than 5 separate commercial lease sales in areas con-
22 sidered to have the most potential for oil shale develop-
23 ment, as determined by the Secretary, in areas nominated
24 through public comment. Each lease sale shall be for an

1 area of not less than 25,000 acres, and in multiple lease
2 blocs.

3 **CHAPTER 4—MISCELLANEOUS**

4 **PROVISIONS**

5 **SEC. 4181. RULE OF CONSTRUCTION.**

6 Nothing in this subtitle shall be construed to author-
7 ize the issuance of a lease under the Mineral Leasing Act
8 (30 U.S.C. 181 et seq.) to any person designated for the
9 imposition of sanctions pursuant to—

10 (1) the Iran Sanctions Act of 1996 (50 U.S.C.
11 1701 note), the Comprehensive Iran Sanctions, Ac-
12 countability and Divestiture Act of 2010 (22 U.S.C.
13 8501 et seq.), the Iran Threat Reduction and Syria
14 Human Rights Act of 2012 (22 U.S.C. 8701 et
15 seq.), section 1245 of the National Defense Author-
16 ization Act for Fiscal Year 2012 (22 U.S.C. 8513a),
17 or the Iran Freedom and Counter-Proliferation Act
18 of 2012 (22 U.S.C. 8801 et seq.);

19 (2) Executive Order No. 13622 (July 30,
20 2012), Executive Order No. 13628 (October 9,
21 2012), or Executive Order No. 13645 (June 3,
22 2013);

23 (3) Executive Order No. 13224 (September 23,
24 2001) or Executive Order No. 13338 (May 11,
25 2004); or

1 (4) the Syria Accountability and Lebanese Sov-
 2 ereignty Restoration Act of 2003 (22 U.S.C. 2151
 3 note).

4 **Subtitle B—Planning for American** 5 **Energy**

6 **SEC. 4201. SHORT TITLE.**

7 This subtitle may be cited as the “Planning for Amer-
 8 ican Energy Act of 2014”.

9 **SEC. 4202. ONSHORE DOMESTIC ENERGY PRODUCTION** 10 **STRATEGIC PLAN.**

11 (a) IN GENERAL.—The Mineral Leasing Act (30
 12 U.S.C. 181 et seq.) is amended by redesignating section
 13 44 as section 45, and by inserting after section 43 the
 14 following:

15 **“SEC. 44. QUADRENNIAL STRATEGIC FEDERAL ONSHORE** 16 **ENERGY PRODUCTION STRATEGY.**

17 “(a) IN GENERAL.—

18 “(1) The Secretary of the Interior (hereafter in
 19 this section referred to as ‘Secretary’), in consulta-
 20 tion with the Secretary of Agriculture with regard to
 21 lands administered by the Forest Service, shall de-
 22 velop and publish every 4 years a Quadrennial Fed-
 23 eral Onshore Energy Production Strategy. This
 24 Strategy shall direct Federal land energy develop-
 25 ment and department resource allocation in order to

1 promote the energy and national security of the
2 United States in accordance with Bureau of Land
3 Management's mission of promoting the multiple use
4 of Federal lands as set forth in the Federal Land
5 Policy and Management Act of 1976 (43 U.S.C.
6 1701 et seq.).

7 “(2) In developing this Strategy, the Secretary
8 shall consult with the Administrator of the Energy
9 Information Administration on the projected energy
10 demands of the United States for the next 30-year
11 period, and how energy derived from Federal on-
12 shore lands can put the United States on a trajec-
13 tory to meet that demand during the next 4-year pe-
14 riod. The Secretary shall consider how Federal lands
15 will contribute to ensuring national energy security,
16 with a goal for increasing energy independence and
17 production, during the next 4-year period.

18 “(3) The Secretary shall determine a domestic
19 strategic production objective for the development of
20 energy resources from Federal onshore lands. Such
21 objective shall be—

22 “(A) the best estimate, based upon com-
23 mercial and scientific data, of the expected in-
24 crease in domestic production of oil and natural
25 gas from the Federal onshore mineral estate,

1 with a focus on lands held by the Bureau of
2 Land Management and the Forest Service;

3 “(B) the best estimate, based upon com-
4 mercial and scientific data, of the expected in-
5 crease in domestic coal production from Federal
6 lands;

7 “(C) the best estimate, based upon com-
8 mercial and scientific data, of the expected in-
9 crease in domestic production of strategic and
10 critical energy minerals from the Federal on-
11 shore mineral estate;

12 “(D) the best estimate, based upon com-
13 mercial and scientific data, of the expected in-
14 crease in megawatts for electricity production
15 from each of the following sources: wind, solar,
16 biomass, hydropower, and geothermal energy
17 produced on Federal lands administered by the
18 Bureau of Land Management and the Forest
19 Service;

20 “(E) the best estimate, based upon com-
21 mercial and scientific data, of the expected in-
22 crease in unconventional energy production,
23 such as oil shale;

24 “(F) the best estimate, based upon com-
25 mercial and scientific data, of the expected in-

1 crease in domestic production of oil, natural
2 gas, coal, and other renewable sources from
3 tribal lands for any federally recognized Indian
4 tribe that elects to participate in facilitating en-
5 ergy production on its lands;

6 “(G) the best estimate, based upon com-
7 mercial and scientific data, of the expected in-
8 crease in production of helium on Federal lands
9 administered by the Bureau of Land Manage-
10 ment and the Forest Service; and

11 “(H) the best estimate, based upon com-
12 mercial and scientific data, of the expected in-
13 crease in domestic production of geothermal,
14 solar, wind, or other renewable energy sources
15 from ‘available lands’ (as such term is defined
16 in section 203 of the Hawaiian Homes Commis-
17 sion Act, 1920 (42 Stat. 108 et seq.), and in-
18 cluding any other lands deemed by the Terri-
19 tory or State of Hawaii, as the case may be, to
20 be included within that definition) that the
21 agency or department of the government of the
22 State of Hawaii that is responsible for the ad-
23 ministration of such lands selects to be used for
24 such energy production.

1 “(4) The Secretary shall consult with the Ad-
2 ministrators of the Energy Information Administra-
3 tion regarding the methodology used to arrive at its
4 estimates for purposes of this section.

5 “(5) The Secretary has the authority to expand
6 the energy development plan to include other energy
7 production technology sources or advancements in
8 energy on Federal lands.

9 “(6) The Secretary shall include in the Strategy
10 a plan for addressing new demands for transmission
11 lines and pipelines for distribution of oil and gas
12 across Federal lands to ensure that energy produced
13 can be distributed to areas of need.

14 “(b) TRIBAL OBJECTIVES.—It is the sense of Con-
15 gress that federally recognized Indian tribes may elect to
16 set their own production objectives as part of the Strategy
17 under this section. The Secretary shall work in coopera-
18 tion with any federally recognized Indian tribe that elects
19 to participate in achieving its own strategic energy objec-
20 tives designated under this subsection.

21 “(c) EXECUTION OF THE STRATEGY.—The relevant
22 Secretary shall have all necessary authority to make deter-
23 minations regarding which additional lands will be made
24 available in order to meet the production objectives estab-
25 lished by strategies under this section. The Secretary shall

1 also take all necessary actions to achieve these production
2 objectives unless the President determines that it is not
3 in the national security and economic interests of the
4 United States to increase Federal domestic energy produc-
5 tion and to further decrease dependence upon foreign
6 sources of energy. In administering this section, the rel-
7 evant Secretary shall only consider leasing Federal lands
8 available for leasing at the time the lease sale occurs.

9 “(d) STATE, FEDERALLY RECOGNIZED INDIAN
10 TRIBES, LOCAL GOVERNMENT, AND PUBLIC INPUT.—In
11 developing each strategy, the Secretary shall solicit the
12 input of affected States, federally recognized Indian tribes,
13 local governments, and the public.

14 “(e) REPORTING.—The Secretary shall report annu-
15 ally to the Committee on Natural Resources of the House
16 of Representatives and the Committee on Energy and
17 Natural Resources of the Senate on the progress of meet-
18 ing the production goals set forth in the strategy. The Sec-
19 retary shall identify in the report projections for produc-
20 tion and capacity installations and any problems with leas-
21 ing, permitting, siting, or production that will prevent
22 meeting the goal. In addition, the Secretary shall make
23 suggestions to help meet any shortfalls in meeting the pro-
24 duction goals.

1 “(f) PROGRAMMATIC ENVIRONMENTAL IMPACT
2 STATEMENT.—Not later than 12 months after the date
3 of enactment of this section, in accordance with section
4 102(2)(C) of the National Environmental Policy Act of
5 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall com-
6 plete a programmatic environmental impact statement.
7 This programmatic environmental impact statement will
8 be deemed sufficient to comply with all requirements
9 under that Act for all necessary resource management and
10 land use plans associated with the implementation of the
11 strategy.

12 “(g) CONGRESSIONAL REVIEW.—At least 60 days
13 prior to publishing a proposed strategy under this section,
14 the Secretary shall submit it to the President and the Con-
15 gress, together with any comments received from States,
16 federally recognized Indian tribes, and local governments.
17 Such submission shall indicate why any specific rec-
18 ommendation of a State, federally recognized Indian tribe,
19 or local government was not accepted.

20 “(h) STRATEGIC AND CRITICAL ENERGY MINERALS
21 DEFINED.—For purposes of this section, the term ‘stra-
22 tegic and critical energy minerals’ means those that are
23 necessary for the Nation’s energy infrastructure including
24 pipelines, refining capacity, electrical power generation
25 and transmission, and renewable energy production and

1 those that are necessary to support domestic manufac-
 2 turing, including but not limited to, materials used in en-
 3 ergy generation, production, and transportation.”.

4 (b) FIRST QUADRENNIAL STRATEGY.—Not later
 5 than 18 months after the date of enactment of this Act,
 6 the Secretary of the Interior shall submit to Congress the
 7 first Quadrennial Federal Onshore Energy Production
 8 Strategy under the amendment made by subsection (a).

9 **Subtitle C—National Petroleum** 10 **Reserve in Alaska Access**

11 **SEC. 4301. SHORT TITLE.**

12 This subtitle may be cited as the “National Petro-
 13 leum Reserve Alaska Access Act”.

14 **SEC. 4302. SENSE OF CONGRESS AND REAFFIRMING NA-** 15 **TIONAL POLICY FOR THE NATIONAL PETRO-** 16 **LEUM RESERVE IN ALASKA.**

17 It is the sense of Congress that—

18 (1) the National Petroleum Reserve in Alaska
 19 remains explicitly designated, both in name and legal
 20 status, for purposes of providing oil and natural gas
 21 resources to the United States; and

22 (2) accordingly, the national policy is to actively
 23 advance oil and gas development within the Reserve
 24 by facilitating the expeditious exploration, produc-

1 tion, and transportation of oil and natural gas from
2 and through the Reserve.

3 **SEC. 4303. NATIONAL PETROLEUM RESERVE IN ALASKA:**
4 **LEASE SALES.**

5 Section 107(a) of the Naval Petroleum Reserves Pro-
6 duction Act of 1976 (42 U.S.C. 6506a(a)) is amended to
7 read as follows:

8 “(a) IN GENERAL.—The Secretary shall conduct an
9 expeditious program of competitive leasing of oil and gas
10 in the reserve in accordance with this Act. Such program
11 shall include at least one lease sale annually in those areas
12 of the reserve most likely to produce commercial quantities
13 of oil and natural gas each year in the period 2015
14 through 2025.”.

15 **SEC. 4304. NATIONAL PETROLEUM RESERVE IN ALASKA:**
16 **PLANNING AND PERMITTING PIPELINE AND**
17 **ROAD CONSTRUCTION.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, the Secretary of the Interior, in consultation
20 with other appropriate Federal agencies, shall facilitate
21 and ensure permits, in a timely and environmentally re-
22 sponsible manner, for all surface development activities,
23 including for the construction of pipelines and roads, nec-
24 essary to—

1 (1) develop and bring into production any areas
2 within the National Petroleum Reserve in Alaska
3 that are subject to oil and gas leases; and

4 (2) transport oil and gas from and through the
5 National Petroleum Reserve in Alaska in the most
6 direct manner possible to existing transportation or
7 processing infrastructure on the North Slope of
8 Alaska.

9 (b) **TIMELINE.**—The Secretary shall ensure that any
10 Federal permitting agency shall issue permits in accord-
11 ance with the following timeline:

12 (1) Permits for such construction for transpor-
13 tation of oil and natural gas produced under existing
14 Federal oil and gas leases with respect to which the
15 Secretary has issued a permit to drill shall be ap-
16 proved within 60 days after the date of enactment
17 of this Act.

18 (2) Permits for such construction for transpor-
19 tation of oil and natural gas produced under Federal
20 oil and gas leases shall be approved within 6 months
21 after the submission to the Secretary of a request
22 for a permit to drill.

23 (c) **PLAN.**—To ensure timely future development of
24 the Reserve, within 270 days after the date of the enact-
25 ment of this Act, the Secretary of the Interior shall submit

1 to Congress a plan for approved rights-of-way for a plan
2 for pipeline, road, and any other surface infrastructure
3 that may be necessary infrastructure that will ensure that
4 all leasable tracts in the Reserve are within 25 miles of
5 an approved road and pipeline right-of-way that can serve
6 future development of the Reserve.

7 **SEC. 4305. ISSUANCE OF A NEW INTEGRATED ACTIVITY**
8 **PLAN AND ENVIRONMENTAL IMPACT STATE-**
9 **MENT.**

10 (a) ISSUANCE OF NEW INTEGRATED ACTIVITY
11 PLAN.—The Secretary of the Interior shall, within 180
12 days after the date of enactment of this Act, issue—

13 (1) a new proposed integrated activity plan
14 from among the non-adopted alternatives in the Na-
15 tional Petroleum Reserve Alaska Integrated Activity
16 Plan Record of Decision issued by the Secretary of
17 the Interior and dated February 21, 2013; and

18 (2) an environmental impact statement under
19 section 102(2)(C) of the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4332(2)(C)) for
21 issuance of oil and gas leases in the National Petro-
22 leum Reserve-Alaska to promote efficient and max-
23 imum development of oil and natural gas resources
24 of such reserve.

1 (b) NULLIFICATION OF EXISTING RECORD OF DECI-
2 SION, IAP, AND EIS.—Except as provided in subsection
3 (a), the National Petroleum Reserve-Alaska Integrated
4 Activity Plan Record of Decision issued by the Secretary
5 of the Interior and dated February 21, 2013, including
6 the integrated activity plan and environmental impact
7 statement referred to in that record of decision, shall have
8 no force or effect.

9 **SEC. 4306. DEPARTMENTAL ACCOUNTABILITY FOR DEVELOP-**
10 **MENT.**

11 The Secretary of the Interior shall issue regulations
12 not later than 180 days after the date of enactment of
13 this Act that establish clear requirements to ensure that
14 the Department of the Interior is supporting development
15 of oil and gas leases in the National Petroleum Reserve-
16 Alaska.

17 **SEC. 4307. DEADLINES UNDER NEW PROPOSED INTEGRATED**
18 **ACTIVITY PLAN.**

19 At a minimum, the new proposed integrated activity
20 plan issued under section 4305(a)(1) shall—

21 (1) require the Department of the Interior to
22 respond within 5 business days to a person who sub-
23 mits an application for a permit for development of
24 oil and natural gas leases in the National Petroleum

1 Reserve-Alaska acknowledging receipt of such appli-
2 cation; and

3 (2) establish a timeline for the processing of
4 each such application, that—

5 (A) specifies deadlines for decisions and
6 actions on permit applications; and

7 (B) provides that the period for issuing
8 each permit after submission of such an appli-
9 cation shall not exceed 60 days without the con-
10 currence of the applicant.

11 **SEC. 4308. UPDATED RESOURCE ASSESSMENT.**

12 (a) IN GENERAL.—The Secretary of the Interior shall
13 complete a comprehensive assessment of all technically re-
14 coverable fossil fuel resources within the National Petro-
15 leum Reserve in Alaska, including all conventional and un-
16 conventional oil and natural gas.

17 (b) COOPERATION AND CONSULTATION.—The re-
18 source assessment required by subsection (a) shall be car-
19 ried out by the United States Geological Survey in co-
20 operation and consultation with the State of Alaska and
21 the American Association of Petroleum Geologists.

22 (c) TIMING.—The resource assessment required by
23 subsection (a) shall be completed within 24 months of the
24 date of the enactment of this Act.

1 (d) FUNDING.—The United States Geological Survey
2 may, in carrying out the duties under this section, coop-
3 eratively use resources and funds provided by the State
4 of Alaska.

5 **Subtitle D—BLM Live Internet**
6 **Auctions**

7 **SEC. 4401. SHORT TITLE.**

8 This subtitle may be cited as the “BLM Live Internet
9 Auctions Act”.

10 **SEC. 4402. INTERNET-BASED ONSHORE OIL AND GAS LEASE**
11 **SALES.**

12 (a) AUTHORIZATION.—Section 17(b)(1) of the Min-
13 eral Leasing Act (30 U.S.C. 226(b)(1)) is amended—

14 (1) in subparagraph (A), in the third sentence,
15 by inserting “, except as provided in subparagraph
16 (C)” after “by oral bidding”; and

17 (2) by adding at the end the following:

18 “(C) In order to diversify and expand the Nation’s
19 onshore leasing program to ensure the best return to the
20 Federal taxpayer, reduce fraud, and secure the leasing
21 process, the Secretary may conduct onshore lease sales
22 through Internet-based bidding methods. Each individual
23 Internet-based lease sale shall conclude within 7 days.”.

24 (b) REPORT.—Not later than 90 days after the tenth
25 Internet-based lease sale conducted under the amendment

1 made by subsection (a), the Secretary of the Interior shall
2 analyze the first 10 such lease sales and report to Con-
3 gress the findings of the analysis. The report shall in-
4 clude—

5 (1) estimates on increases or decreases in such
6 lease sales, compared to sales conducted by oral bid-
7 ding, in—

8 (A) the number of bidders;

9 (B) the average amount of bid;

10 (C) the highest amount bid; and

11 (D) the lowest bid;

12 (2) an estimate on the total cost or savings to
13 the Department of the Interior as a result of such
14 sales, compared to sales conducted by oral bidding;
15 and

16 (3) an evaluation of the demonstrated or ex-
17 pected effectiveness of different structures for lease
18 sales which may provide an opportunity to better
19 maximize bidder participation, ensure the highest re-
20 turn to the Federal taxpayers, minimize opportuni-
21 ties for fraud or collusion, and ensure the security
22 and integrity of the leasing process.

1 **Subtitle E—Native American**
2 **Energy**

3 **SEC. 4501. SHORT TITLE.**

4 This subtitle may be cited as the “Native American
5 Energy Act”.

6 **SEC. 4502. APPRAISALS.**

7 (a) AMENDMENT.—Title XXVI of the Energy Policy
8 Act of 1992 (25 U.S.C. 3501 et seq.) is amended by add-
9 ing at the end the following:

10 **“SEC. 2607. APPRAISAL REFORMS.**

11 “(a) OPTIONS TO INDIAN TRIBES.—With respect to
12 a transaction involving Indian land or the trust assets of
13 an Indian tribe that requires the approval of the Sec-
14 retary, any appraisal relating to fair market value required
15 to be conducted under applicable law, regulation, or policy
16 may be completed by—

17 “(1) the Secretary;

18 “(2) the affected Indian tribe; or

19 “(3) a certified, third-party appraiser pursuant
20 to a contract with the Indian tribe.

21 “(b) TIME LIMIT ON SECRETARIAL REVIEW AND AC-
22 TION.—Not later than 30 days after the date on which
23 the Secretary receives an appraisal conducted by or for
24 an Indian tribe pursuant to paragraphs (2) or (3) of sub-
25 section (a), the Secretary shall—

1 “(1) review the appraisal; and

2 “(2) provide to the Indian tribe a written notice
3 of approval or disapproval of the appraisal.

4 “(c) FAILURE OF SECRETARY TO APPROVE OR DIS-
5 APPROVE.—If, after 60 days, the Secretary has failed to
6 approve or disapprove any appraisal received, the ap-
7 praisal shall be deemed approved.

8 “(d) OPTION TO INDIAN TRIBES TO WAIVE AP-
9 PRAISAL.—

10 “(1) An Indian tribe wishing to waive the re-
11 quirements of subsection (a), may do so after it has
12 satisfied the requirements of subsections (2) and (3)
13 below.

14 “(2) An Indian tribe wishing to forego the ne-
15 cessity of a waiver pursuant to this section must
16 provide to the Secretary a written resolution, state-
17 ment, or other unambiguous indication of tribal in-
18 tent, duly approved by the governing body of the In-
19 dian tribe.

20 “(3) The unambiguous indication of intent pro-
21 vided by the Indian tribe to the Secretary under
22 paragraph (2) must include an express waiver by the
23 Indian tribe of any claims for damages it might have
24 against the United States as a result of the lack of
25 an appraisal undertaken.

1 “(e) DEFINITION.—For purposes of this section, the
2 term ‘appraisal’ includes appraisals and other estimates
3 of value.

4 “(f) REGULATIONS.—The Secretary shall develop
5 regulations for implementing this section, including stand-
6 ards the Secretary shall use for approving or disapproving
7 an appraisal.”.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents of the Energy Policy Act of 1992 (42 U.S.C. 13201
10 note) is amended by adding at the end of the items relat-
11 ing to title XXVI the following:

“Sec. 2607. Appraisal reforms.”.

12 **SEC. 4503. STANDARDIZATION.**

13 As soon as practicable after the date of the enactment
14 of this Act, the Secretary of the Interior shall implement
15 procedures to ensure that each agency within the Depart-
16 ment of the Interior that is involved in the review, ap-
17 proval, and oversight of oil and gas activities on Indian
18 lands shall use a uniform system of reference numbers and
19 tracking systems for oil and gas wells.

20 **SEC. 4504. ENVIRONMENTAL REVIEWS OF MAJOR FEDERAL**
21 **ACTIONS ON INDIAN LANDS.**

22 Section 102 of the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4332) is amended by inserting
24 “(a) IN GENERAL.—” before the first sentence, and by
25 adding at the end the following:

1 “(b) REVIEW OF MAJOR FEDERAL ACTIONS ON IN-
2 DIAN LANDS.—

3 “(1) IN GENERAL.—For any major Federal ac-
4 tion on Indian lands of an Indian tribe requiring the
5 preparation of a statement under subsection
6 (a)(2)(C), the statement shall only be available for
7 review and comment by the members of the Indian
8 tribe and by any other individual residing within the
9 affected area.

10 “(2) REGULATIONS.—The Chairman of the
11 Council on Environmental Quality shall develop reg-
12 ulations to implement this section, including descrip-
13 tions of affected areas for specific major Federal ac-
14 tions, in consultation with Indian tribes.

15 “(3) DEFINITIONS.—In this subsection, each of
16 the terms ‘Indian land’ and ‘Indian tribe’ has the
17 meaning given that term in section 2601 of the En-
18 ergy Policy Act of 1992 (25 U.S.C. 3501).

19 “(4) CLARIFICATION OF AUTHORITY.—Nothing
20 in the Native American Energy Act, except section
21 5006 of that Act, shall give the Secretary any addi-
22 tional authority over energy projects on Alaska Na-
23 tive Claims Settlement Act lands.”.

1 **SEC. 4505. JUDICIAL REVIEW.**

2 (a) TIME FOR FILING COMPLAINT.—Any energy re-
3 lated action must be filed not later than the end of the
4 60-day period beginning on the date of the final agency
5 action. Any energy related action not filed within this time
6 period shall be barred.

7 (b) DISTRICT COURT VENUE AND DEADLINE.—All
8 energy related actions—

9 (1) shall be brought in the United States Dis-
10 trict Court for the District of Columbia; and

11 (2) shall be resolved as expeditiously as pos-
12 sible, and in any event not more than 180 days after
13 such cause of action is filed.

14 (c) APPELLATE REVIEW.—An interlocutory order or
15 final judgment, decree or order of the district court in an
16 energy related action may be reviewed by the United
17 States Court of Appeals for the District of Columbia Cir-
18 cuit. The District of Columbia Circuit Court of Appeals
19 shall resolve such appeal as expeditiously as possible, and
20 in any event not more than 180 days after such interlocu-
21 tory order or final judgment, decree or order of the district
22 court was issued.

23 (d) LIMITATION ON CERTAIN PAYMENTS.—Notwith-
24 standing section 1304 of title 31, United States Code, no
25 award may be made under section 504 of title 5, United
26 States Code, or under section 2412 of title 28, United

1 States Code, and no amounts may be obligated or ex-
2 pended from the Claims and Judgment Fund of the
3 United States Treasury to pay any fees or other expenses
4 under such sections, to any person or party in an energy
5 related action.

6 (e) LEGAL FEES.—In any energy related action in
7 which the plaintiff does not ultimately prevail, the court
8 shall award to the defendant (including any intervenor-
9 defendants), other than the United States, fees and other
10 expenses incurred by that party in connection with the en-
11 ergy related action, unless the court finds that the position
12 of the plaintiff was substantially justified or that special
13 circumstances make an award unjust. Whether or not the
14 position of the plaintiff was substantially justified shall be
15 determined on the basis of the administrative record, as
16 a whole, which is made in the energy related action for
17 which fees and other expenses are sought.

18 (f) DEFINITIONS.—For the purposes of this section,
19 the following definitions apply:

20 (1) AGENCY ACTION.—The term “agency ac-
21 tion” has the same meaning given such term in sec-
22 tion 551 of title 5, United States Code.

23 (2) INDIAN LAND.—The term “Indian Land”
24 has the same meaning given such term in section
25 203(c)(3) of the Energy Policy Act of 2005 (Public

1 Law 109–58; 25 U.S.C. 3501), including lands
2 owned by Native Corporations under the Alaska Na-
3 tive Claims Settlement Act (Public Law 92–203; 43
4 U.S.C. 1601).

5 (3) ENERGY RELATED ACTION.—The term “en-
6 ergy related action” means a cause of action that—

7 (A) is filed on or after the effective date of
8 this Act; and

9 (B) seeks judicial review of a final agency
10 action to issue a permit, license, or other form
11 of agency permission allowing—

12 (i) any person or entity to conduct ac-
13 tivities on Indian Land, which activities in-
14 volve the exploration, development, produc-
15 tion or transportation of oil, gas, coal,
16 shale gas, oil shale, geothermal resources,
17 wind or solar resources, underground coal
18 gasification, biomass, or the generation of
19 electricity; or

20 (ii) any Indian Tribe, or any organiza-
21 tion of 2 or more entities, at least 1 of
22 which is an Indian tribe, to conduct activi-
23 ties involving the exploration, development,
24 production or transportation of oil, gas,
25 coal, shale gas, oil shale, geothermal re-

1 sources, wind or solar resources, under-
2 ground coal gasification, biomass, or the
3 generation of electricity, regardless of
4 where such activities are undertaken.

5 (4) **ULTIMATELY PREVAIL.**—The term “ulti-
6 mately prevail” means, in a final enforceable judg-
7 ment, the court rules in the party’s favor on at least
8 1 cause of action that is an underlying rationale for
9 the preliminary injunction, administrative stay, or
10 other relief requested by the party, and does not in-
11 clude circumstances where the final agency action is
12 modified or amended by the issuing agency unless
13 such modification or amendment is required pursu-
14 ant to a final enforceable judgment of the court or
15 a court-ordered consent decree.

16 **SEC. 4506. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

17 The Tribal Forest Protection Act of 2004 is amended
18 by inserting after section 2 (25 U.S.C. 3115a) the fol-
19 lowing:

20 **“SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

21 “(a) **IN GENERAL.**—For each of fiscal years 2015
22 through 2019, the Secretary shall enter into stewardship
23 contracts or other agreements, other than agreements that
24 are exclusively direct service contracts, with Indian tribes
25 to carry out demonstration projects to promote biomass

1 energy production (including biofuel, heat, and electricity
2 generation) on Indian forest land and in nearby commu-
3 nities by providing reliable supplies of woody biomass from
4 Federal land.

5 “(b) DEFINITIONS.—The definitions in section 2
6 shall apply to this section.

7 “(c) DEMONSTRATION PROJECTS.—In each fiscal
8 year for which projects are authorized, the Secretary shall
9 enter into contracts or other agreements described in sub-
10 section (a) to carry out at least 4 new demonstration
11 projects that meet the eligibility criteria described in sub-
12 section (d).

13 “(d) ELIGIBILITY CRITERIA.—To be eligible to enter
14 into a contract or other agreement under this subsection,
15 an Indian tribe shall submit to the Secretary an applica-
16 tion—

17 “(1) containing such information as the Sec-
18 retary may require; and

19 “(2) that includes a description of—

20 “(A) the Indian forest land or rangeland
21 under the jurisdiction of the Indian tribe; and

22 “(B) the demonstration project proposed
23 to be carried out by the Indian tribe.

24 “(e) SELECTION.—In evaluating the applications
25 submitted under subsection (c), the Secretary—

1 “(1) shall take into consideration the factors set
2 forth in paragraphs (1) and (2) of section 2(e) of
3 Public Law 108–278; and whether a proposed dem-
4 onstration project would—

5 “(A) increase the availability or reliability
6 of local or regional energy;

7 “(B) enhance the economic development of
8 the Indian tribe;

9 “(C) improve the connection of electric
10 power transmission facilities serving the Indian
11 tribe with other electric transmission facilities;

12 “(D) improve the forest health or water-
13 sheds of Federal land or Indian forest land or
14 rangeland; or

15 “(E) otherwise promote the use of woody
16 biomass; and

17 “(2) shall exclude from consideration any mer-
18 chantable logs that have been identified by the Sec-
19 retary for commercial sale.

20 “(f) IMPLEMENTATION.—The Secretary shall—

21 “(1) ensure that the criteria described in sub-
22 section (c) are publicly available by not later than
23 120 days after the date of enactment of this section;
24 and

1 “(2) to the maximum extent practicable, consult
2 with Indian tribes and appropriate intertribal orga-
3 nizations likely to be affected in developing the ap-
4 plication and otherwise carrying out this section.

5 “(g) REPORT.—Not later than September 20, 2015,
6 the Secretary shall submit to Congress a report that de-
7 scribes, with respect to the reporting period—

8 “(1) each individual tribal application received
9 under this section; and

10 “(2) each contract and agreement entered into
11 pursuant to this section.

12 “(h) INCORPORATION OF MANAGEMENT PLANS.—In
13 carrying out a contract or agreement under this section,
14 on receipt of a request from an Indian tribe, the Secretary
15 shall incorporate into the contract or agreement, to the
16 extent practicable, management plans (including forest
17 management and integrated resource management plans)
18 in effect on the Indian forest land or rangeland of the re-
19 spective Indian tribe.

20 “(i) TERM.—A stewardship contract or other agree-
21 ment entered into under this section—

22 “(1) shall be for a term of not more than 20
23 years; and

24 “(2) may be renewed in accordance with this
25 section for not more than an additional 10 years.”.

1 **SEC. 4507. TRIBAL RESOURCE MANAGEMENT PLANS.**

2 Unless otherwise explicitly exempted by Federal law
3 enacted after the date of the enactment of this Act, any
4 activity conducted or resources harvested or produced pur-
5 suant to a tribal resource management plan or an inte-
6 grated resource management plan approved by the Sec-
7 retary of the Interior under the National Indian Forest
8 Resources Management Act (25 U.S.C. 3101 et seq.) or
9 the American Indian Agricultural Resource Management
10 Act (25 U.S.C. 3701 et seq.), shall be considered a sus-
11 tainable management practice for purposes of any Federal
12 standard, benefit, or requirement that requires a dem-
13 onstration of such sustainability.

14 **SEC. 4508. LEASES OF RESTRICTED LANDS FOR THE NAV-**
15 **AJO NATION.**

16 Subsection (e)(1) of the first section of the Act of
17 August 9, 1955 (25 U.S.C. 415(e)(1); commonly referred
18 to as the “Long-Term Leasing Act”), is amended—

19 (1) by striking “, except a lease for” and insert-
20 ing “, including leases for”;

21 (2) in subparagraph (A), by striking “25” the
22 first place it appears and all that follows and insert-
23 ing “99 years;”;

24 (3) in subparagraph (B), by striking the period
25 and inserting “; and”; and

26 (4) by adding at the end the following:

1 “(C) in the case of a lease for the exploration,
2 development, or extraction of mineral resources, in-
3 cluding geothermal resources, 25 years, except that
4 any such lease may include an option to renew for
5 one additional term not to exceed 25 years.”.

6 **SEC. 4509. NONAPPLICABILITY OF CERTAIN RULES.**

7 No rule promulgated by the Department of the Inte-
8 rior regarding hydraulic fracturing used in the develop-
9 ment or production of oil or gas resources shall have any
10 effect on any land held in trust or restricted status for
11 the benefit of Indians except with the express consent of
12 the beneficiary on whose behalf such land is held in trust
13 or restricted status.

14 **SEC. 4510. PERMITS FOR INCIDENTAL TAKE.**

15 Section 1 of the Act of June 8, 1940 (chapter 278;
16 16 U.S.C. 668), popularly known as the Bald and Golden
17 Eagle Protection Act, is amended by adding at the end
18 the following:

19 “(d) PERMITS FOR INCIDENTAL TAKE.—Upon sub-
20 mission of a substantially completed application, the Sec-
21 retary shall issue or deny an eagle take permit for no less
22 than 30 years under section 22.26 of title 50, Code of
23 Federal Regulations, that authorizes taking of any bald
24 eagle or golden eagle that is incidental to, but not the pur-
25 pose of, an otherwise lawful activity. Failure to issue or

1 deny such a permit within a reasonable time (which shall
 2 not exceed one year) is deemed issuance of such permit,
 3 and the applicant shall not be subject to liability for any
 4 incidental take of a bald eagle or golden eagle that is in
 5 conformity with the information submitted to the Sec-
 6 retary as part of the application for the permit.”.

7 **SEC. 4511. MIGRATORY BIRD TREATY ACT.**

8 Section 6(a) of the Migratory Bird Treaty Act (16
 9 U.S.C. 707(a)) is amended—

10 (1) by striking “shall” the first and second
 11 place it appears and inserting “shall with intent
 12 knowingly”; and

13 (2) by adding at the end the following: “For the
 14 purposes of this subsection, ‘with intent knowingly’
 15 does not include any taking, killing, or other harm
 16 to any migratory bird that is accidental or incidental
 17 to the presence or operation of an otherwise lawful
 18 activity.”.

19 **TITLE XIV—HYDRAULIC**
 20 **FRACTURING**

21 **Subtitle A—State Authority for**
 22 **Hydraulic Fracturing Regulation**

23 **SEC. 5101. SHORT TITLE.**

24 This title may be cited as the “Protecting States’
 25 Rights to Promote American Energy Security Act”.

1 **SEC. 5102. STATE AUTHORITY FOR HYDRAULIC FRAC-**
2 **TURING REGULATION.**

3 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
4 amended by redesignating section 44 as section 45, and
5 by inserting after section 43 the following:

6 **“SEC. 44. STATE AUTHORITY FOR HYDRAULIC FRACTURING**
7 **REGULATION.**

8 “(a) IN GENERAL.—The Department of the Interior
9 shall not enforce any Federal regulation, guidance, or per-
10 mit requirement regarding hydraulic fracturing, or any
11 component of that process, relating to oil, gas, or geo-
12 thermal production activities on or under any land in any
13 State that has regulations, guidance, or permit require-
14 ments for that activity.

15 “(b) STATE AUTHORITY.—The Department of the
16 Interior shall recognize and defer to State regulations,
17 permitting, and guidance, for all activities related to hy-
18 draulic fracturing, or any component of that process, re-
19 lating to oil, gas, or geothermal production activities on
20 Federal land.

21 “(c) TRANSPARENCY OF STATE REGULATIONS.—

22 “(1) IN GENERAL.—Each State shall submit to
23 the Bureau of Land Management a copy of its regu-
24 lations that apply to hydraulic fracturing operations
25 on Federal land.

1 “(2) AVAILABILITY.—The Secretary of the In-
2 terior shall make available to the public State regu-
3 lations submitted under this subsection.

4 “(d) TRANSPARENCY OF STATE DISCLOSURE RE-
5 QUIREMENTS.—

6 “(1) IN GENERAL.—Each State shall submit to
7 the Bureau of Land Management a copy of any reg-
8 ulations of the State that require disclosure of
9 chemicals used in hydraulic fracturing operations on
10 Federal land.

11 “(2) AVAILABILITY.—The Secretary of the In-
12 terior shall make available to the public State regu-
13 lations submitted under this subsection.

14 “(e) HYDRAULIC FRACTURING DEFINED.—In this
15 section the term ‘hydraulic fracturing’ means the process
16 by which fracturing fluids (or a fracturing fluid system)
17 are pumped into an underground geologic formation at a
18 calculated, predetermined rate and pressure to generate
19 fractures or cracks in the target formation and thereby
20 increase the permeability of the rock near the wellbore and
21 improve production of natural gas or oil.”.

22 **SEC. 5103. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

23 (a) STUDY.—The Comptroller General of the United
24 States shall conduct a study examining the economic bene-
25 fits of domestic shale oil and gas production resulting from

1 the process of hydraulic fracturing. This study shall in-
2 clude identification of—

3 (1) State and Federal revenue generated as a
4 result of shale gas production;

5 (2) jobs created both directly and indirectly as
6 a result of shale oil and gas production; and

7 (3) an estimate of potential energy prices with-
8 out domestic shale oil and gas production.

9 (b) REPORT.—The Comptroller General shall submit
10 a report on the findings of such study to the Committee
11 on Natural Resources of the House of Representatives
12 within 30 days after completion of the study.

13 **SEC. 5104. TRIBAL AUTHORITY ON TRUST LAND.**

14 The Department of the Interior shall not enforce any
15 Federal regulation, guidance, or permit requirement re-
16 garding the process of hydraulic fracturing (as that term
17 is defined in section 44 of the Mineral Leasing Act, as
18 amended by section 5102 of this title), or any component
19 of that process, relating to oil, gas, or geothermal produc-
20 tion activities on any land held in trust or restricted status
21 for the benefit of Indians except with the express consent
22 of the beneficiary on whose behalf such land is held in
23 trust or restricted status.

Subtitle B—EPA Hydraulic Fracturing Research

SEC. 5201. SHORT TITLE.

This title may be cited as the “EPA Hydraulic Fracturing Study Improvement Act”.

SEC. 5202. EPA HYDRAULIC FRACTURING RESEARCH.

In conducting its study of the potential impacts of hydraulic fracturing on drinking water resources, with respect to which a request for information was issued under Federal Register, Vol. 77, No. 218, the Administrator of the Environmental Protection Agency shall adhere to the following requirements:

(1) PEER REVIEW AND INFORMATION QUALITY.—Prior to issuance and dissemination of any final report or any interim report summarizing the Environmental Protection Agency’s research on the relationship between hydraulic fracturing and drinking water, the Administrator shall—

(A) consider such reports to be Highly Influential Scientific Assessments and require peer review of such reports in accordance with guidelines governing such assessments, as described in—

1 (i) the Environmental Protection
2 Agency's Peer Review Handbook 3rd Edi-
3 tion;

4 (ii) the Environmental Protection
5 Agency's Scientific Integrity Policy, as in
6 effect on the date of enactment of this Act;
7 and

8 (iii) the Office of Management and
9 Budget's Peer Review Bulletin, as in effect
10 on the date of enactment of this Act; and

11 (B) require such reports to meet the stand-
12 ards and procedures for the dissemination of in-
13 fluential scientific, financial, or statistical infor-
14 mation set forth in the Environmental Protec-
15 tion Agency's Guidelines for Ensuring and
16 Maximizing the Quality, Objectivity, Utility,
17 and Integrity of Information Disseminated by
18 the Environmental Protection Agency, devel-
19 oped in response to guidelines issued by the Of-
20 fice of Management and Budget under section
21 515(a) of the Treasury and General Govern-
22 ment Appropriations Act for Fiscal Year 2001
23 (Public Law 106-554).

24 (2) PROBABILITY, UNCERTAINTY, AND CON-
25 SEQUENCE.—In order to maximize the quality and

1 utility of information developed through the study,
2 the Administrator shall ensure that identification of
3 the possible impacts of hydraulic fracturing on
4 drinking water resources included in such reports be
5 accompanied by objective estimates of the prob-
6 ability, uncertainty, and consequence of each identi-
7 fied impact, taking into account the risk manage-
8 ment practices of States and industry. Estimates or
9 descriptions of probability, uncertainty, and con-
10 sequence shall be as quantitative as possible given
11 the validity, accuracy, precision, and other quality
12 attributes of the underlying data and analyses, but
13 no more quantitative than the data and analyses can
14 support.

15 (3) RELEASE OF FINAL REPORT.—The final re-
16 port shall be publicly released by September 30,
17 2016.

18 **Subtitle C—Miscellaneous**

19 **Provisions**

20 **SEC. 5301. REVIEW OF STATE ACTIVITIES.**

21 The Secretary of the Interior shall annually review
22 and report to Congress on all State activities relating to
23 hydraulic fracturing.

1 **TITLE XV—NORTHERN ROUTE**
2 **APPROVAL**

3 **SEC. 6001. SHORT TITLE.**

4 This title may be cited as the “Northern Route Ap-
5 proval Act”.

6 **SEC. 6002. FINDINGS.**

7 The Congress finds the following:

8 (1) To maintain our Nation’s competitive edge
9 and ensure an economy built to last, the United
10 States must have fast, reliable, resilient, and envi-
11 ronmentally sound means of moving energy. In a
12 global economy, we will compete for the world’s in-
13 vestments based in significant part on the quality of
14 our infrastructure. Investing in the Nation’s infra-
15 structure provides immediate and long-term eco-
16 nomic benefits for local communities and the Nation
17 as a whole.

18 (2) The delivery of oil from Canada, a close ally
19 not only in proximity but in shared values and
20 ideals, to domestic markets is in the national inter-
21 est because of the need to lessen dependence upon
22 insecure foreign sources.

23 (3) The Keystone XL pipeline would provide
24 both short-term and long-term employment opportu-

1 nities and related labor income benefits, such as gov-
2 ernment revenues associated with taxes.

3 (4) The State of Nebraska has thoroughly re-
4 viewed and approved the proposed Keystone XL
5 pipeline reroute, concluding that the concerns of Ne-
6 braskans have had a major influence on the pipeline
7 reroute and that the reroute will have minimal envi-
8 ronmental impacts.

9 (5) The Department of State and other Federal
10 agencies have over a long period of time conducted
11 extensive studies and analysis of the technical as-
12 pects and of the environmental, social, and economic
13 impacts of the proposed Keystone XL pipeline,
14 and—

15 (A) the Department of State assessments
16 found that the Keystone XL pipeline “is not
17 likely to impact the amount of crude oil pro-
18 duced from the oil sands” and that “approval
19 or denial of the proposed project is unlikely to
20 have a substantial impact on the rate of devel-
21 opment in the oil sands”;

22 (B) the Department of State found that
23 incremental life-cycle greenhouse gas emissions
24 associated with the Keystone XL project are es-
25 timated in the range of 0.07 to 0.83 million

1 metric tons of carbon dioxide equivalents, with
2 the upper end of this range representing twelve
3 one-thousandths of one percent of the 6,702
4 million metric tons of carbon dioxide emitted in
5 the United States in 2011; and

6 (C) after extensive evaluation of potential
7 impacts to land and water resources along the
8 Keystone XL pipeline’s 875-mile proposed
9 route, the Department of State found that
10 “The analyses of potential impacts associated
11 with construction and normal operation of the
12 proposed Project suggest that there would be
13 no significant impacts to most resources along
14 the proposed Project route (assuming Keystone
15 complies with all laws and required conditions
16 and measures).”.

17 (6) The transportation of oil via pipeline is the
18 safest and most economically and environmentally
19 effective means of doing so, and—

20 (A) transportation of oil via pipeline has a
21 record of unmatched safety and environmental
22 protection, and the Department of State found
23 that “Spills associated with the proposed
24 Project that enter the environment expected to
25 be rare and relatively small”, and that “there

1 is no evidence of increased corrosion or other
2 pipeline threat due to viscosity” of diluted bitu-
3 men oil that will be transported by the Key-
4 stone XL pipeline; and

5 (B) plans to incorporate 57 project-specific
6 special conditions related to the design, con-
7 struction, and operations of the Keystone XL
8 pipeline led the Department of State to find
9 that the pipeline will have “a degree of safety
10 over any other typically constructed domestic oil
11 pipeline”.

12 (7) The Keystone XL is in much the same posi-
13 tion today as the Alaska Pipeline in 1973 prior to
14 congressional action. Once again, the Federal regu-
15 latory process remains an insurmountable obstacle
16 to a project that is likely to reduce oil imports from
17 insecure foreign sources.

18 **SEC. 6003. KEYSTONE XL PERMIT APPROVAL.**

19 Notwithstanding Executive Order No. 13337 (3
20 U.S.C. 301 note), Executive Order No. 11423 (3 U.S.C.
21 301 note), section 301 of title 3, United States Code, and
22 any other Executive order or provision of law, no Presi-
23 dential permit shall be required for the pipeline described
24 in the application filed on May 4, 2012, by TransCanada
25 Keystone Pipeline, L.P. to the Department of State for

1 the Keystone XL pipeline, as supplemented to include the
2 Nebraska reroute evaluated in the Final Evaluation Re-
3 port issued by the Nebraska Department of Environ-
4 mental Quality in January 2013 and approved by the Ne-
5 braska governor. The final environmental impact state-
6 ment issued by the Secretary of State on August 26, 2011,
7 coupled with the Final Evaluation Report described in the
8 previous sentence, shall be considered to satisfy all re-
9 quirements of the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321 et seq.) and of the National His-
11 toric Preservation Act (16 U.S.C. 470 et seq.).

12 **SEC. 6004. JUDICIAL REVIEW.**

13 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
14 the Supreme Court on writ of certiorari, the United States
15 Court of Appeals for the District of Columbia Circuit shall
16 have original and exclusive jurisdiction to determine—

17 (1) the validity of any final order or action (in-
18 cluding a failure to act) of any Federal agency or of-
19 ficer with respect to issuance of a permit relating to
20 the construction or maintenance of the Keystone XL
21 pipeline, including any final order or action deemed
22 to be taken, made, granted, or issued;

23 (2) the constitutionality of any provision of this
24 title, or any decision or action taken, made, granted,

1 or issued, or deemed to be taken, made, granted, or
2 issued under this title; or

3 (3) the adequacy of any environmental impact
4 statement prepared under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
6 or of any analysis under any other Act, with respect
7 to any action taken, made, granted, or issued, or
8 deemed to be taken, made, granted, or issued under
9 this title.

10 (b) DEADLINE FOR FILING CLAIM.—A claim arising
11 under this title may be brought not later than 60 days
12 after the date of the decision or action giving rise to the
13 claim.

14 (c) EXPEDITED CONSIDERATION.—The United
15 States Court of Appeals for the District of Columbia Cir-
16 cuit shall set any action brought under subsection (a) for
17 expedited consideration, taking into account the national
18 interest of enhancing national energy security by providing
19 access to the significant oil reserves in Canada that are
20 needed to meet the demand for oil.

21 **SEC. 6005. AMERICAN BURYING BEETLE.**

22 (a) FINDINGS.—The Congress finds that—

23 (1) environmental reviews performed for the
24 Keystone XL pipeline project satisfy the require-

1 ments of section 7 of the Endangered Species Act of
2 1973 (16 U.S.C. 1536(a)(2)) in its entirety; and
3 (2) for purposes of that Act, the Keystone XL
4 pipeline project will not jeopardize the continued ex-
5 istence of the American burying beetle or destroy or
6 adversely modify American burying beetle critical
7 habitat.

8 (b) BIOLOGICAL OPINION.—The Secretary of the In-
9 terior is deemed to have issued a written statement setting
10 forth the Secretary’s opinion containing such findings
11 under section 7(b)(1)(A) of the Endangered Species Act
12 of 1973 (16 U.S.C. 1536(b)(1)(A)) and any taking of the
13 American burying beetle that is incidental to the construc-
14 tion or operation and maintenance of the Keystone XL
15 pipeline as it may be ultimately defined in its entirety,
16 shall not be considered a prohibited taking of such species
17 under such Act.

18 **SEC. 6006. RIGHT-OF-WAY AND TEMPORARY USE PERMIT.**

19 The Secretary of the Interior is deemed to have
20 granted or issued a grant of right-of-way and temporary
21 use permit under section 28 of the Mineral Leasing Act
22 (30 U.S.C. 185) and the Federal Land Policy and Man-
23 agement Act of 1976 (43 U.S.C. 1701 et seq.), as set forth
24 in the application tendered to the Bureau of Land Man-
25 agement for the Keystone XL pipeline.

1 **SEC. 6007. PERMITS FOR ACTIVITIES IN NAVIGABLE**
2 **WATERS.**

3 (a) **ISSUANCE OF PERMITS.**—The Secretary of the
4 Army, not later than 90 days after receipt of an applica-
5 tion therefor, shall issue all permits under section 404 of
6 the Federal Water Pollution Control Act (33 U.S.C. 1344)
7 and section 10 of the Act of March 3, 1899 (33 U.S.C.
8 403; commonly known as the Rivers and Harbors Approp-
9 riations Act of 1899), necessary for the construction, op-
10 eration, and maintenance of the pipeline described in the
11 May 4, 2012, application referred to in section 6003, as
12 supplemented by the Nebraska reroute. The application
13 shall be based on the administrative record for the pipeline
14 as of the date of enactment of this Act, which shall be
15 considered complete.

16 (b) **WAIVER OF PROCEDURAL REQUIREMENTS.**—The
17 Secretary may waive any procedural requirement of law
18 or regulation that the Secretary considers desirable to
19 waive in order to accomplish the purposes of this section.

20 (c) **ISSUANCE IN ABSENCE OF ACTION BY THE SEC-**
21 **RETARY.**—If the Secretary has not issued a permit de-
22 scribed in subsection (a) on or before the last day of the
23 90-day period referred to in subsection (a), the permit
24 shall be deemed issued under section 404 of the Federal
25 Water Pollution Control Act (33 U.S.C. 1344) or section

1 10 of the Act of March 3, 1899 (33 U.S.C. 403), as appro-
2 priate, on the day following such last day.

3 (d) LIMITATION.—The Administrator of the Environ-
4 mental Protection Agency may not prohibit or restrict an
5 activity or use of an area that is authorized under this
6 section.

7 **SEC. 6008. MIGRATORY BIRD TREATY ACT PERMIT.**

8 The Secretary of the Interior is deemed to have
9 issued a special purpose permit under the Migratory Bird
10 Treaty Act (16 U.S.C. 703 et seq.), as described in the
11 application filed with the United States Fish and Wildlife
12 Service for the Keystone XL pipeline on January 11,
13 2013.

14 **SEC. 6009. OIL SPILL RESPONSE PLAN DISCLOSURE.**

15 (a) IN GENERAL.—Any pipeline owner or operator
16 required under Federal law to develop an oil spill response
17 plan for the Keystone XL pipeline shall make such plan
18 available to the Governor of each State in which such pipe-
19 line operates to assist with emergency response prepared-
20 ness.

21 (b) UPDATES.—A pipeline owner or operator required
22 to make available to a Governor a plan under subsection
23 (a) shall make available to such Governor any update of
24 such plan not later than 7 days after the date on which
25 such update is made.

1 **TITLE XVI—RELIEF FROM EPA**
2 **CLIMATE CHANGE REGULA-**
3 **TIONS AND FEDERAL PROHI-**
4 **BITIONS ON SYNTHETIC**
5 **FUELS**

6 **SEC. 7001. REPEAL OF EPA CLIMATE CHANGE REGULATION.**

7 (a) GREENHOUSE GAS REGULATION UNDER CLEAN
8 AIR ACT.—Section 302(g) of the Clean Air Act (42 U.S.C.
9 7602(g)) is amended by adding the following at the end
10 thereof: “The term ‘air pollutant’ shall not include carbon
11 dioxide, water vapor, methane, nitrous oxide, hydrofluoro-
12 carbons, perfluorocarbons, or sulfur hexafluoride.”.

13 (b) NO REGULATION OF CLIMATE CHANGE.—Noth-
14 ing in the Clean Air Act (42 U.S.C. 7401 et seq.), the
15 Federal Water Pollution Control Act (33 U.S.C. 1251 et
16 seq.), the National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.), the Endangered Species Act of 1973
18 (16 U.S.C. 1531 et seq.), or the Solid Waste Disposal Act
19 (42 U.S.C. 6901 et seq.), shall be treated as authorizing
20 or requiring the regulation of climate change or global
21 warming.

1 **SEC. 7002. REPEAL OF FEDERAL BAN ON SYNTHETIC FUELS**
2 **PURCHASING REQUIREMENT.**

3 Section 526 of the Energy Independence and Security
4 Act of 2007 (Public Law 110–140; 121 Stat. 1663; 42
5 U.S.C. 17142) is repealed.

6 **SEC. 7003. SENSE OF CONGRESS OPPOSING CARBON TAX.**

7 It is the sense of the Congress that a carbon tax—

8 (1) would be detrimental to American families
9 and businesses; and

10 (2) is not in the best interest of the United
11 States.

12 **SEC. 7004. PROHIBITION ON USE OF SOCIAL COST OF CAR-**
13 **BON IN ANALYSIS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law or any executive order, the Administrator of
16 the Environmental Protection Agency may not use the so-
17 cial cost of carbon in order to incorporate social benefits
18 of reducing carbon dioxide emissions, or for any other rea-
19 son, in any cost-benefit analysis relating to an energy-re-
20 lated rule.

21 (b) DEFINITION.—In this section, the term “social
22 cost of carbon” means the social cost of carbon as de-
23 scribed in the technical support document entitled “Tech-
24 nical Support Document: Technical Update of the Social
25 Cost of Carbon for Regulatory Impact Analysis Under Ex-
26 ecutive Order 12866”, published by the Interagency

1 Working Group on Social Cost of Carbon, United States
 2 Government, in May 2013, or any successor or substan-
 3 tially related document, or any other estimate of the mone-
 4 tized damages associated with an incremental increase in
 5 carbon dioxide emissions in a given year.

6 **TITLE XVII—ADDRESSING THE**
 7 **PRESIDENT’S WAR ON COAL**
 8 **Subtitle A—Management and Dis-**
 9 **posal of Coal Combustion Re-**
 10 **siduals**

11 **SEC. 8001. SHORT TITLE.**

12 This subtitle may be cited as the “Coal Residuals
 13 Reuse and Management Act of 2014”.

14 **SEC. 8002. MANAGEMENT AND DISPOSAL OF COAL COMBUS-**
 15 **TION RESIDUALS.**

16 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
 17 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
 18 at the end the following:

19 **“SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COM-**
 20 **BUSTION RESIDUALS.**

21 “(a) STATE PERMIT PROGRAMS FOR COAL COMBUS-
 22 TION RESIDUALS.—Each State may adopt, implement,
 23 and enforce a coal combustion residuals permit program
 24 if such State provides the notification required under sub-

1 section (b)(1), and the certification required under sub-
2 section (b)(2).

3 “(b) STATE ACTIONS.—

4 “(1) NOTIFICATION.—Not later than 6 months
5 after the date of enactment of this section (except
6 as provided by the deadline identified under sub-
7 section (d)(3)(B)), the Governor of each State shall
8 notify the Administrator, in writing, whether such
9 State will adopt and implement a coal combustion
10 residuals permit program.

11 “(2) CERTIFICATION.—

12 “(A) IN GENERAL.—Not later than 36
13 months after the date of enactment of this sec-
14 tion (except as provided in subsection
15 (f)(1)(A)), in the case of a State that has noti-
16 fied the Administrator that it will implement a
17 coal combustion residuals permit program, the
18 head of the lead State implementing agency
19 shall submit to the Administrator a certification
20 that such coal combustion residuals permit pro-
21 gram meets the requirements described in sub-
22 section (c).

23 “(B) CONTENTS.—A certification sub-
24 mitted under this paragraph shall include—

1 “(i) a letter identifying the lead State
2 implementing agency, signed by the head
3 of such agency;

4 “(ii) identification of any other State
5 agencies involved with the implementation
6 of the coal combustion residuals permit
7 program;

8 “(iii) an explanation of how the State
9 coal combustion residuals permit program
10 meets the requirements of this section, in-
11 cluding a description of the State’s—

12 “(I) process to inspect or other-
13 wise determine compliance with such
14 permit program;

15 “(II) process to enforce the re-
16 quirements of such permit program;

17 “(III) public participation proc-
18 ess for the promulgation, amendment,
19 or repeal of regulations for, and the
20 issuance of permits under, such per-
21 mit program;

22 “(IV) statutes, regulations, or
23 policies pertaining to public access to
24 information, such as groundwater
25 monitoring data; and

1 “(V) statutes, regulations, or
2 policies pertaining to structural integ-
3 rity or dam safety that may be ap-
4 plied to structures through such per-
5 mit program;

6 “(iv) a certification that the State has
7 in effect, at the time of certification, stat-
8 utes or regulations necessary to implement
9 a coal combustion residuals permit pro-
10 gram that meets the requirements de-
11 scribed in subsection (c);

12 “(v) copies of State statutes and regu-
13 lations described in clause (iv); and

14 “(vi) an emergency action plan for
15 State response to a leak or spill at a struc-
16 ture that receives coal combustion residu-
17 als.

18 “(C) UPDATES.—A State may update the
19 certification as needed to reflect changes to the
20 coal combustion residuals permit program.

21 “(3) MAINTENANCE OF 4005(c) OR 3006 PRO-
22 GRAM.—In order to adopt or implement a coal com-
23 bustion residuals permit program under this section
24 (including pursuant to subsection (f)), the State im-
25 plementing agency shall maintain an approved per-

1 mit program or other system of prior approval and
2 conditions under section 4005(c) or an authorized
3 program under section 3006.

4 “(c) REQUIREMENTS FOR A COAL COMBUSTION RE-
5 SIDUALS PERMIT PROGRAM.—A coal combustion residuals
6 permit program shall consist of the following:

7 “(1) GENERAL REQUIREMENTS.—

8 “(A) IN GENERAL.—The implementing
9 agency shall—

10 “(i) apply the subset of the revised
11 criteria described in paragraph (2) to own-
12 ers or operators of structures, including
13 surface impoundments, that receive coal
14 combustion residuals on or after the date
15 of enactment of this section;

16 “(ii) with respect to structures that
17 are receiving coal combustion residuals as
18 of the date of enactment of this section,
19 take the actions required under paragraph
20 (3);

21 “(iii) impose requirements for surface
22 impoundments that do not meet certain
23 criteria pursuant to paragraph (4); and

24 “(iv) require that closure of structures
25 occur in accordance with paragraph (5).

1 “(B) STRUCTURAL INTEGRITY.—

2 “(i) ENGINEERING CERTIFICATION.—

3 The implementing agency shall require
4 that an independent registered professional
5 engineer certify that—

6 “(I) the design of each structure
7 that receives coal combustion residu-
8 als on or after the date of enactment
9 of this section is in accordance with
10 recognized and generally accepted
11 good engineering practices for con-
12 tainment of the maximum volume of
13 coal combustion residuals and liquids
14 which can be impounded therein; and

15 “(II) the construction and main-
16 tenance of the structure will ensure
17 structural stability.

18 “(ii) EMERGENCY ACTION PLAN.—

19 The implementing agency shall require
20 that the owner or operator of any structure
21 that is a surface impoundment that re-
22 ceives coal combustion residuals on or after
23 the date of enactment of this section and
24 that is classified by the State as posing a
25 high hazard potential pursuant to the

1 guidelines published by the Federal Emer-
2 gency Management Agency entitled ‘Fed-
3 eral Guidelines for Dam Safety: Hazard
4 Potential Classification System for Dams’
5 (FEMA Publication Number 333) prepare
6 and maintain an emergency action plan
7 that identifies responsible persons and ac-
8 tions to be taken in the event of a dam
9 safety emergency.

10 “(iii) INSPECTION.—

11 “(I) IN GENERAL.—The imple-
12 menting agency shall require that
13 structures that are surface impound-
14 ments that receive coal combustion re-
15 siduals on or after the date of enact-
16 ment of this section be inspected not
17 less than annually by an independent
18 registered professional engineer to as-
19 sure that the design, operation, and
20 maintenance of the surface impound-
21 ment is in accordance with recognized
22 and generally accepted good engineer-
23 ing practices for containment of the
24 maximum volume of coal combustion
25 residuals and liquids which can be im-

1 pounded therein, so as to ensure dam
2 stability.

3 “(II) POTENTIALLY HAZARDOUS
4 CONDITIONS.—The implementing
5 agency shall require that if an inspec-
6 tion under subclause (I), or a periodic
7 evaluation under clause (iv), reveals a
8 potentially hazardous condition, the
9 owner or operator of the structure
10 shall immediately take action to miti-
11 gate the potentially hazardous condi-
12 tion and notify appropriate State and
13 local first responders.

14 “(iv) PERIODIC EVALUATION.—The
15 implementing agency shall require that
16 structures that are surface impoundments
17 that receive coal combustion residuals on
18 or after the date of enactment of this sec-
19 tion be periodically evaluated for appear-
20 ances of structural weakness.

21 “(v) DEFICIENCY.—

22 “(I) IN GENERAL.—If the head
23 of the implementing agency deter-
24 mines that a structure is deficient
25 with respect to the requirements in

1 clause (i), (iii), or (iv), the head of the
2 agency has the authority to require
3 action to correct the deficiency accord-
4 ing to a schedule determined by the
5 agency.

6 “(II) UNCORRECTED DEFICI-
7 CIENCIES.—If a deficiency is not cor-
8 rected according to the schedule, the
9 head of the implementing agency has
10 the authority to require that the
11 structure close in accordance with
12 paragraph (5).

13 “(III) DAM SAFETY CONSULTA-
14 TION.—In the case of a structure that
15 is a surface impoundment, the head of
16 the implementing agency shall, in
17 making a determination under sub-
18 clause (I), consult with appropriate
19 State dam safety officials.

20 “(C) LOCATION.—The implementing agen-
21 cy shall require that structures that first receive
22 coal combustion residuals on or after the date
23 of enactment of this section shall be constructed
24 with a base located a minimum of 2 feet above
25 the upper limit of the water table, unless it is

1 demonstrated to the satisfaction of the imple-
2 menting agency that—

3 “(i) the hydrogeologic characteristics
4 of a structure and surrounding land would
5 preclude such a requirement; and

6 “(ii) the function and integrity of the
7 liner system will not be adversely impacted
8 by contact with the water table.

9 “(D) WIND DISPERSAL.—

10 “(i) IN GENERAL.—The implementing
11 agency shall require that owners or opera-
12 tors of structures that receive coal combus-
13 tion residuals on or after the date of enact-
14 ment of this section address wind dispersal
15 of dust by requiring cover, or by wetting
16 coal combustion residuals with water to a
17 moisture content that prevents wind dis-
18 persal, facilitates compaction, and does not
19 result in free liquids.

20 “(ii) ALTERNATIVE METHODS.—Sub-
21 ject to the review and approval by the im-
22 plementing agency, owners or operators of
23 structures that receive coal combustion re-
24 siduals on or after the date of enactment
25 of this section may propose alternative

1 methods to address wind dispersal of dust
2 that will provide comparable or more effective
3 control of dust.

4 “(E) PERMITS.—The implementing agency
5 shall require that owners or operators of structures
6 that receive coal combustion residuals on
7 or after the date of enactment of this section
8 apply for and obtain permits incorporating the
9 requirements of the coal combustion residuals
10 permit program.

11 “(F) PUBLIC AVAILABILITY OF INFORMATION.—Except for information with respect to
12 which disclosure is prohibited under section
13 1905 of title 18, United States Code, the implementing
14 agency shall ensure that—
15

16 “(i) documents for permit determinations
17 are made available for public review
18 and comment under the public participation
19 process described in subsection
20 (b)(2)(B)(iii)(III) or in subsection (e)(6),
21 as applicable;

22 “(ii) final determinations on permit
23 applications are made known to the public;
24 and

1 “(iii) groundwater monitoring data
2 collected under paragraph (2) is publicly
3 available.

4 “(G) AGENCY AUTHORITY.—

5 “(i) IN GENERAL.—The implementing
6 agency has the authority to—

7 “(I) obtain information necessary
8 to determine whether the owner or op-
9 erator of a structure is in compliance
10 with the requirements of this sub-
11 section;

12 “(II) conduct or require moni-
13 toring and testing to ensure that
14 structures are in compliance with the
15 requirements of this subsection; and

16 “(III) enter, at reasonable times,
17 any site or premise subject to the coal
18 combustion residuals permit program
19 for the purpose of inspecting struc-
20 tures and reviewing records relevant
21 to the design, operation, and mainte-
22 nance of structures.

23 “(ii) MONITORING AND TESTING.—If
24 monitoring or testing is conducted under
25 clause (i)(II) by or for the implementing

1 agency, the implementing agency shall, if
2 requested, provide to the owner or oper-
3 ator—

4 “(I) a written description of the
5 monitoring or testing completed;

6 “(II) at the time of sampling, a
7 portion of each sample equal in vol-
8 ume or weight to the portion retained
9 by or for the implementing agency;
10 and

11 “(III) a copy of the results of
12 any analysis of samples collected by or
13 for the implementing agency.

14 “(2) REVISED CRITERIA.—The subset of the re-
15 vised criteria referred to in paragraph (1)(A)(i) are
16 as follows:

17 “(A) DESIGN REQUIREMENTS.—For new
18 structures, and lateral expansions of existing
19 structures, that first receive coal combustion re-
20 siduals on or after the date of enactment of this
21 section, the revised criteria regarding design re-
22 quirements described in section 258.40 of title
23 40, Code of Federal Regulations, except that
24 the leachate collection system requirements de-
25 scribed in section 258.40(a)(2) of title 40, Code

1 of Federal Regulations, do not apply to struc-
2 tures that are surface impoundments.

3 “(B) GROUNDWATER MONITORING AND
4 CORRECTIVE ACTION.—For all structures that
5 receive coal combustion residuals on or after the
6 date of enactment of this section, the revised
7 criteria regarding groundwater monitoring and
8 corrective action requirements described in sub-
9 part E of part 258 of title 40, Code of Federal
10 Regulations, except that, for the purposes of
11 this subparagraph, the revised criteria shall also
12 include—

13 “(i) for the purposes of detection
14 monitoring, the constituents boron, chlo-
15 ride, conductivity, fluoride, mercury, pH,
16 sulfate, sulfide, and total dissolved solids;
17 and

18 “(ii) for the purposes of assessment
19 monitoring, establishing a groundwater
20 protection standard, and assessment of
21 corrective measures, the constituents alu-
22 minum, boron, chloride, fluoride, iron,
23 manganese, molybdenum, pH, sulfate, and
24 total dissolved solids.

1 “(C) CLOSURE.—For all structures that
2 receive coal combustion residuals on or after the
3 date of enactment of this section, in a manner
4 consistent with paragraph (5), the revised cri-
5 teria for closure described in subsections (a)
6 through (c) and (h) through (j) of section
7 258.60 of title 40, Code of Federal Regulations.

8 “(D) POST-CLOSURE.—For all structures
9 that receive coal combustion residuals on or
10 after the date of enactment of this section, the
11 revised criteria for post-closure care described
12 in section 258.61 of title 40, Code of Federal
13 Regulations, except for the requirement de-
14 scribed in subsection (a)(4) of that section.

15 “(E) LOCATION RESTRICTIONS.—The re-
16 vised criteria for location restrictions described
17 in—

18 “(i) for new structures, and lateral ex-
19 pansions of existing structures, that first
20 receive coal combustion residuals on or
21 after the date of enactment of this section,
22 sections 258.11 through 258.15 of title 40,
23 Code of Federal Regulations; and

24 “(ii) for existing structures that re-
25 ceive coal combustion residuals on or after

1 the date of enactment of this section, sec-
2 tions 258.11 and 258.15 of title 40, Code
3 of Federal Regulations.

4 “(F) AIR QUALITY.—For all structures
5 that receive coal combustion residuals on or
6 after the date of enactment of this section, the
7 revised criteria for air quality described in sec-
8 tion 258.24 of title 40, Code of Federal Regula-
9 tions.

10 “(G) FINANCIAL ASSURANCE.—For all
11 structures that receive coal combustion residu-
12 als on or after the date of enactment of this
13 section, the revised criteria for financial assur-
14 ance described in subpart G of part 258 of title
15 40, Code of Federal Regulations.

16 “(H) SURFACE WATER.—For all structures
17 that receive coal combustion residuals on or
18 after the date of enactment of this section, the
19 revised criteria for surface water described in
20 section 258.27 of title 40, Code of Federal Reg-
21 ulations.

22 “(I) RECORDKEEPING.—For all structures
23 that receive coal combustion residuals on or
24 after the date of enactment of this section, the
25 revised criteria for recordkeeping described in

1 section 258.29 of title 40, Code of Federal Reg-
2 ulations.

3 “(J) RUN-ON AND RUN-OFF CONTROL SYS-
4 TEMS FOR LAND-BASED UNITS.—For all land-
5 fills and other land-based units, other than sur-
6 face impoundments, that receive coal combus-
7 tion residuals on or after the date of enactment
8 of this section, the revised criteria for run-on
9 and run-off control systems described in section
10 258.26 of title 40, Code of Federal Regulations.

11 “(K) RUN-OFF CONTROL SYSTEMS FOR
12 SURFACE IMPOUNDMENTS.—For all surface im-
13 poundments that receive coal combustion re-
14 siduals on or after the date of enactment of this
15 section, the revised criteria for run-off control
16 systems described in section 258.26(a)(2) of
17 title 40, Code of Federal Regulations.

18 “(3) PERMIT PROGRAM IMPLEMENTATION FOR
19 EXISTING STRUCTURES.—

20 “(A) NOTIFICATION.—Not later than the
21 date on which a State submits a certification
22 under subsection (b)(2), not later than 30
23 months after the Administrator receives notice
24 under subsection (e)(1)(A), or not later than 36
25 months after the date of enactment of this sec-

tion with respect to a coal combustion residuals permit program that is being implemented by the Administrator under subsection (e)(3), as applicable, the implementing agency shall notify owners or operators of structures that are receiving coal combustion residuals as of the date of enactment of this section within the State of—

“(i) the obligation to apply for and obtain a permit under subparagraph (C); and

“(ii) the requirements referred to in subparagraph (B).

“(B) COMPLIANCE WITH CERTAIN REQUIREMENTS.—Not later than 12 months after the date on which a State submits a certification under subsection (b)(2), not later than 42 months after the Administrator receives notice under subsection (e)(1)(A), or not later than 48 months after the date of enactment of this section with respect to a coal combustion residuals permit program that is being implemented by the Administrator under subsection (e)(3), as applicable, the implementing agency shall require owners or operators of structures

1 that are receiving coal combustion residuals as
2 of the date of enactment of this section to com-
3 ply with—

4 “(i) the requirements under para-
5 graphs (1)(B)(ii) and (iii), (1)(D), (2)(B),
6 (2)(F), (2)(H), (2)(J), and (2)(K); and

7 “(ii) the groundwater recordkeeping
8 requirement described in section
9 258.29(a)(5) of title 40, Code of Federal
10 Regulations.

11 “(C) PERMITS.—

12 “(i) PERMIT DEADLINE.—Not later
13 than 48 months after the date on which a
14 State submits a certification under sub-
15 section (b)(2), not later than 78 months
16 after the Administrator receives notice
17 under subsection (e)(1)(A), or not later
18 than 84 months after the date of enact-
19 ment of this section with respect to a coal
20 combustion residuals permit program that
21 is being implemented by the Administrator
22 under subsection (e)(3), as applicable, the
23 implementing agency shall issue, with re-
24 spect to a structure that is receiving coal
25 combustion residuals as of the date of en-

1 actment of this section, a final permit in-
2 corporating the requirements of the coal
3 combustion residuals permit program, or a
4 final denial for an application submitted
5 requesting such a permit.

6 “(ii) APPLICATION DEADLINE.—The
7 implementing agency shall identify, in col-
8 laboration with the owner or operator of a
9 structure described in clause (i), a reason-
10 able deadline by which the owner or oper-
11 ator shall submit a permit application
12 under such clause.

13 “(D) INTERIM OPERATION.—

14 “(i) PRIOR TO DEADLINES.—With re-
15 spect to any period of time on or after the
16 date of enactment of this section but prior
17 to the applicable deadline in subparagraph
18 (B), the owner or operator of a structure
19 that is receiving coal combustion residuals
20 as of the date of enactment of this section
21 may continue to operate such structure
22 until such applicable deadline under the
23 applicable authority in effect.

24 “(ii) PRIOR TO PERMIT.—Unless the
25 implementing agency determines that the

1 structure should close pursuant to para-
2 graph (5), if the owner or operator of a
3 structure that is receiving coal combustion
4 residuals as of the date of enactment of
5 this section meets the requirements re-
6 ferred to in subparagraph (B) by the appli-
7 cable deadline in such subparagraph, the
8 owner or operator may operate the struc-
9 ture until such time as the implementing
10 agency issues, under subparagraph (C), a
11 final permit incorporating the requirements
12 of the coal combustion residuals permit
13 program, or a final denial for an applica-
14 tion submitted requesting such a permit.

15 “(4) REQUIREMENTS FOR SURFACE IMPOUND-
16 MENTS THAT DO NOT MEET CERTAIN CRITERIA.—

17 “(A) SURFACE IMPOUNDMENTS THAT RE-
18 QUIRE ASSESSMENT OF CORRECTIVE MEASURES
19 WITHIN 10 YEARS OF THE DATE OF ENACT-
20 MENT.—

21 “(i) IN GENERAL.—In addition to the
22 groundwater monitoring and corrective ac-
23 tion requirements described in paragraph
24 (2)(B), the implementing agency shall re-
25 quire a surface impoundment that receives

1 coal combustion residuals on or after the
2 date of enactment of this section to comply
3 with the requirements in clause (ii) of this
4 subparagraph and clauses (i) and (ii) of
5 subparagraph (D) if the surface impound-
6 ment—

7 “(I) does not—

8 “(aa) have a liner system
9 described in section 258.40(b) of
10 title 40, Code of Federal Regula-
11 tions; and

12 “(bb) meet the design cri-
13 teria described in section
14 258.40(a)(1) of title 40, Code of
15 Federal Regulations; and

16 “(II) within 10 years after the
17 date of enactment of this section, is
18 required under section 258.56(a) of
19 title 40, Code of Federal Regulations,
20 to undergo an assessment of correc-
21 tive measures for any constituent cov-
22 ered under subpart E of part 258 of
23 title 40, Code of Federal Regulations,
24 or otherwise identified in paragraph
25 (2)(B)(ii) of this subsection, for which

1 assessment groundwater monitoring is
2 required.

3 “(ii) DEADLINE TO MEET GROUND-
4 WATER PROTECTION STANDARD.—Except
5 as provided in subparagraph (C), the im-
6 plementing agency shall require that the
7 groundwater protection standard, for sur-
8 face impoundments identified in clause (i)
9 of this subparagraph, established by the
10 implementing agency under section
11 258.55(h) or 258.55(i) of title 40, Code of
12 Federal Regulations, for any constituent
13 for which corrective measures are required
14 shall be met—

15 “(I) as soon as practicable at the
16 relevant point of compliance, as de-
17 scribed in section 258.40(d) of title
18 40, Code of Federal Regulations; and

19 “(II) not later than 10 years
20 after the date of enactment of this
21 section.

22 “(B) SURFACE IMPOUNDMENTS SUBJECT
23 TO A STATE CORRECTIVE ACTION REQUIRE-
24 MENT AS OF THE DATE OF ENACTMENT.—

1 “(i) IN GENERAL.—In addition to the
2 groundwater monitoring and corrective ac-
3 tion requirements described in paragraph
4 (2)(B), the implementing agency shall re-
5 quire a surface impoundment that receives
6 coal combustion residuals on or after the
7 date of enactment of this section to comply
8 with the requirements in clause (ii) of this
9 subparagraph and clauses (i) and (ii) of
10 subparagraph (D) if the surface impound-
11 ment—

12 “(I) does not—

13 “(aa) have a liner system
14 described in section 258.40(b) of
15 title 40, Code of Federal Regula-
16 tions; and

17 “(bb) meet the design cri-
18 teria described in section
19 258.40(a)(1) of title 40, Code of
20 Federal Regulations; and

21 “(II) as of the date of enactment
22 of this section, is subject to a State
23 corrective action requirement.

24 “(ii) DEADLINE TO MEET GROUND-
25 WATER PROTECTION STANDARD.—Except

1 as provided in subparagraph (C), the im-
2 plementing agency shall require that the
3 groundwater protection standard, for sur-
4 face impoundments identified in clause (i)
5 of this subparagraph, established by the
6 implementing agency under section
7 258.55(h) or 258.55(i) of title 40, Code of
8 Federal Regulations, for any constituent
9 for which corrective measures are required
10 shall be met—

11 “(I) as soon as practicable at the
12 relevant point of compliance, as de-
13 scribed in section 258.40(d) of title
14 40, Code of Federal Regulations; and

15 “(II) not later than 8 years after
16 the date of enactment of this section.

17 “(C) EXTENSION OF DEADLINE.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii) of this subparagraph,
20 the deadline for meeting a groundwater
21 protection standard under subparagraph
22 (A)(ii) or (B)(ii) may be extended by the
23 implementing agency, after opportunity for
24 public notice and comment under the pub-
25 lic participation process described in sub-

1 section (b)(2)(B)(iii)(III), or in subsection
2 (e)(6) based on—

3 “(I) the effectiveness of any in-
4 terim measures implemented by the
5 owner or operator of the facility under
6 section 258.58(a)(3) of title 40, Code
7 of Federal Regulations;

8 “(II) the level of progress dem-
9 onstrated in meeting the groundwater
10 protection standard;

11 “(III) the potential for other ad-
12 verse human health or environmental
13 exposures attributable to the contami-
14 nation from the surface impoundment
15 undergoing corrective action; and

16 “(IV) the lack of available alter-
17 native management capacity for the
18 coal combustion residuals and related
19 materials managed in the impound-
20 ment at the facility at which the im-
21 poundment is located if the owner or
22 operator has used best efforts, as nec-
23 essary, to design, obtain any nec-
24 essary permits, finance, construct, and
25 render operational the alternative

1 management capacity during the time
2 period for meeting a groundwater pro-
3 tection standard in subparagraph
4 (A)(ii) or (B)(ii).

5 “(ii) EXCEPTION.—The deadline
6 under subparagraph (A)(ii) or (B)(ii) shall
7 not be extended if there has been contami-
8 nation of public or private drinking water
9 systems attributable to a surface impound-
10 ment undergoing corrective action, unless
11 the contamination has been addressed by
12 providing a permanent replacement water
13 system.

14 “(D) ADDITIONAL REQUIREMENTS.—

15 “(i) CLOSURE.—If the deadline under
16 subparagraph (A)(ii), (B)(ii), or (C) is not
17 satisfied, the surface impoundment shall
18 cease receiving coal combustion residuals
19 and initiate closure under paragraph (5).

20 “(ii) INTERIM MEASURES.—

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), not later
23 than 90 days after the date on which
24 the assessment of corrective measures
25 is initiated, the owner or operator of

1 a surface impoundment described in
2 subparagraph (A) or (B) shall imple-
3 ment interim measures, as necessary,
4 under the factors in section
5 258.58(a)(3) of title 40, Code of Fed-
6 eral Regulations.

7 “(II) IMPOUNDMENTS SUBJECT
8 TO STATE CORRECTIVE ACTION RE-
9 QUIREMENT AS OF THE DATE OF EN-
10 ACTMENT.—Subclause (I) shall only
11 apply to surface impoundments sub-
12 ject to a State corrective action re-
13 quirement as of the date of enactment
14 of this section if the owner or oper-
15 ator has not implemented interim
16 measures, as necessary, under the fac-
17 tors in section 258.58(a)(3) of title
18 40, Code of Federal Regulations.

19 “(E) SURFACE IMPOUNDMENTS THAT RE-
20 QUIRE ASSESSMENT OF CORRECTIVE MEASURES
21 MORE THAN 10 YEARS AFTER DATE OF ENACT-
22 MENT.—

23 “(i) IN GENERAL.—In addition to the
24 groundwater monitoring and corrective ac-
25 tion requirements described in paragraph

1 (2)(B), the implementing agency shall re-
2 quire a surface impoundment that receives
3 coal combustion residuals on or after the
4 date of enactment of this section to comply
5 with the requirements in clause (ii) if the
6 surface impoundment—

7 “(I) does not—

8 “(aa) have a liner system
9 described in section 258.40(b) of
10 title 40, Code of Federal Regula-
11 tions; and

12 “(bb) meet the design cri-
13 teria described in section
14 258.40(a)(1) of title 40, Code of
15 Federal Regulations; and

16 “(II) more than 10 years after
17 the date of enactment of this section,
18 is required under section 258.56(a)
19 title 40, Code of Federal Regulations,
20 to undergo an assessment of correc-
21 tive measures for any constituent cov-
22 ered under subpart E of part 258 of
23 title 40, Code of Federal Regulations,
24 or otherwise identified in paragraph
25 (2)(B)(ii) of this subsection, for which

1 assessment groundwater monitoring is
2 required.

3 “(ii) REQUIREMENTS.—

4 “(I) CLOSURE.—The surface im-
5 poundments identified in clause (i)
6 shall cease receiving coal combustion
7 residuals and initiate closure in ac-
8 cordance with paragraph (5) after al-
9 ternative management capacity at the
10 facility is available for the coal com-
11 bustion residuals and related mate-
12 rials managed in the impoundment.

13 “(II) BEST EFFORTS.—The al-
14 ternative management capacity shall
15 be developed as soon as practicable
16 with the owner or operator using best
17 efforts to design, obtain necessary
18 permits for, finance, construct, and
19 render operational the alternative
20 management capacity.

21 “(III) ALTERNATIVE CAPACITY
22 MANAGEMENT PLAN.—The owner or
23 operator shall, in collaboration with
24 the implementing agency, prepare a
25 written plan that describes the steps

1 necessary to develop the alternative
2 management capacity and includes a
3 schedule for completion.

4 “(IV) PUBLIC PARTICIPATION.—

5 The plan described in subclause (III)
6 shall be subject to public notice and
7 comment under the public participa-
8 tion process described in subsection
9 (b)(2)(B)(iii)(III) or in subsection
10 (e)(6), as applicable.

11 “(5) CLOSURE.—

12 “(A) IN GENERAL.—If it is determined by
13 the implementing agency that a structure
14 should close because the requirements of a coal
15 combustion residuals permit program are not
16 being satisfied with respect to such structure,
17 or if it is determined by the owner or operator
18 that a structure should close, the time period
19 and method for the closure of such structure
20 shall be set forth in a closure plan that estab-
21 lishes a deadline for completion of closure as
22 soon as practicable and that takes into account
23 the nature and the site-specific characteristics
24 of the structure to be closed.

1 “(B) SURFACE IMPOUNDMENT.—In the
2 case of a surface impoundment, the closure plan
3 under subparagraph (A) shall require, at a min-
4 imum, the removal of liquid and the stabiliza-
5 tion of remaining waste, as necessary to sup-
6 port the final cover.

7 “(d) FEDERAL REVIEW OF STATE PERMIT PRO-
8 GRAMS.—

9 “(1) IN GENERAL.—The Administrator shall
10 provide to a State written notice and an opportunity
11 to remedy deficiencies in accordance with paragraph
12 (3) if at any time the State—

13 “(A) does not satisfy the notification re-
14 quirement under subsection (b)(1);

15 “(B) has not submitted a certification re-
16 quired under subsection (b)(2);

17 “(C) does not satisfy the maintenance re-
18 quirement under subsection (b)(3);

19 “(D) is not implementing a coal combus-
20 tion residuals permit program, with respect to
21 which the State has submitted a certification
22 under subsection (b)(2), that meets the require-
23 ments described in subsection (c);

24 “(E) is not implementing a coal combus-
25 tion residuals permit program, with respect to

1 which the State has submitted a certification
2 under subsection (b)(2)—

3 “(i) that is consistent with such cer-
4 tification; and

5 “(ii) for which the State continues to
6 have in effect statutes or regulations nec-
7 essary to implement such program; or

8 “(F) does not make available to the Ad-
9 ministrator, within 90 days of a written re-
10 quest, specific information necessary for the
11 Administrator to ascertain whether the State
12 has satisfied the requirements described in sub-
13 paragraphs (A) through (E).

14 “(2) REQUEST.—If a request described in para-
15 graph (1)(F) is proposed pursuant to a petition to
16 the Administrator, the Administrator shall only
17 make the request if the Administrator does not pos-
18 sess the information necessary to ascertain whether
19 the State has satisfied the requirements described in
20 subparagraphs (A) through (E) of such paragraph.

21 “(3) CONTENTS OF NOTICE; DEADLINE FOR RE-
22 SPONSE.—A notice provided under paragraph (1)
23 shall—

24 “(A) include findings of the Administrator
25 detailing any applicable deficiencies described in

1 subparagraphs (A) through (F) of paragraph
2 (1); and

3 “(B) identify, in collaboration with the
4 State, a reasonable deadline by which the State
5 shall remedy such applicable deficiencies, which
6 shall be—

7 “(i) in the case of a deficiency de-
8 scribed in subparagraphs (A) through (E)
9 of paragraph (1), not earlier than 180
10 days after the date on which the State re-
11 ceives the notice; and

12 “(ii) in the case of a deficiency de-
13 scribed in paragraph (1)(F), not later than
14 90 days after the date on which the State
15 receives the notice.

16 “(4) CRITERIA FOR DETERMINING DEFICIENCY
17 OF STATE PERMIT PROGRAM.—In making a deter-
18 mination whether a State has failed to satisfy the re-
19 quirements described in subparagraphs (A) through
20 (E) of paragraph (1), or a determination under sub-
21 section (e)(1)(B), the Administrator shall consider,
22 as appropriate—

23 “(A) whether the State’s statutes or regu-
24 lations to implement a coal combustion residu-
25 als permit program are not sufficient to meet

1 the requirements described in subsection (c) be-
2 cause of—

3 “(i) failure of the State to promulgate
4 or enact new statutes or regulations when
5 necessary; or

6 “(ii) action by a State legislature or
7 court striking down or limiting such State
8 statutes or regulations;

9 “(B) whether the operation of the State
10 coal combustion residuals permit program fails
11 to comply with the requirements of subsection
12 (c) because of—

13 “(i) failure of the State to issue per-
14 mits as required in subsection (c)(1)(E);

15 “(ii) repeated issuance of permits by
16 the State which do not meet the require-
17 ments of subsection (c);

18 “(iii) failure of the State to comply
19 with the public participation requirements
20 of this section; or

21 “(iv) failure of the State to implement
22 corrective action requirements as described
23 in subsection (c)(2)(B); and

24 “(C) whether the enforcement of a State
25 coal combustion residuals permit program fails

1 to comply with the requirements of this section
2 because of—

3 “(i) failure to act on violations of per-
4 mits, as identified by the State; or

5 “(ii) repeated failure by the State to
6 inspect or otherwise determine compliance
7 pursuant to the process identified in sub-
8 section (b)(2)(B)(iii)(I).

9 “(e) IMPLEMENTATION BY ADMINISTRATOR.—

10 “(1) FEDERAL BACKSTOP AUTHORITY.—The
11 Administrator shall implement a coal combustion re-
12 siduals permit program for a State only if—

13 “(A) the Governor of the State notifies the
14 Administrator under subsection (b)(1) that the
15 State will not adopt and implement a permit
16 program;

17 “(B) the State has received a notice under
18 subsection (d) and the Administrator deter-
19 mines, after providing a 30-day period for no-
20 tice and public comment, that the State has
21 failed, by the deadline identified in the notice
22 under subsection (d)(3)(B), to remedy the defi-
23 ciencies detailed in the notice under subsection
24 (d)(3)(A); or

1 “(C) the State informs the Administrator,
2 in writing, that such State will no longer imple-
3 ment such a permit program.

4 “(2) REVIEW.—A State may obtain a review of
5 a determination by the Administrator under this
6 subsection as if the determination was a final regu-
7 lation for purposes of section 7006.

8 “(3) OTHER STRUCTURES.—For structures
9 that receive coal combustion residuals on or after
10 the date of enactment of this section located on
11 property within the exterior boundaries of a State
12 that the State does not have authority or jurisdiction
13 to regulate, the Administrator shall implement a coal
14 combustion residuals permit program only for those
15 structures.

16 “(4) REQUIREMENTS.—If the Administrator
17 implements a coal combustion residuals permit pro-
18 gram for a State under paragraph (1) or (3), the
19 permit program shall consist of the requirements de-
20 scribed in subsection (c).

21 “(5) ENFORCEMENT.—

22 “(A) IN GENERAL.—If the Administrator
23 implements a coal combustion residuals permit
24 program for a State under paragraph (1)—

1 “(i) the authorities referred to in sec-
2 tion 4005(c)(2)(A) shall apply with respect
3 to coal combustion residuals and structures
4 for which the Administrator is imple-
5 menting the coal combustion residuals per-
6 mit program; and

7 “(ii) the Administrator may use those
8 authorities to inspect, gather information,
9 and enforce the requirements of this sec-
10 tion in the State.

11 “(B) OTHER STRUCTURES.—If the Admin-
12 istrator implements a coal combustion residuals
13 permit program under paragraph (3)—

14 “(i) the authorities referred to in sec-
15 tion 4005(c)(2)(A) shall apply with respect
16 to coal combustion residuals and structures
17 for which the Administrator is imple-
18 menting the coal combustion residuals per-
19 mit program; and

20 “(ii) the Administrator may use those
21 authorities to inspect, gather information,
22 and enforce the requirements of this sec-
23 tion for the structures for which the Ad-
24 ministrator is implementing the coal com-
25 bustion residuals permit program.

1 “(6) PUBLIC PARTICIPATION PROCESS.—If the
2 Administrator implements a coal combustion residu-
3 als permit program for a State under this sub-
4 section, the Administrator shall provide a 30-day pe-
5 riod for the public participation process required in
6 paragraphs (1)(F)(i), (4)(C)(i), and (4)(E)(ii)(IV) of
7 subsection (c).

8 “(f) STATE CONTROL AFTER IMPLEMENTATION BY
9 ADMINISTRATOR.—

10 “(1) STATE CONTROL.—

11 “(A) NEW ADOPTION, OR RESUMPTION OF,
12 AND IMPLEMENTATION BY STATE.—For a State
13 for which the Administrator is implementing a
14 coal combustion residuals permit program
15 under subsection (e)(1)(A), or subsection
16 (e)(1)(C), the State may adopt and implement
17 such a permit program by—

18 “(i) notifying the Administrator that
19 the State will adopt and implement such a
20 permit program;

21 “(ii) not later than 6 months after the
22 date of such notification, submitting to the
23 Administrator a certification under sub-
24 section (b)(2); and

1 “(iii) receiving from the Adminis-
2 trator—

3 “(I) a determination, after pro-
4 viding a 30-day period for notice and
5 public comment, that the State coal
6 combustion residuals permit program
7 meets the requirements described in
8 subsection (c); and

9 “(II) a timeline for transition of
10 control of the coal combustion residu-
11 als permit program.

12 “(B) REMEDYING DEFICIENT PERMIT PRO-
13 GRAM.—For a State for which the Adminis-
14 trator is implementing a coal combustion re-
15 siduals permit program under subsection
16 (e)(1)(B), the State may adopt and implement
17 such a permit program by—

18 “(i) remedying only the deficiencies
19 detailed in the notice pursuant to sub-
20 section (d)(3)(A); and

21 “(ii) receiving from the Adminis-
22 trator—

23 “(I) a determination, after pro-
24 viding a 30-day period for notice and
25 public comment, that the deficiencies

1 detailed in such notice have been rem-
2 edied; and

3 “(II) a timeline for transition of
4 control of the coal combustion residu-
5 als permit program.

6 “(2) REVIEW OF DETERMINATION.—

7 “(A) DETERMINATION REQUIRED.—The
8 Administrator shall make a determination
9 under paragraph (1) not later than 90 days
10 after the date on which the State submits a cer-
11 tification under paragraph (1)(A)(ii), or notifies
12 the Administrator that the deficiencies have
13 been remedied pursuant to paragraph (1)(B)(i),
14 as applicable.

15 “(B) REVIEW.—A State may obtain a re-
16 view of a determination by the Administrator
17 under paragraph (1) as if such determination
18 was a final regulation for purposes of section
19 7006.

20 “(3) IMPLEMENTATION DURING TRANSITION.—

21 “(A) EFFECT ON ACTIONS AND ORDERS.—
22 Program requirements of, and actions taken or
23 orders issued pursuant to, a coal combustion re-
24 siduals permit program shall remain in effect
25 if—

1 “(i) a State takes control of its coal
2 combustion residuals permit program from
3 the Administrator under paragraph (1); or

4 “(ii) the Administrator takes control
5 of a coal combustion residuals permit pro-
6 gram from a State under subsection (e).

7 “(B) CHANGE IN REQUIREMENTS.—Sub-
8 paragraph (A) shall apply to such program re-
9 quirements, actions, and orders until such time
10 as—

11 “(i) the implementing agency changes
12 the requirements of the coal combustion
13 residuals permit program with respect to
14 the basis for the action or order; or

15 “(ii) the State or the Administrator,
16 whichever took the action or issued the
17 order, certifies the completion of a correc-
18 tive action that is the subject of the action
19 or order.

20 “(4) SINGLE PERMIT PROGRAM.—If a State
21 adopts and implements a coal combustion residuals
22 permit program under this subsection, the Adminis-
23 trator shall cease to implement the permit program
24 implemented under subsection (e)(1) for such State.

1 “(g) EFFECT ON DETERMINATION UNDER 4005(c)
2 OR 3006.—The Administrator shall not consider the im-
3 plementation of a coal combustion residuals permit pro-
4 gram by the Administrator under subsection (e) in making
5 a determination of approval for a permit program or other
6 system of prior approval and conditions under section
7 4005(c) or of authorization for a program under section
8 3006.

9 “(h) AUTHORITY.—

10 “(1) STATE AUTHORITY.—Nothing in this sec-
11 tion shall preclude or deny any right of any State to
12 adopt or enforce any regulation or requirement re-
13 specting coal combustion residuals that is more
14 stringent or broader in scope than a regulation or
15 requirement under this section.

16 “(2) AUTHORITY OF THE ADMINISTRATOR.—

17 “(A) IN GENERAL.—Except as provided in
18 subsections (d) and (e) and section 6005, the
19 Administrator shall, with respect to the regula-
20 tion of coal combustion residuals, defer to the
21 States pursuant to this section.

22 “(B) IMMINENT HAZARD.—Nothing in this
23 section shall be construed as affecting the au-
24 thority of the Administrator under section 7003
25 with respect to coal combustion residuals.

1 “(C) ENFORCEMENT ASSISTANCE ONLY
2 UPON REQUEST.—Upon request from the head
3 of a lead State agency that is implementing a
4 coal combustion residuals permit program, the
5 Administrator may provide to such State agen-
6 cy only the enforcement assistance requested.

7 “(D) CONCURRENT ENFORCEMENT.—Ex-
8 cept as provided in subparagraph (C), the Ad-
9 ministrator shall not have concurrent enforce-
10 ment authority when a State is implementing a
11 coal combustion residuals permit program, in-
12 cluding during any period of interim operation
13 described in subsection (c)(3)(D).

14 “(E) OTHER AUTHORITY.—The Adminis-
15 trator shall not have authority to finalize the
16 proposed rule published at pages 35128
17 through 35264 of volume 75 of the Federal
18 Register (June 21, 2010).

19 “(F) OTHER RESPONSE AUTHORITY.—
20 Nothing in this section shall be construed as af-
21 fecting the authority of the Administrator
22 under the Comprehensive Environmental Re-
23 sponse, Compensation, and Liability Act of
24 1980 (42 U.S.C. 9601 et seq.) with respect to
25 coal combustion residuals.

1 “(3) CITIZEN SUITS.—Nothing in this section
2 shall be construed to affect the authority of a person
3 to commence a civil action in accordance with sec-
4 tion 7002.

5 “(i) MINE RECLAMATION ACTIVITIES.—A coal com-
6 bustion residuals permit program implemented by the Ad-
7 ministrators under subsection (e) shall not apply to the uti-
8 lization, placement, and storage of coal combustion residu-
9 als at surface mining and reclamation operations.

10 “(j) DEFINITIONS.—In this section:

11 “(1) COAL COMBUSTION RESIDUALS.—The
12 term ‘coal combustion residuals’ means—

13 “(A) the solid wastes listed in section
14 3001(b)(3)(A)(i), including recoverable mate-
15 rials from such wastes;

16 “(B) coal combustion wastes that are co-
17 managed with wastes produced in conjunction
18 with the combustion of coal, provided that such
19 wastes are not segregated and disposed of sepa-
20 rately from the coal combustion wastes and
21 comprise a relatively small proportion of the
22 total wastes being disposed in the structure;

23 “(C) fluidized bed combustion wastes;

24 “(D) wastes from the co-burning of coal
25 with non-hazardous secondary materials, pro-

1 vided that coal makes up at least 50 percent of
2 the total fuel burned; and

3 “(E) wastes from the co-burning of coal
4 with materials described in subparagraph (A)
5 that are recovered from monofills.

6 “(2) COAL COMBUSTION RESIDUALS PERMIT
7 PROGRAM.—The term ‘coal combustion residuals
8 permit program’ means all of the authorities, activi-
9 ties, and procedures that comprise the system of
10 prior approval and conditions implemented by or for
11 a State to regulate the management and disposal of
12 coal combustion residuals.

13 “(3) CODE OF FEDERAL REGULATIONS.—The
14 term ‘Code of Federal Regulations’ means the Code
15 of Federal Regulations (as in effect on the date of
16 enactment of this section) or any successor regula-
17 tions.

18 “(4) IMPLEMENTING AGENCY.—The term ‘im-
19 plementing agency’ means the agency responsible for
20 implementing a coal combustion residuals permit
21 program for a State, which shall either be the lead
22 State implementing agency identified under sub-
23 section (b)(2)(B)(i) or the Administrator pursuant
24 to subsection (e).

1 “(5) PERMIT; PRIOR APPROVAL AND CONDI-
 2 TIONS.—Except as provided in subsections (b)(3)
 3 and (g), the terms ‘permit’ and ‘prior approval and
 4 conditions’ mean any authorization, license, or equiv-
 5 alent control document that incorporates the re-
 6 quirements of subsection (c).

7 “(6) REVISED CRITERIA.—The term ‘revised
 8 criteria’ means the criteria promulgated for munic-
 9 ipal solid waste landfill units under section 4004(a)
 10 and under section 1008(a)(3), as revised under sec-
 11 tion 4010(c).

12 “(7) STRUCTURE.—

13 “(A) IN GENERAL.—Except as provided in
 14 subparagraph (B), the term ‘structure’ means a
 15 landfill, surface impoundment, or other land-
 16 based unit which receives, or is intended to re-
 17 ceive, coal combustion residuals.

18 “(B) DE MINIMIS RECEIPT.—The term
 19 ‘structure’ does not include any land-based unit
 20 that receives only de minimis quantities of coal
 21 combustion residuals if the presence of coal
 22 combustion residuals is incidental to the mate-
 23 rial managed in the unit.”.

24 (b) CONFORMING AMENDMENT.—The table of con-
 25 tents contained in section 1001 of the Solid Waste Dis-

1 posal Act is amended by inserting after the item relating
2 to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

3 **SEC. 8003. 2000 REGULATORY DETERMINATION.**

4 Nothing in this subtitle, or the amendments made by
5 this subtitle, shall be construed to alter in any manner
6 the Environmental Protection Agency’s regulatory deter-
7 mination entitled “Notice of Regulatory Determination on
8 Wastes From the Combustion of Fossil Fuels”, published
9 at 65 Fed. Reg. 32214 (May 22, 2000), that the fossil
10 fuel combustion wastes addressed in that determination
11 do not warrant regulation under subtitle C of the Solid
12 Waste Disposal Act (42 U.S.C. 6921 et seq.).

13 **SEC. 8004. TECHNICAL ASSISTANCE.**

14 Nothing in this subtitle, or the amendments made by
15 this subtitle, shall be construed to affect the authority of
16 a State to request, or the Administrator of the Environ-
17 mental Protection Agency to provide, technical assistance
18 under the Solid Waste Disposal Act (42 U.S.C. 6901 et
19 seq.).

20 **SEC. 8005. FEDERAL POWER ACT.**

21 Nothing in this subtitle, or the amendments made by
22 this subtitle, shall be construed to affect the obligations
23 of an owner or operator of a structure (as defined in sec-
24 tion 4011 of the Solid Waste Disposal Act, as added by

1 this Act) under section 215(b)(1) of the Federal Power
 2 Act (16 U.S.C. 824o(b)(1)).

3 **Subtitle B—Surface Mining Stream** 4 **Buffer Zone Rule**

5 **SEC. 8011. SHORT TITLE.**

6 This subtitle may be cited as the “Preventing Govern-
 7 ment Waste and Protecting Coal Mining Jobs in Amer-
 8 ica”.

9 **SEC. 8012. INCORPORATION OF SURFACE MINING STREAM** 10 **BUFFER ZONE RULE INTO STATE PROGRAMS.**

11 (a) IN GENERAL.—Section 503 of the Surface Min-
 12 ing Control and Reclamation Act of 1977 (30 U.S.C.
 13 1253) is amended by adding at the end the following:

14 “(e) STREAM BUFFER ZONE MANAGEMENT.—

15 “(1) IN GENERAL.—In addition to the require-
 16 ments under subsection (a), each State program
 17 shall incorporate the necessary rule regarding excess
 18 spoil, coal mine waste, and buffers for perennial and
 19 intermittent streams published by the Office of Sur-
 20 face Mining Reclamation and Enforcement on De-
 21 cember 12, 2008 (73 Fed. Reg. 75813 et seq.).

22 “(2) STUDY OF IMPLEMENTATION.—The Sec-
 23 retary shall—

24 “(A) at such time as the Secretary deter-
 25 mines all States referred to in subsection (a)

1 have fully incorporated the necessary rule re-
2 ferred to in paragraph (1) of this subsection
3 into their State programs, publish notice of
4 such determination;

5 “(B) during the 5-year period beginning on
6 the date of such publication, assess the effec-
7 tiveness of implementation of such rule by such
8 States; and

9 “(C) upon the conclusion of such period,
10 submit a comprehensive report on the impacts
11 of such rule to the Committee on Natural Re-
12 sources of the House of Representatives and the
13 Committee on Energy and Natural Resources of
14 the Senate, including—

15 “(i) an evaluation of the effectiveness
16 of such rule;

17 “(ii) an evaluation of any ways in
18 which the existing rule inhibits energy pro-
19 duction; and

20 “(iii) a description in detail of any
21 proposed changes that should be made to
22 the rule, the justification for such changes,
23 all comments on such changes received by
24 the Secretary from such States, and the

1 projected costs and benefits of such
2 changes.

3 “(3) LIMITATION ON NEW REGULATIONS.—The
4 Secretary may not issue any regulations under this
5 Act relating to stream buffer zones or stream protec-
6 tion before the date of the publication of the report
7 under paragraph (2), other than a rule necessary to
8 implement paragraph (1).”.

9 (b) DEADLINE FOR STATE IMPLEMENTATION.—Not
10 later than 2 years after the date of the enactment of this
11 Act, a State with a State program approved under section
12 503 of the Surface Mining Control and Reclamation Act
13 of 1977 (30 U.S.C. 1253) shall submit to the Secretary
14 of the Interior amendments to such program pursuant to
15 part 732 of title 30, Code of Federal Regulations, incor-
16 porating the necessary rule referred to in subsection (e)(1)
17 of such section, as amended by this section.

18 **TITLE XVIII—SATISFYING EN-**
19 **ERGY NEEDS AND SAVING**
20 **THE ENVIRONMENT**

21 **SEC. 9001. SHORT TITLE.**

22 This Act may be cited as the “Satisfying Energy
23 Needs and Saving the Environment Act of 2014” or the
24 “SENSE Act of 2014”.

1 **SEC. 9002. INAPPLICABILITY OF CERTAIN EMISSION LIMITS**
2 **FOR ELECTRIC UTILITY STEAM GENERATING**
3 **UNITS THAT CONVERT COAL REFUSE INTO**
4 **ENERGY.**

5 (a) INAPPLICABILITY OF CERTAIN EMISSION LIMITS
6 FOR CERTAIN EGUS.—The emission limits for hydrogen
7 chloride and sulfur dioxide in table 2 to subpart UUUUU
8 of part 63 of title 40, Code of Federal Regulations, enti-
9 tled “Emission Limits for Existing EGUs”, shall not
10 apply to an electric utility steam generating unit in the
11 subcategory “Coal-fired unit not low rank virgin coal” if
12 such electric utility steam generating unit—

13 (1) is in operation as of the date of enactment
14 of this Act;

15 (2) utilizes circulating fluidized bed technology
16 to convert coal refuse into energy; and

17 (3)(A) derives at least 75 percent of its heat
18 input from coal refuse; or

19 (B) is a qualifying facility.

20 (b) DEFINITIONS.—In this section:

21 (1) COAL REFUSE.—The term “coal refuse”
22 means any byproduct of coal mining, physical coal
23 cleaning, or coal preparation operations, that con-
24 tains coal, matrix material, clay, and other organic
25 and inorganic material.

1 (2) QUALIFYING COGENERATION FACILITY.—

2 The term “qualifying cogeneration facility” has the
3 meaning given such term in section 3 of the Federal
4 Power Act (16 U.S.C. 796).

5 (3) QUALIFYING FACILITY.—The term “quali-
6 fying facility” means—

7 (A) a qualifying small power production fa-
8 cility; or

9 (B) a qualifying cogeneration facility.

10 (4) QUALIFYING SMALL POWER PRODUCTION
11 FACILITY.—The term “qualifying small power pro-
12 duction facility” has the meaning given such term in
13 section 3 of the Federal Power Act (16 U.S.C. 796).

14 **TITLE XIX—NUCLEAR REGU-**
15 **LATORY COMMISSION REOR-**
16 **GANIZATION PLAN CODIFICA-**
17 **TION AND COMPLEMENTS**

18 **SEC. 10001. SHORT TITLE.**

19 This title may be cited as the “Nuclear Regulatory
20 Commission Reorganization Plan Codification and Com-
21 plements Act”.

Subtitle A—Replacement of Reorganization Plan

SEC. 10011. GENERAL FUNCTIONS.

(a) FUNCTIONS.—Those functions of the Nuclear Regulatory Commission (in this subtitle referred to as the “Commission”) concerned with—

(1) policy formulation;

(2) rulemaking, as defined in section 553 of title 5 of the United States Code, except that those matters set forth in 553 (a)(2) and (b) which do not pertain to policy formulation orders or adjudications shall be reserved to the Chairman of the Commission;

(3) orders and adjudications, as defined in section 551 (6) and (7) of title 5 of the United States Code; and

(4) approving the distribution of appropriated funds according to programs and purposes proposed by the Executive Director for Operations,

shall remain vested in the Commission. A majority of the Commission may determine, in an area of doubt, whether any matter, action, question, or area of inquiry pertains to one of these functions. Any member of the Commission may request such a vote. Any member of the Commission may propose a policy matter for consideration by the Com-

1 mission. All members of the Commission shall have full,
2 unfettered, timely, and equal access to information per-
3 taining to its functions. The performance of any portion
4 of these functions may be delegated by the Commission
5 to a member of the Commission, including the Chairman
6 of the Commission (in this subtitle referred to as the
7 “Chairman”) and to the staff.

8 (b) OFFICERS AND EMPLOYEES.—

9 (1) OFFICERS.—With respect to the following
10 officers or successor officers duly established by stat-
11 ute or by the Commission, the Chairman shall ini-
12 tiate the appointment, subject to the approval of the
13 Commission, and the Chairman or a member of the
14 Commission may initiate an action for removal, sub-
15 ject to the approval of the Commission by majority
16 vote:

17 (A) Executive Director for Operations.

18 (B) Chief and Deputy Chief Financial Of-
19 ficer.

20 (C) General Counsel.

21 (D) Director of the Office of Commission
22 Appellate Adjudication.

23 (E) Secretary of the Commission.

24 (F) Director of the Office of Public Af-
25 fairs.

1 (G) Director of the Office of Congressional
2 Affairs.

3 (H) Director of the Office of International
4 Programs.

5 (I) Chief Administrative Judge and mem-
6 bers of the Atomic Safety and Licensing Board
7 Panel.

8 Any performance evaluation or rating of the officers
9 listed in subparagraphs (A) through (I) shall be de-
10 termined by a majority vote of the members of the
11 Commission.

12 (2) REPLACEMENT OF OFFICERS.—(A) In the
13 event of a vacancy in a position described in para-
14 graph (1), the Chairman may designate an acting
15 officer for a maximum of 60 days, after which any
16 further extension must be approved by the Commis-
17 sion. If, at the end of 60 days, the Commission has
18 not approved the appointment of an officer proposed
19 by the Chairman, or the Chairman has not proposed
20 one, any Commissioner may initiate the appointment
21 subject to approval of the Commission.

22 (B) With respect to the following officers or
23 successor officers duly established by statute or by
24 the Commission, the Chairman, after consultation
25 with the Executive Director for Operations, shall ini-

1 tiate the appointment, subject to the approval of the
2 Commission, and the Chairman, or a member of the
3 Commission may initiate an action for removal, sub-
4 ject to the approval of the Commission by majority
5 vote:

6 (i) Director of the Office of Nuclear Reac-
7 tor Regulation.

8 (ii) Director of the Office of Nuclear Mate-
9 rial Safety and Safeguards.

10 (iii) Director of the Office of Nuclear Reg-
11 ulatory Research.

12 (iv) Director of the Office of Nuclear Secu-
13 rity and Incident Response.

14 (v) Director of the Office of New Reactors.

15 (vi) Director of the Office of Federal and
16 State Materials and Environmental Manage-
17 ment Programs.

18 (vii) Director of the Office of Investiga-
19 tions.

20 (viii) Director of the Office of Enforce-
21 ment.

22 (3) APPOINTMENT OF ADVISORY COMMITTEE
23 ON REACTOR SAFEGUARDS.—The Chairman or a
24 member of the Commission shall initiate the ap-
25 pointment of the Members of the Advisory Com-

1 mittee on Reactor Safeguards, subject to the ap-
2 proval of the Commission. The provisions for ap-
3 pointment of the Chairman of the Advisory Com-
4 mittee on Reactor Safeguards and the term of the
5 members shall not be affected by the provisions of
6 this subtitle.

7 (4) DELEGATION OF STAFF SUPERVISION
8 FUNCTIONS.—The Commission shall delegate the
9 function of appointing, removing, and supervising
10 the staff of the following offices or successor offices
11 to the respective heads of such offices: Executive Di-
12 rector for Operations, General Counsel, Secretary of
13 the Commission, Chief Financial Officer, Office of
14 Commission Appellate Adjudication, Office of Con-
15 gressional Affairs, Office of Public Affairs, and Of-
16 fice of International Programs. The Commission
17 shall delegate the functions of appointing, removing,
18 and supervising the staff of the following panels and
19 committee to the respective Chairmen thereof: Atom-
20 ic Safety and Licensing Board Panel and Advisory
21 Committee on Reactor Safeguards.

22 (c) COMMISSION MEMBER OFFICES.—Each member
23 of the Commission shall appoint, remove, and supervise
24 the personnel employed in his or her immediate office.

1 (d) PERFORMANCE OF FUNCTIONS.—The Commis-
2 sion shall act as provided by section 201(a)(1) of the En-
3 ergy Reorganization Act of 1974 (42 U.S.C. 5841(a)(1))
4 in the performance of its functions as described in sub-
5 sections (a) and (b) of this section.

6 **SEC. 10012. CHAIRMAN.**

7 (a) FUNCTIONS.—Except as otherwise provided in
8 section 10011, all functions of the Commission shall rest
9 with the Chairman. The Chairman shall be the official
10 spokesman for the Commission and, as such, shall rep-
11 resent the policies determined by a majority of the Com-
12 mission.

13 (b) ADDITIONAL FUNCTIONS.—The Chairman shall
14 also be the principal executive officer of the Commission,
15 and shall be responsible to the Commission for assuring
16 that the Executive Director for Operations and the staff
17 of the Commission (other than the officers and staff re-
18 ferred to in section 10011(b)(4) and (c)) are responsive
19 to the requirements of the Commission in the performance
20 of its functions; shall determine the use and expenditure
21 of funds of the Commission, in accordance with the dis-
22 tribution of appropriated funds according to programs and
23 purposes approved by the Commission; shall present to the
24 Commission for its consideration the proposals set forth
25 in paragraph (3); and shall be responsible for the following

1 functions, which the Chairman shall delegate, subject to
2 the Chairman's direction and supervision, to the Executive
3 Director for Operations unless otherwise provided by this
4 title:

5 (1) Administrative functions of the Commission.

6 (2) Distribution of business among such per-
7 sonnel and among administrative units and offices of
8 the Commission.

9 (3) Preparation of proposals for the reorganiza-
10 tion of the major offices of the Commission.

11 (4) Appointing and removing, without any fur-
12 ther action by the Commission, all officers and em-
13 ployees under the Commission other than those
14 whose appointment and removal are specifically pro-
15 vided for by section 10011(b) and (c).

16 (c) GOVERNING PRINCIPLES.—

17 (1) IN GENERAL.—The Chairman as principal
18 executive officer and the Executive Director for Op-
19 erations shall be governed by the general policies of
20 the Commission and by such regulatory decisions,
21 findings, and determinations, including those for re-
22 organization proposals, budget revisions, and dis-
23 tribution of appropriated funds, as the Commission
24 may by law, including this subtitle, be authorized to
25 make.

1 (2) FULL AND CURRENT INFORMATION.—The
2 Chairman and the Executive Director for Operations
3 shall have joint responsibility insuring that the Com-
4 mission is fully and currently informed about mat-
5 ters within its functions.

6 (3) FAILURE TO ACT IN ACCORDANCE.—If a
7 majority of Commissioners determine that the Chair-
8 man has not acted in accordance with paragraph (1)
9 or (2), such Commissioners shall provide written no-
10 tice of the determination to the President and pro-
11 vide copies thereof to the Committee on Energy and
12 Commerce of the House of Representatives and the
13 Committee on Environment and Public Works of the
14 Senate.

15 **SEC. 10013. EMERGENCY AUTHORITY.**

16 (a) IN GENERAL.—Notwithstanding sections 10001
17 and 10002, the Chairman is authorized to exercise emer-
18 gency authority described in paragraph (4), subject to the
19 following limitations:

20 (1) The Chairman may not exercise emergency
21 authority unless and until the Chairman declares a
22 specific emergency exists and, not later than 24
23 hours after such declaration, notifies—

24 (A) the Commission, the Committee on
25 Energy and Commerce of the House of Rep-

1 representatives, and the Committee on Environ-
2 ment and Public Works of the Senate, in writ-
3 ing; and

4 (B) the public.

5 (2) The Chairman may only exercise emergency
6 authority in response to—

7 (A) an imminent safety threat pertaining
8 to a facility or materials licensed or regulated
9 by the Commission; or

10 (B) a determination by the Secretary of
11 Homeland Security, the Secretary of Energy,
12 the Secretary of Transportation, the Director of
13 the Federal Bureau of Investigation, the Direc-
14 tor of the Central Intelligence Agency, or the
15 Director of National Intelligence of an immi-
16 nent security threat to a facility or materials li-
17 censed or regulated by the Commission.

18 Where authority is exercised pursuant to this sec-
19 tion, public notification may be delayed provided
20 that the Chairman determines that prior public dis-
21 closure would constitute a risk to public health and
22 safety and so notifies the Commission, the Com-
23 mittee on Energy and Commerce of the House of
24 Representatives, and the Committee on Environment
25 and Public Works of the Senate.

1 (3) The Chairman may only exercise emergency
2 authority for the duration of the emergency or 30
3 days, whichever is less. The Commission may ap-
4 prove extensions of that time. Each extension is lim-
5 ited to 30 days and requires notification of the pub-
6 lic, the Committee on Energy and Commerce of the
7 House of Representatives, and the Committee on
8 Environment and Public Works of the Senate.

9 (4) The Chairman's emergency authority in-
10 cludes the functions of responding to, issuing orders
11 respecting, advising United States civil authorities
12 and the United States public about, and directing
13 and coordinating actions relative to such emergency
14 incident.

15 (b) DELEGATION.—The Chairman may delegate the
16 authority to perform such emergency functions, in whole
17 or in part, to any of the other members of the Commission.
18 Such authority may also be delegated or redelegated, in
19 whole or in part, to the staff of the Commission.

20 (c) CONSULTATION.—To the extent practicable, the
21 Chairman shall consult with the full Commission on any
22 regulatory or policy actions to be taken under an emer-
23 gency. Such consultations shall be exempt from the re-
24 quirements of section 552b of title 5, United States Code

1 (commonly referred to as the “Government in the Sun-
2 shine Act”).

3 (d) GUIDELINES AND NOTICE.—In acting under this
4 section, the Chairman, or other member of the Commis-
5 sion delegated authority under subsection (b), shall con-
6 form to the policy guidelines of the Commission.

7 (e) TERMINATION OF EMERGENCY.—Upon termi-
8 nation of the emergency, the Chairman shall immediately
9 notify the Commission, the public, the Committee on En-
10 ergy and Commerce of the House of Representatives, and
11 the Committee on Environment and Public Works of the
12 Senate.

13 (f) REPORT.—Within 30 days following the conclu-
14 sion of the emergency, the Chairman, or the member of
15 the Commission or member of the staff delegated the
16 emergency functions under subsection (b), shall render a
17 complete report of all actions taken during the emergency,
18 specifically delineating actions taken utilizing the author-
19 ity provided in this section, to the Commission, the Com-
20 mittee on Energy and Commerce of the House of Rep-
21 resentatives, and the Committee on Environment and
22 Public Works of the Senate.

23 (g) COMMISSION PROCEDURES.—Not later than 90
24 days after the date of enactment of this Act, the Commis-
25 sion shall revise its procedures to comply with the require-

1 ments of this section. Such revision shall define the roles
2 of the Commissioners during an emergency, specifying—

3 (1) complete access to records and information
4 relating to actions taken during the emergency;

5 (2) complete access to Commission staff in-
6 volved in the management of the emergency;

7 (3) complete access to the location or locations
8 where decisions are made during the emergency; and

9 (4) participation in decisions that may affect
10 Commission actions and policies beyond the response
11 to a particular emergency to the extent practicable.

12 **SEC. 10014. REPORTING.**

13 (a) DELEGATION; DIRECT COMMUNICATION.—The
14 Chairman may make such delegations and provide for
15 such reporting as the Chairman deems necessary, subject
16 to provisions of law. Any officer or employee under the
17 Commission may communicate directly to the Commission,
18 or to any member of the Commission, whenever in the view
19 of such officer or employee a critical problem, or matter
20 of public health and safety or common defense and secu-
21 rity, is not being properly addressed.

22 (b) EXECUTIVE DIRECTOR FOR OPERATIONS.—The
23 Executive Director for Operations shall report for all mat-
24 ters to the Chairman.

1 (c) FUNCTIONS.—The Directors of Nuclear Reactor
2 Regulations, Nuclear Material Safety and Safeguards, and
3 Nuclear Regulatory Research shall report to the Executive
4 Director for Operations.

5 (d) DIRECT REPORTING.—The heads of the Commis-
6 sion level offices or successor offices, of General Counsel,
7 Secretary of the Commission, Commission Appellate Adju-
8 dication, Congressional Affairs, Public Affairs, Inter-
9 national Programs, Atomic Safety and Licensing Board
10 Panel, and Advisory Committee on Reactor Safeguards
11 shall report directly to the Commission and the Commis-
12 sion shall receive such reports.

13 **SEC. 10015. RESCISSION OF REORGANIZATION PLAN AP-**
14 **PROVAL.**

15 Approval of Reorganization Plan No. 1 of 1980 (5
16 U.S.C. App. 1) is rescinded.

17 **Subtitle B—Miscellaneous**

18 **SEC. 10021. CERTIFICATION OF DOCUMENTS TRANSMITTED**
19 **TO CONGRESS.**

20 A letter or other document transmitted by the Nu-
21 clear Regulatory Commission, on behalf of the full Com-
22 mission, to a member of Congress in his or her capacity
23 as chairman or ranking minority member of a Committee
24 of Congress, shall include a certification that the letter
25 or document is being sent to both the Chairman and rank-

1 ing minority member of that Committee in accordance
2 with established Commission procedures.

3 **SEC. 10022. TIME LIMITS FOR COMMISSION REVIEW OF**
4 **ATOMIC SAFETY AND LICENSING BOARD DE-**
5 **CISIONS.**

6 When reviewing the decisions and actions of the
7 Atomic Safety and Licensing Board, the Commission shall
8 follow the following procedures:

9 (1) Each Commissioner shall vote on the matter
10 not later than 90 days after receipt of final briefs,
11 after which time the Commission shall not further
12 delay a decision. Once a majority position is estab-
13 lished, the Secretary shall notify in writing any
14 Commissioners who have not voted that a majority
15 position has been established. Any Commissioners
16 who have not yet voted shall vote within three days
17 of the Secretary's notice or be considered by the
18 Secretary as not participating.

19 (2) Not later than 30 days after a majority po-
20 sition is established, the Commission shall publish
21 any resulting decision, including adjudicatory orders
22 and direction to agency staff. If a majority position
23 is not established due to a tied vote, not later than
24 30 days after Commission voting is complete, the
25 Commission shall publish any resulting decision, in-

1 including adjudicatory orders and direction to agency
2 staff.

3 **SEC. 10023. ALLEGATIONS OF WRONGDOING.**

4 (a) REFERRAL TO INSPECTOR GENERAL.—Not later
5 than 90 days after the date of enactment of this Act, the
6 Nuclear Regulatory Commission shall revise its procedures
7 to ensure that any allegation of wrongdoing on the part
8 of the Chairman of the Commission is immediately re-
9 ferred to the Inspector General of the Commission.

10 (b) SUPERVISION OF INSPECTOR GENERAL.—During
11 the pendency of any investigation by the Inspector General
12 of the Chairman with respect to an allegation described
13 in subsection (a), the Chairman shall delegate responsi-
14 bility for supervising the Inspector General to a member
15 of the Commission other than the Chairman, consistent
16 with the Inspector General Act of 1978.

17 **SEC. 10024. APPROVAL OF COMMISSIONER TRAVEL.**

18 The Chairman of the Nuclear Regulatory Commis-
19 sion shall authorize all international travel requested by
20 other members of the Commission for official business un-
21 less the Chairman submits a notice of disapproval to the
22 full Commission specifying the basis for the disapproval.
23 The notice of disapproval shall be submitted within 5 days
24 after the travel is requested or the travel shall be deemed
25 approved.

1 **SEC. 10025. IMPLEMENTATION.**

2 Except as otherwise specified in this title, the Com-
3 mission shall revise its procedures to conform to this title
4 within 180 days of its date of enactment.

5 **TITLE XX—PERMITTING FOR ON-**
6 **SHORE AND OFFSHORE WIND**
7 **ENERGY**

8 **Subtitle A—Offshore Meteorolog-**
9 **ical Site Testing and Monitoring**

10 **SEC. 11001. SHORT TITLE.**

11 This subtitle may be cited at the “Advancing Off-
12 shore Wind Production Act”.

13 **SEC. 11002. OFFSHORE METEOROLOGICAL SITE TESTING**
14 **AND MONITORING PROJECTS.**

15 (a) **DEFINITION OF AN OFFSHORE METEOROLOG-**
16 **ICAL SITE TESTING AND MONITORING PROJECT.**—In this
17 section, the term “offshore meteorological site testing and
18 monitoring project” means a project carried out on or in
19 the waters of the Outer Continental Shelf administered
20 by the Department of the Interior to test or monitor
21 weather (including wind, tidal, current, and solar energy)
22 using towers, buoys, or other temporary ocean infrastruc-
23 ture, that—

24 (1) causes—

1 (A) less than 1 acre of surface or seafloor
2 disruption at the location of each meteorological
3 tower or other device; and

4 (B) not more than 5 acres of surface or
5 seafloor disruption within the proposed area af-
6 fected by for the project (including hazards to
7 navigation);

8 (2) is decommissioned not more than 5 years
9 after the date of commencement of the project, in-
10 cluding—

11 (A) removal of towers, buoys, or other tem-
12 porary ocean infrastructure from the project
13 site; and

14 (B) restoration of the project site to ap-
15 proximately the original condition of the site;
16 and

17 (3) provides meteorological information ob-
18 tained by the project to the Secretary of the Inte-
19 rior.

20 (b) OFFSHORE METEOROLOGICAL PROJECT PERMIT-
21 TING.—

22 (1) IN GENERAL.—The Secretary of the Inte-
23 rior shall by regulation require that any applicant
24 seeking to conduct an offshore meteorological site
25 testing and monitoring project on the outer Conti-

1 nental Shelf (as that term is defined in the Outer
2 Continental Shelf Lands Act (43 U.S.C. 1331 et
3 seq.)) must obtain a permit and right-of-way for the
4 project in accordance with this subsection.

5 (2) PERMIT AND RIGHT-OF-WAY TIMELINE AND
6 CONDITIONS.—

7 (A) DEADLINE FOR APPROVAL.—The Sec-
8 retary shall decide whether to issue a permit
9 and right-of-way for an offshore meteorological
10 site testing and monitoring project within 30
11 days after receiving an application.

12 (B) PUBLIC COMMENT AND CONSULTA-
13 TION.—During the period referred to in sub-
14 paragraph (A), the Secretary shall—

15 (i) provide an opportunity for submis-
16 sion of comments by the public; and

17 (ii) consult with the Secretary of De-
18 fense, the Commandant of the Coast
19 Guard, and the heads of other Federal,
20 State, and local agencies that would be af-
21 fected by issuance of the permit and right-
22 of-way.

23 (C) DENIAL OF PERMIT; OPPORTUNITY TO
24 REMEDY DEFICIENCIES.—If the application is

1 denied, the Secretary shall provide the appli-
2 cant—

3 (i) in writing, clear and comprehensive
4 reasons why the application was not ap-
5 proved and detailed information concerning
6 any deficiencies in the application; and

7 (ii) an opportunity to remedy such de-
8 ficiencies.

9 (c) NEPA EXCLUSION.—Section 102(2)(C) of the
10 National Environmental Policy Act of 1969 (42 U.S.C.
11 4332(2)(C)) shall not apply with respect to an offshore
12 meteorological site testing and monitoring project.

13 (d) PROTECTION OF INFORMATION.—The informa-
14 tion provided to the Secretary of the Interior pursuant to
15 subsection (a)(3) shall be treated by the Secretary as pro-
16 prietary information and protected against disclosure.

17 **Subtitle B—Onshore Meteorolog-**
18 **ical Site Testing and Monitoring**

19 **SEC. 11011. SHORT TITLE.**

20 This subtitle may be cited at the “Reducing Regu-
21 latory Obstacles to Wind Energy Production Act”.

22 **SEC. 11012. ONSHORE METEOROLOGICAL SITE TESTING**
23 **AND MONITORING PROJECT.**

24 (a) DEFINITION OF METEOROLOGICAL SITE TEST-
25 ING AND MONITORING PROJECT.—In this section, the

1 term “meteorological site testing and monitoring project”
2 means a project carried out on land administered by the
3 Bureau of Land Management or the Forest Service to test
4 or monitor weather (including wind and solar energy)
5 using towers or other devices, that—

6 (1) causes—

7 (A) less than 1 acre of soil or vegetation
8 disruption at the location of each meteorological
9 tower or other device; and

10 (B) not more than 5 acres of soil or dis-
11 ruption within the proposed right-of-way for the
12 project;

13 (2) is installed—

14 (A) to the maximum extent practicable,
15 using existing access roads;

16 (B) in a manner that does not require off-
17 road motorized access other than 1 installation
18 activity and 1 decommissioning activity along
19 an identified off-road route approved by the Di-
20 rector of the Bureau of Land Management or
21 Chief of the Forest Service;

22 (C) without construction of new roads
23 other than upgrading of existing minor drain-
24 age crossings for safety purposes; and

1 (D) without the use of digging or drilling
2 equipment vehicles other than rubber-tired vehi-
3 cles with gross weight ratings under 8,500
4 pounds;

5 (3) is decommissioned not more than 5 years
6 after the date of commencement of the project, in-
7 cluding—

8 (A) removal of any towers, devices, or
9 other surface infrastructure from the site; and

10 (B) restoration of the site to approximately
11 the condition that existed at the time the
12 project began; and

13 (4) provides meteorological information ob-
14 tained by the permitted project to the Bureau of
15 Land Management and the Forest Service.

16 (b) NEPA EXCLUSION.—Section 102(2)(C) of the
17 National Environmental Policy Act of 1969 (42 U.S.C.
18 4332(2)(C)) shall not apply with respect to a meteorolog-
19 ical site testing and monitoring project.

20 (c) PERMIT TIMELINE AND CONDITIONS.—

21 (1) IN GENERAL.—The Director of the Bureau
22 of Land Management or Chief of the Forest Service,
23 as applicable, shall decide whether to issue a permit
24 for a project that is a meteorological site testing and

1 monitoring project within 30 days after receiving an
2 application for the permit.

3 (2) PUBLIC COMMENT AND CONSULTATION.—

4 During the period referred to in paragraph (1), the
5 Director of the Bureau of Land Management or the
6 Chief of the Forest Service, as applicable, shall—

7 (A) provide an opportunity for submission
8 of comments by the public; and

9 (B) consult with the heads of other Fed-
10 eral, State, and local agencies that would be af-
11 fected by the issuance of the permit.

12 (3) DENIAL OF APPLICATION.—If the applica-
13 tion is denied, the Director or Chief, respectively,
14 shall provide the applicant—

15 (A) in writing, clear and comprehensive
16 reasons why the application was not approved
17 and detailed information concerning any defi-
18 ciencies, and

19 (B) an opportunity to remedy any defi-
20 ciencies.

21 (d) PROTECTION OF INFORMATION.—The informa-
22 tion provided to the Bureau of Land Management and the
23 Forest Service pursuant to subsection (a)(4) shall be
24 treated by such agency as proprietary information and
25 protected against disclosure.

1 **TITLE XXI—DOMESTIC PROS-**
2 **PERITY AND GLOBAL FREE-**
3 **DOM**

4 **SEC. 12001. SHORT TITLE.**

5 This title may be cited as the “Domestic Prosperity
6 and Global Freedom Act”.

7 **SEC. 12002. AMENDMENTS.**

8 Section 3(c) of the Natural Gas Act (15 U.S.C.
9 717b(c)) is amended—

10 (1) by inserting “(1)” before “For purposes”;

11 (2) by striking “a nation with which there is in
12 effect a free trade agreement requiring national
13 treatment for trade in natural gas” and inserting “a
14 World Trade Organization member nation”; and

15 (3) by adding at the end the following:

16 “(2) For purposes of this subsection, the term ‘World
17 Trade Organization member nation’ means a country de-
18 scribed in section 2(10) of the Uruguay Round Agree-
19 ments Act (19 U.S.C. 3501(10)).”.

20 **SEC. 12003. PENDING APPLICATIONS.**

21 Any application for authorization to export natural
22 gas under section 3 of the Natural Gas Act (15 U.S.C.
23 717b) for which a notice has been published in the Federal
24 Register before March 6, 2014, shall be granted without
25 modification or delay.

**DIVISION IV—ACCESS TO
CAPITAL
TITLE XXII—SMALL BUSINESS
ACCESS TO CAPITAL**

**SEC. 13001. REGISTRATION AND REPORTING EXEMPTIONS
RELATING TO PRIVATE EQUITY FUNDS ADVISORS.**

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

“(o) EXEMPTION OF AND REPORTING REQUIREMENTS BY PRIVATE EQUITY FUNDS ADVISORS.—

“(1) IN GENERAL.—Except as provided in this subsection, no investment adviser shall be subject to the registration or reporting requirements of this title with respect to the provision of investment advice relating to a private equity fund or funds, provided that each such fund has not borrowed and does not have outstanding a principal amount in excess of twice its invested capital commitments.

“(2) MAINTENANCE OF RECORDS AND ACCESS BY COMMISSION.—Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules—

“(A) to require investment advisers described in paragraph (1) to maintain such records and provide to the Commission such annual or other reports as the Commission taking into account fund size, governance, investment strategy, risk, and other factors, as the Commission determines necessary and appropriate in the public interest and for the protection of investors; and

“(B) to define the term ‘private equity fund’ for purposes of this subsection.”.

TITLE XXIII—COMMUNITY LENDING ENHANCEMENT AND REGULATORY RELIEF

SEC. 14001. CHANGES REQUIRED TO SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.

(a) SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.—

(1) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of this title, the Board of Governors of the Federal Reserve System shall publish in the Federal

1 Register proposed revisions to the Small Bank Hold-
2 ing Company Policy Statement on Assessment of Fi-
3 nancial and Managerial Factors (12 C.F.R. part
4 225—appendix C) that provide that the policy shall
5 apply to a bank holding company which has pro-
6 forma consolidated assets of less than
7 \$5,000,000,000 and that—

8 (A) is not engaged in any nonbanking ac-
9 tivities involving significant leverage; and

10 (B) does not have a significant amount of
11 outstanding debt that is held by the general
12 public.

13 (2) ADJUSTMENT OF AMOUNT.—The Board of
14 Governors of the Federal Reserve System shall an-
15 nually adjust the dollar amount referred to in para-
16 graph (1) in the Small Bank Holding Company Pol-
17 icy Statement on Assessment of Financial and Man-
18 agerial Factors by an amount equal to the percent-
19 age increase, for the most recent year, in total assets
20 held by all insured depository institutions, as deter-
21 mined by the Board.

22 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL
23 BANK HOLDING COMPANY.—Before the end of the 6-
24 month period beginning on the date of the enactment of
25 this title, the Board of Governors of the Federal Reserve

1 System shall publish in the Federal Register proposed re-
2 visions to the Small Bank Holding Company Policy State-
3 ment on Assessment of Financial and Managerial Factors
4 (12 C.F.R. part 225—appendix C) such that the debt-to-
5 equity ratio allowable for a small bank holding company
6 in order to remain eligible to pay a corporate dividend and
7 to remain eligible for expedited processing procedures
8 under Regulation Y of the Board of Governors of the Fed-
9 eral Reserve System would increase from 1:1 to 3:1.

10 **SEC. 14002. ESCROW REQUIREMENTS.**

11 (a) IN GENERAL.—Section 129D(c) of the Truth in
12 Lending Act, as added by section 1461(a) of the Dodd-
13 Frank Wall Street Reform and Consumer Protection Act,
14 is amended—

15 (1) by redesignating paragraphs (1), (2), (3),
16 and (4) as subparagraphs (A), (B), (C), and (D)
17 and moving such subparagraphs 2 ems to the right;

18 (2) striking “The Board” and inserting the fol-
19 lowing:

20 “(1) IN GENERAL.—The Board”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(2) TREATMENT OF LOANS HELD BY SMALLER
24 CREDITORS.—The Board shall, by regulation, exempt
25 from the requirements of subsection (a) any loan secured

1 by a first lien on a consumer's principle dwelling, if such
2 loan is held by a creditor with assets of \$10,000,000,000
3 or less.”.

4 **SEC. 14003. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
5 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
6 **LEY ACT.**

7 Section 503 of the Gramm-Leach-Bliley Act (15
8 U.S.C. 6803) is amended by adding at the end the fol-
9 lowing:

10 “(f) EXCEPTION TO ANNUAL NOTICE REQUIRE-
11 MENT.—A financial institution that—

12 “(1) provides nonpublic personal information
13 only in accordance with the provisions of subsection
14 (b)(2) or (e) of section 502 or regulations prescribed
15 under section 504(b), and

16 “(2) has not changed its policies and practices
17 with regard to disclosing nonpublic personal infor-
18 mation from the policies and practices that were dis-
19 closed in the most recent disclosure sent to con-
20 sumers in accordance with this subsection,

21 shall not be required to provide an annual disclosure under
22 this subsection until such time as the financial institution
23 fails to comply with any criteria described in paragraph
24 (1) or (2).”.

1 **SEC. 14004. ACCOUNTING PRINCIPLES COST-BENEFIT RE-**
 2 **QUIREMENTS.**

3 Section 19(b) of the Securities Act of 1933 (15
 4 U.S.C. 77s(b)) is amended by adding at the end the fol-
 5 lowing:

6 “(3) GENERALLY ACCEPTED ACCOUNTING
 7 PRINCIPLES COST-BENEFIT REQUIREMENTS.—The
 8 Commission or its designee shall conduct analyses of
 9 the costs and benefits (including economic benefits)
 10 of any new or amended accounting principle de-
 11 scribed under paragraph (1), and may not recognize
 12 such new or amended accounting principle, unless
 13 the Commission or its designee determines that the
 14 benefits to investors of such new or amended ac-
 15 counting principle significantly outweigh its costs.”.

16 **SEC. 14005. COMMUNITY BANK EXEMPTION FROM ANNUAL**
 17 **MANAGEMENT ASSESSMENT OF INTERNAL**
 18 **CONTROLS REQUIREMENT OF THE SAR-**
 19 **BANES-OXLEY ACT OF 2002.**

20 Section 404 of the Sarbanes-Oxley Act of 2002 (15
 21 U.S.C. 7262) is amended by adding the following new sub-
 22 section:

23 “(d) COMMUNITY BANK EXEMPTION.—

24 “(1) IN GENERAL.—This section shall not apply
 25 in any year to any insured depository institution
 26 which, as of the close of the preceding year, had

1 total assets, as determined on a consolidated basis,
 2 of \$10,000,000,000 or less.

3 “(2) ADJUSTMENT OF AMOUNT.—The Commis-
 4 sion shall annually adjust the dollar amount in para-
 5 graph (1) by an amount equal to the percentage in-
 6 crease, for the most recent year, in total assets held
 7 by all depository institutions, as reported by the
 8 Federal Deposit Insurance Corporation.”.

9 **SEC. 14006. CERTAIN LOANS INCLUDED AS QUALIFIED**
 10 **MORTGAGES.**

11 Section 129C(b)(2) of the Truth in Lending Act (15
 12 U.S.C. 1639c(b)(2)) is amended—

13 (1) in subparagraph (A)—

14 (A) in clause (viii), by striking “and” at
 15 the end;

16 (B) in clause (ix), by striking the period at
 17 the end and inserting “; and”; and

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

19 “(x) that is originated and retained in
 20 portfolio for a period of at least 3 years by
 21 a creditor having less than
 22 \$10,000,000,000 in total assets.”; and

23 (2) in subparagraph (E)—

1 (A) by striking “The Board may, by regu-
2 lation” and inserting “The Bureau shall, by
3 regulation”; and

4 (B) by amending clause (iv) to read as fol-
5 lows:

6 “(iv) that is extended by a creditor
7 that—

8 “(I) originates and retains the
9 balloon loans in portfolio for a period
10 of at least 3 years; and

11 “(II) together with all affiliates,
12 has total assets of \$10,000,000,000 or
13 less.”.

14 **SEC. 14007. INCREASE IN SMALL SERVICER EXEMPTION.**

15 Section 6 of the Real Estate Settlement Procedures
16 Act of 1974 (12 U.S.C. 2605) is amended by adding at
17 the end the following:

18 “(n) SMALL SERVICER EXEMPTION.—The Bureau
19 shall, by regulation, provide exemptions to, or adjustments
20 for, the provisions of this section for servicers that service
21 20,000 or fewer mortgage loans, in order to reduce regu-
22 latory burdens while appropriately balancing consumer
23 protections.”.

1 **SEC. 14008. APPRAISER QUALIFICATION THRESHOLD.**

2 Section 1112(b) of the Financial Institutions Reform,
3 Recovery, and Enforcement Act of 1989 (12 U.S.C.
4 3341(b)) is amended—

5 (1) by striking “may establish a threshold level
6 at or” and inserting “shall establish a threshold level
7 of \$250,000,”; and

8 (2) by striking “transactions, if” and inserting
9 “transactions. Each Federal financial institutions
10 regulatory agency and the Resolution Trust Cor-
11 poration may establish a higher threshold than
12 \$250,000, if”.

13 **SEC. 14009. COORDINATION AMONG FINANCIAL INSTITU-**
14 **TIONS.**

15 Chapter 53 of title 31, United States Code, is amend-
16 ed—

17 (1) by inserting after section 5332 the following
18 new section:

19 **“§ 5333. Coordination among financial institutions**

20 “(a) IN GENERAL.—In the case of an entry received
21 via an automated clearing house, no receiving depository
22 financial institution shall be required to verify that the
23 entry is not a prohibited transaction, if the originating de-
24 pository financial institution has warranted, pursuant to
25 the automated clearing house rules governing such entry
26 or otherwise, that the originating depository financial in-

1 stitution has complied with the sanctions programs admin-
2 istered by the Office of Foreign Assets Control in connec-
3 tion with such entry.

4 “(b) DEFINITIONS.—For purposes of this section:

5 “(1) AUTOMATED CLEARING HOUSE.—The
6 term ‘automated clearing house’ means a funds
7 transfer system governed by rules which provide for
8 the interbank clearing of electronic entries for par-
9 ticipating depository financial institutions.

10 “(2) DEPOSITORY FINANCIAL INSTITUTION.—
11 The term ‘depository financial institution’ means—

12 “(A) any insured depository institution, as
13 such term is defined under section 3 of the
14 Federal Deposit Insurance Act (12 U.S.C.
15 1813);

16 “(B) any depository institution which is el-
17 igible to apply to become an insured depository
18 institution under section 5 of the Federal De-
19 posit Insurance Act (12 U.S.C. 1815);

20 “(C) any insured credit union, as defined
21 in section 101 of the Federal Credit Union Act
22 (12 U.S.C. 1752); and

23 “(D) any credit union which is eligible to
24 apply to become an insured credit union pursu-

1 ant to section 201 of the Federal Credit Union
2 Act (12 U.S.C. 1781).

3 “(3) ENTRY.—The term ‘entry’ means an order
4 to request for the transfer of funds through an auto-
5 mated clearing house.

6 “(4) ORIGINATING DEPOSITORY FINANCIAL IN-
7 STITUTION.—The term ‘originating depository finan-
8 cial institution’ means a depository financial institu-
9 tion that transmits entries via an automated clearing
10 house for transmittal to a receiving depository finan-
11 cial institution.

12 “(5) PROHIBITED TRANSACTION.—The term
13 ‘prohibited transaction’ means a funds transfer
14 originated on behalf of a person to or from whom
15 funds transfers are restricted by a sanctions pro-
16 gram administered by the Office of Foreign Assets
17 Control, including persons appearing on the list of
18 specially designated nationals and blocked persons
19 maintained by the Office of Foreign Assets Control.

20 “(6) RECEIVING DEPOSITORY FINANCIAL INSTI-
21 TUTION.—The term ‘receiving depository financial
22 institution’ means a depository financial institution
23 that receives entries via an automated clearing house
24 from an originating depository financial institution

1 for debit or credit to the accounts of its customers.”;
2 and
3 (2) in the table of contents for such chapter by
4 inserting after the item relating to section 5332 the
5 following new item:

“5333. Coordination among financial institutions.”.

