

114TH CONGRESS
1ST SESSION

S. 1407

To promote the development of renewable energy on public land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2015

Mr. HELLER (for himself, Mr. RISCH, Mr. HEINRICH, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote the development of renewable energy on public land, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Public Land Renewable Energy Development Act of
6 2015”.

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

Sec. 1. Short title; table of contents.

TITLE I—GEOTHERMAL ENERGY

Sec. 101. Extension of funding for implementation of Geothermal Steam Act of 1970.

TITLE II—DEVELOPMENT OF GEOTHERMAL, SOLAR, AND WIND ENERGY ON PUBLIC LAND

Subtitle A—Environmental Reviews and Permitting

Sec. 201. Definitions.

Sec. 202. Land use planning; supplements to programmatic environmental impact statements.

Sec. 203. Environmental review on covered land.

Sec. 204. Program to improve renewable energy project permit coordination.

Subtitle B—Revenues and Enforcement

Sec. 211. Definitions.

Sec. 212. Disposition of revenues.

Sec. 213. Royalties.

Sec. 214. Enforcement of royalty and payment provisions.

Sec. 215. Enforcement.

Sec. 216. Segregation from appropriation under mining and Federal land laws.

Sec. 217. Study and report on conservation banking.

Sec. 218. Applicability of law.

1 **TITLE I—GEOTHERMAL ENERGY**

2 **SEC. 101. EXTENSION OF FUNDING FOR IMPLEMENTATION** 3 **OF GEOTHERMAL STEAM ACT OF 1970.**

4 (a) IN GENERAL.—Section 234(a) of the Energy Pol-
5 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-
6 ing “in the first 5 fiscal years beginning after the date
7 of enactment of this Act” and inserting “through fiscal
8 year 2020”.

9 (b) AUTHORIZATION.—Section 234(b) of the Energy
10 Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—

11 (1) by striking “Amounts” and inserting the
12 following:

13 “(1) IN GENERAL.—Amounts”; and

14 (2) by adding at the end the following:

1 “(2) AUTHORIZATION.—Effective for fiscal year
 2 2015 and each fiscal year thereafter, amounts de-
 3 posited under subsection (a) shall be available to the
 4 Secretary of the Interior for expenditure, subject to
 5 appropriation and without fiscal year limitation, to
 6 implement the Geothermal Steam Act of 1970 (30
 7 U.S.C. 1001 et seq.) and this Act.”.

8 **TITLE II—DEVELOPMENT OF**
 9 **GEOTHERMAL, SOLAR, AND**
 10 **WIND ENERGY ON PUBLIC**
 11 **LAND**

12 **Subtitle A—Environmental**
 13 **Reviews and Permitting**

14 **SEC. 201. DEFINITIONS.**

15 In this subtitle:

16 (1) COVERED LAND.—The term “covered land”
 17 means land that is—

18 (A) public land administered by the Sec-
 19 retary; and

20 (B) not excluded from the development of
 21 geothermal, solar, or wind energy under—

22 (i) a land use plan established under
 23 the Federal Land Policy and Management
 24 Act of 1976 (43 U.S.C. 1701 et seq.); or

25 (ii) other Federal law.

1 (2) DIRECTOR.—The term “Director” means
2 the Director of the Bureau of Land Management.

3 (3) EXCLUSION AREA.—The term “exclusion
4 area” means covered land that is identified by the
5 Bureau of Land Management as not suitable for de-
6 velopment of renewable energy projects.

7 (4) PRIORITY AREA.—The term “priority area”
8 means covered land identified by the land use plan-
9 ning process of the Bureau of Land Management as
10 being a preferred location for a renewable energy
11 project.

12 (5) RENEWABLE ENERGY PROJECT.—The term
13 “renewable energy project” means a project carried
14 out on covered land that uses wind, solar, or geo-
15 thermal energy to generate energy.

16 (6) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior.

18 (7) VARIANCE AREA.—The term “variance
19 area” means covered land that is—

20 (A) not an exclusion area; and

21 (B) not a priority area.

22 **SEC. 202. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
23 **GRAMMATIC ENVIRONMENTAL IMPACT**
24 **STATEMENTS.**

25 (a) PRIORITY AND VARIANCE AREAS.—

1 (1) IN GENERAL.—The Director shall establish
2 priority and variance areas on covered land for geo-
3 thermal, solar, and wind energy projects.

4 (2) DEADLINE.—

5 (A) GEOTHERMAL ENERGY.—For geo-
6 thermal energy, the Director shall establish pri-
7 ority and variance areas as soon as practicable,
8 but not later than 5 years, after the date of en-
9 actment of this Act.

10 (B) SOLAR ENERGY.—For solar energy,
11 the 2012 western solar plan of the Bureau of
12 Land Management shall be considered to estab-
13 lish priority and variance areas for solar energy
14 projects.

15 (C) WIND ENERGY.—For geothermal en-
16 ergy, the Director shall establish priority and
17 variance areas as soon as practicable, but not
18 later than 5 years, after the date of enactment
19 of this Act.

20 (3) REVIEW AND MODIFICATION.—Not less fre-
21 quently than once every 10 years, the Director
22 shall—

23 (A) review the adequacy of land allocations
24 for geothermal, solar, and wind energy priority
25 and variance areas; and

1 (B) based on the review carried out under
2 subparagraph (A), add, modify, or eliminate
3 priority and variance areas.

4 (b) COMPLIANCE WITH THE NATIONAL ENVIRON-
5 MENTAL POLICY ACT.—For purposes of this section, com-
6 pliance with the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

8 (1) for geothermal energy, by supplementing
9 the October 2008 final programmatic environmental
10 impact statement for geothermal leasing in the west-
11 ern United States;

12 (2) for solar energy, by supplementing the July
13 2012 final programmatic environmental impact
14 statement for solar energy projects; and

15 (3) for wind energy, by supplementing the July
16 2005 final programmatic environmental impact
17 statement for wind energy projects.

18 (c) NO EFFECT ON PROCESSING APPLICATIONS.—A
19 requirement to prepare a supplement to a programmatic
20 environmental impact statement under this section shall
21 not result in any delay in processing an application for
22 a renewable energy project.

23 (d) COORDINATION.—In developing a supplement re-
24 quired by this section, the Secretary shall coordinate, on
25 an ongoing basis, with appropriate State, tribal, and local

1 governments, transmission infrastructure owners and op-
 2 erators, developers, and other appropriate entities to en-
 3 sure that priority areas identified by the Secretary are—

4 (1) economically viable (including having access
 5 to transmission);

6 (2) likely to avoid or minimize conflict with
 7 habitat for animals and plants, recreation, and other
 8 uses of covered land; and

9 (3) consistent with local planning efforts.

10 (e) REMOVAL FROM CLASSIFICATION.—In carrying
 11 out subsections (a), (b), and (c), if the Secretary deter-
 12 mines an area previously suited for development should
 13 be removed from priority or variance classification, not
 14 later than 90 days after the date of the determination,
 15 the Secretary shall submit to Congress a report on the
 16 determination.

17 **SEC. 203. ENVIRONMENTAL REVIEW ON COVERED LAND.**

18 (a) IN GENERAL.—If the Director determines that a
 19 proposed renewable energy project has been sufficiently
 20 analyzed by a programmatic environmental impact state-
 21 ment conducted under section 202(b), the head of the ap-
 22 plicable Federal agency shall not require any additional
 23 review under the National Environmental Policy Act of
 24 1969 (42 U.S.C. 4321 et seq.).

1 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
 2 Director determines that additional environmental review
 3 under the National Environmental Policy Act of 1969 (42
 4 U.S.C. 4321 et seq.) is necessary for a proposed renewable
 5 energy project, the head of the applicable Federal agency
 6 shall rely on the analysis in the programmatic environ-
 7 mental impact statement conducted under section 202(b),
 8 to the maximum extent practicable when analyzing the po-
 9 tential impacts of the project.

10 **SEC. 204. PROGRAM TO IMPROVE RENEWABLE ENERGY**
 11 **PROJECT PERMIT COORDINATION.**

12 (a) ESTABLISHMENT.—The Secretary shall establish
 13 a program to improve Federal permit coordination with
 14 respect to renewable energy projects on covered land.

15 (b) MEMORANDUM OF UNDERSTANDING.—

16 (1) IN GENERAL.—Not later than 90 days after
 17 the date of enactment of this Act, the Secretary
 18 shall enter into a memorandum of understanding for
 19 purposes of this section with—

20 (A) the Secretary of Agriculture;

21 (B) the Administrator of the Environ-
 22 mental Protection Agency; and

23 (C) the Chief of Engineers.

24 (2) STATE PARTICIPATION.—The Secretary
 25 may request the Governor of any interested State to

1 be a signatory to the memorandum of understanding
 2 under paragraph (1).

3 (c) INTERAGENCY COORDINATION.—The Secretary
 4 shall establish an ombudsperson in the Office of the Sec-
 5 retary, who shall be responsible for resolving interagency
 6 disputes between 2 or more of the following agencies:

7 (1) The United States Fish and Wildlife Serv-
 8 ice.

9 (2) The National Park Service.

10 (3) The Bureau of Land Management.

11 (d) VARIANCE AREAS.—

12 (1) IN GENERAL.—In carrying out subsections
 13 (b) and (c), the heads of the Federal agencies de-
 14 scribed in those subsections shall consider entering
 15 into agreements and memoranda of understanding
 16 to expedite the environmental analysis of applica-
 17 tions for projects proposed on covered land deter-
 18 mined by the Secretary to be a variance area under
 19 section 202.

20 (2) AVAILABILITY FOR RENEWABLE ENERGY
 21 PROJECT DEVELOPMENT.—To the maximum extent
 22 practicable, the variance areas described in para-
 23 graph (1) shall be made available for renewable en-
 24 ergy project development, after completion of an en-
 25 vironmental impact statement or similar analysis re-

1 quired under the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.), and subject to the
3 policies and procedures set forth by the Secretary
4 for evaluating variance applications in the pro-
5 grammatic environmental impact statement de-
6 scribed in section 202(b).

7 (e) DESIGNATION OF QUALIFIED STAFF.—

8 (1) IN GENERAL.—Not later than 30 days after
9 the date on which the memorandum of under-
10 standing under subsection (b) is executed, all Fed-
11 eral signatories, as appropriate, shall assign to each
12 of the field offices described in subsection (f) an em-
13 ployee who has expertise in the regulatory issues re-
14 lating to the office in which the employee is em-
15 ployed, including, as applicable, particular expertise
16 in—

17 (A) consultation regarding, and prepara-
18 tion of, biological opinions under section 7 of
19 the Endangered Species Act of 1973 (16 U.S.C.
20 1536);

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

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

1 (D) planning under section 14 of the Na-
2 tional Forest Management Act of 1976 (16
3 U.S.C. 472a);

4 (E) the Federal Land Policy and Manage-
5 ment Act of 1976 (43 U.S.C. 1701 et seq.);

6 (F) the Migratory Bird Treaty Act (16
7 U.S.C. 703 et seq.); and

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

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

13 (A) not later than 90 days after the date
14 of assignment, report to field managers of the
15 Bureau of Land Management in the office to
16 which the employee is assigned;

17 (B) be responsible for all issues relating to
18 the jurisdiction of the home office or agency of
19 the employee; and

20 (C) participate as part of the team of per-
21 sonnel working on proposed energy projects,
22 planning, monitoring, inspection, enforcement,
23 and environmental analyses.

24 (f) FIELD OFFICES.—The field offices referred to in
25 subsection (e)(1) shall include field offices of the Bureau

1 of Land Management in, at a minimum, the States of Ari-
2 zona, California, Colorado, Idaho, Montana, Nevada, New
3 Mexico, Oregon, Utah, Washington, and Wyoming.

4 (g) ADDITIONAL PERSONNEL.—The Secretary shall
5 assign to each field office described in subsection (f) such
6 additional personnel as are necessary to ensure the effec-
7 tive implementation of any programs administered by the
8 field offices, including inspection and enforcement relating
9 to renewable energy project development on covered land,
10 in accordance with the multiple use mandate of the Fed-
11 eral Land Policy and Management Act of 1976 (43 U.S.C.
12 1701 et seq.).

13 (h) REPORT TO CONGRESS.—

14 (1) IN GENERAL.—Not later than February 1
15 of the first fiscal year beginning after the date of en-
16 actment of this Act, and each February 1 thereafter,
17 the Secretary shall submit to the Chairperson and
18 Ranking Member of the Committee on Energy and
19 Natural Resources of the Senate and the Committee
20 on Natural Resources of the House of Representa-
21 tives a report describing the progress made pursuant
22 to the program under this subtitle during the pre-
23 ceding year.

24 (2) INCLUSIONS.—Each report under this sub-
25 section shall include—

1 (A) projections for renewable energy pro-
 2 duction and capacity installations; and

3 (B) a description of any problems relating
 4 to leasing, permitting, siting, or production.

5 **Subtitle B—Revenues and** 6 **Enforcement**

7 **SEC. 211. DEFINITIONS.**

8 In this subtitle:

9 (1) COVERED LAND.—The term “covered land”
 10 means land that is—

11 (A)(i) public land administered by the Sec-
 12 retary; or

13 (ii) National Forest System land adminis-
 14 tered by the Secretary of Agriculture; and

15 (B) not excluded from the development of
 16 solar or wind energy under—

17 (i) a final land use plan established
 18 under the Federal Land Policy and Man-
 19 agement Act of 1976 (43 U.S.C. 1701 et
 20 seq.);

21 (ii) a final land use plan established
 22 under the National Forest Management
 23 Act of 1976 (16 U.S.C. 1600 et seq.); or

24 (iii) other Federal law.

1 (2) FEDERAL LAND.—The term “Federal land”
2 means—

3 (A) land of the National Forest System (as
4 defined in section 11(a) of the Forest and
5 Rangeland Renewable Resources Planning Act
6 of 1974 (16 U.S.C. 1609(a)); or

7 (B) public land.

8 (3) FUND.—The term “Fund” means the Re-
9 newable Energy Resource Conservation Fund estab-
10 lished by section 212(c)(1).

11 (4) PUBLIC LAND.—The term “public land”
12 has the meaning given the term “public lands” in
13 section 103 of the Federal Land Policy and Manage-
14 ment Act of 1976 (43 U.S.C. 1702).

15 (5) SECRETARIES.—The term “Secretaries”
16 means—

17 (A) in the case of public land administered
18 by the Secretary, the Secretary; and

19 (B) in the case of National Forest System
20 land administered by the Secretary of Agri-
21 culture, the Secretary of Agriculture.

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

1 **SEC. 212. DISPOSITION OF REVENUES.**

2 (a) DISPOSITION OF REVENUES.—Without further
3 appropriation or fiscal year limitation, of the amounts col-
4 lected as bonus bids, royalties, rentals, fees, or other pay-
5 ments under a right-of-way, permit, lease, or other author-
6 ization for the development of wind or solar energy on cov-
7 ered land—

8 (1) 25 percent shall be paid by the Secretary of
9 the Treasury to the State within the boundaries of
10 which the revenue is derived;

11 (2) 25 percent shall be paid by the Secretary of
12 the Treasury to the 1 or more counties within the
13 boundaries of which the revenue is derived, to be al-
14 located among the counties based on the percentage
15 of land from which the revenue is derived;

16 (3) to be deposited in the Treasury and be
17 made available to the Secretary to carry out the pro-
18 gram established by section 204, including the trans-
19 fer of the funds by the Bureau of Land Management
20 to other Federal agencies and State agencies to fa-
21 cilitate the processing of renewable energy permits
22 on Federal land, with priority given to using the
23 amounts, to the maximum extent practicable, to re-
24 ducing the backlog of renewable energy permits that
25 have not been processed in the State from which the
26 revenues are derived—

1 (A) 15 percent for each of fiscal years
2 2015 through 2030;

3 (B) 14 percent for fiscal year 2031;

4 (C) 13 percent for fiscal year 2032;

5 (D) 12 percent for fiscal year 2033;

6 (E) 11 percent for fiscal year 2034; and

7 (F) 10 percent for fiscal year 2035 and
8 each fiscal year thereafter; and

9 (4) to be deposited in the Renewable Energy
10 Resource Conservation Fund established by sub-
11 section (c)—

12 (A) 35 percent for each of fiscal years
13 2015 through 2030;

14 (B) 36 percent for fiscal year 2031;

15 (C) 37 percent for fiscal year 2032;

16 (D) 38 percent for fiscal year 2033;

17 (E) 39 percent for fiscal year 2034; and

18 (F) 40 percent for fiscal year 2035 and
19 each fiscal year thereafter.

20 (b) PAYMENTS TO STATES AND COUNTIES.—

21 (1) IN GENERAL.—Amounts paid to States and
22 counties under subsection (a) shall be used con-
23 sistent with section 35 of the Mineral Leasing Act
24 (30 U.S.C. 191).

1 (2) PAYMENTS IN LIEU OF TAXES.—A payment
 2 to a county under paragraph (1) shall be in addition
 3 to a payment in lieu of taxes received by the county
 4 under chapter 69 of title 31, United States Code.

5 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
 6 FUND.—

7 (1) IN GENERAL.—There is established in the
 8 Treasury a fund, to be known as the “Renewable
 9 Energy Resource Conservation Fund”, to be admin-
 10 istered by the Secretary, in consultation with the
 11 Secretary of Agriculture, for use in regions affected
 12 by the development of wind or solar energy on Fed-
 13 eral land.

14 (2) USE.—

15 (A) IN GENERAL.—Amounts in the Fund
 16 shall be available to the Secretary, who may
 17 make amounts available to the Secretary of Ag-
 18 riculture, to other Federal or State agencies,
 19 and other interested persons in an impacted re-
 20 gion, as appropriate, for the purposes of—

21 (i) protecting and restoring important
 22 fish and wildlife habitat on Federal land in
 23 the impacted region; and

24 (ii) ensuring and improving right-of-
 25 way access to Federal land and water in

1 the impacted region for fishing, hunting,
2 and other forms of outdoor recreation in a
3 manner consistent with the conservation of
4 fish and wildlife habitat.

5 (B) ADVISORY BOARD.—The Secretaries
6 shall establish an independent advisory board
7 composed of key stakeholders and technical ex-
8 perts to provide recommendations and guidance
9 on the disposition of any amounts expended
10 from the Fund.

11 (3) INVESTMENT OF FUND.—

12 (A) IN GENERAL.—Any amounts deposited
13 in the Fund shall earn interest in an amount
14 determined by the Secretary of the Treasury on
15 the basis of the current average market yield on
16 outstanding marketable obligations of the
17 United States of comparable maturities.

18 (B) USE.—Any interest earned under sub-
19 paragraph (A) may be expended in accordance
20 with this subsection.

21 (4) INTENT OF CONGRESS.—It is the intent of
22 Congress that the revenues deposited and used in
23 the Fund shall supplement and not supplant annual
24 appropriations for conservation activities described
25 in paragraph (2)(A).

1 **SEC. 213. ROYALTIES.**

2 (a) IN GENERAL.—The Secretaries shall require as
3 a term and condition of any lease, right-of-way, permit,
4 or other authorization for the development of wind or solar
5 energy on covered land the payment of a royalty.

6 (b) RATE CONSIDERATIONS.—The Secretary, in con-
7 sultation with the Secretary of Agriculture, shall establish,
8 through rulemaking, a royalty payable under subsection
9 (a) that shall be a percentage of the gross proceeds from
10 the sale of electricity at a rate that—

11 (1) encourages production of solar or wind en-
12 ergy;

13 (2) ensures a fair return to the public com-
14 parable to the return that would be obtained on
15 State and private land; and

16 (3) encourages the maximum energy generation
17 while disturbing the least quantity of covered land
18 and other natural resources, including water.

19 (c) DIFFERENT ROYALTY RATES.—The Secretaries
20 shall establish—

21 (1) a different royalty rate for wind or solar en-
22 ergy generation, which takes into account relative
23 capacity factors for the respective generation
24 sources; and

1 (2) a reduced royalty rate for projects located
 2 within a zone identified for development of solar or
 3 wind energy.

4 (d) EXCLUSIVE PAYMENT ON SALE OF ELEC-
 5 TRICITY.—During the period of production, a royalty paid
 6 under subsection (a) shall be the only rent, royalty, or
 7 similar payment to the Federal Government required with
 8 respect to the sale of electricity produced under a lease.

9 (e) ROYALTY RELIEF.—To promote the generation of
 10 renewable energy, the Secretaries may reduce any royalty
 11 otherwise required on a showing by clear and convincing
 12 evidence by the person holding a lease, right-of-way, per-
 13 mit, or other authorization for the development of wind
 14 or solar energy on covered land under which the genera-
 15 tion of energy is or will be produced in commercial quan-
 16 tities that—

17 (1) collection of the full royalty would unreason-
 18 ably burden energy generation; and

19 (2) the royalty reduction is in the public inter-
 20 est.

21 (f) PERIODIC REVIEW AND REPORT.—

22 (1) IN GENERAL.—Not later than 5 years after
 23 the date of enactment of this Act and every 5 years
 24 thereafter, the Secretary, in consultation with the
 25 Secretary of Agriculture, shall—

1 (A) complete a review of collections and
2 impacts of the royalty and fees provided under
3 this subtitle; and

4 (B) submit to the Committees on Energy
5 and Natural Resources and Agriculture, Nutri-
6 tion, and Forestry of the Senate and the Com-
7 mittees on Natural Resources and Agriculture
8 of the House of Representatives a report de-
9 scribing the results of the review.

10 (2) TOPICS.—The report shall address—

11 (A) the total revenues received (by cat-
12 egory) on an annual basis as royalties from
13 wind, solar, and geothermal development and
14 production (specified by energy source) on cov-
15 ered land;

16 (B) whether the revenues received for the
17 development of wind, solar, and geothermal de-
18 velopment are comparable to the revenues re-
19 ceived for similar development on State and pri-
20 vate land;

21 (C) any impact on the development of
22 wind, solar, and geothermal development and
23 production on covered land as a result of the
24 royalties; and

1 (D) any recommendations with respect to
2 changes in Federal law (including regulations)
3 relating to the amount or method of collection
4 (including auditing, compliance, and enforce-
5 ment) of the royalties.

6 (g) REGULATIONS.—Not later than 2 years after the
7 date of enactment of this Act, the Secretaries shall jointly
8 issue final regulations to carry out this section.

9 **SEC. 214. ENFORCEMENT OF ROYALTY AND PAYMENT PRO-**
10 **VISIONS.**

11 (a) DUTIES OF THE SECRETARY.—The Secretary
12 shall establish a comprehensive inspection, collection, fis-
13 cal, and production accounting and auditing system—

14 (1) to accurately determine royalties, interest,
15 fines, penalties, fees, deposits, and other payments
16 owed under this subtitle; and

17 (2) to collect and account for the payments in
18 a timely manner.

19 (b) APPLICABILITY OF OTHER LAW.—The Federal
20 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
21 1701 et seq.) (including the civil and criminal enforcement
22 provisions of that Act) shall apply to leases, permits,
23 rights-of-way, or other authorizations issued for the devel-
24 opment of solar or wind energy on covered land and the
25 holders and operators of the leases, permits, rights-of-way,

1 or other authorizations (and designees) under this subtitle,
 2 except that in applying that Act—

3 (1) “wind or solar leases, permits, rights-of-
 4 way, or other authorizations” shall be substituted
 5 for “oil and gas leases”;

6 (2) “electricity generated from wind or solar re-
 7 sources” shall be substituted for “oil and gas”
 8 (when used as nouns);

9 (3) “lease, permit, right-of-way, or other au-
 10 thorization for the development of wind or solar en-
 11 ergy” shall be substituted for “lease” and “lease for
 12 oil and gas” (when used as nouns); and

13 (4) “lessee, permittee, right-of-way holder, or
 14 holder of an authorization for the development of
 15 wind or solar energy” shall be substituted for “les-
 16 see”.

17 **SEC. 215. ENFORCEMENT.**

18 (a) IN GENERAL.—Sections 302(c) and 303 of the
 19 Federal Land Policy and Management Act of 1976 (43
 20 U.S.C. 1732(c), 1733) shall apply to activities conducted
 21 on covered land under this subtitle.

22 (b) APPLICABILITY OF OTHER ENFORCEMENT PRO-
 23 VISIONS.—Nothing in this subtitle reduces or limits the
 24 enforcement authority vested in the Secretary or the At-
 25 torney General by any other law.

1 **SEC. 216. SEGREGATION FROM APPROPRIATION UNDER**
2 **MINING AND FEDERAL LAND LAWS.**

3 (a) IN GENERAL.—On covered land identified by the
4 Secretary or the Secretary of Agriculture for the develop-
5 ment of renewable energy projects under this subtitle or
6 other applicable law, the Secretary or the Secretary of Ag-
7 riculture may temporarily segregate the identified land
8 from appropriation under the mining and public land laws.

9 (b) ADMINISTRATION.—Segregation of covered land
10 under this section—

11 (1) may only be made for a period not to exceed
12 10 years; and

13 (2) shall be subject to valid existing rights as
14 of the date of the segregation.

15 **SEC. 217. STUDY AND REPORT ON CONSERVATION BANK-**
16 **ING.**

17 (a) STUDY.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Secre-
20 taries shall carry out a study on the siting, develop-
21 ment, and management of projects to determine the
22 feasibility of carrying out a conservation banking
23 program on Federal land.

24 (2) CONTENTS.—The study under paragraph
25 (1) shall—

26 (A) identify areas in which—

1 (i) privately owned land is not avail-
2 able to fully offset the impacts of solar or
3 wind energy development on federally ad-
4 ministered land; or

5 (ii) mitigation investments on Federal
6 land are likely to provide greater conserva-
7 tion value for impacts of solar or wind en-
8 ergy development on federally administered
9 land; and

10 (B) examine—

11 (i) the effectiveness of laws (including
12 regulations) and policies in effect on the
13 date of enactment of this Act in facili-
14 tating the development and effective oper-
15 ation of conservation banks;

16 (ii) the advantages and disadvantages
17 of using conservation banks on Federal
18 land to mitigate impacts to natural re-
19 sources on State, tribal, and private land;
20 and

21 (iii) any changes in Federal law (in-
22 cluding regulations) or policy necessary to
23 further develop a Federal conservation
24 banking program.

1 (b) REPORT TO CONGRESS.—Not later than 18
2 months after the date of enactment of this Act, the Secre-
3 taries shall jointly submit to Congress a report that in-
4 cludes—

5 (1) the recommendations of the Secretaries re-
6 lating to—

7 (A) the most effective system for Federal
8 land described in subsection (a)(2)(A) to meet
9 the goals of facilitating the development of a
10 conservation banking program on Federal land;
11 and

12 (B) any change to Federal law (including
13 regulations) or policy necessary to address more
14 effectively the siting, development, and manage-
15 ment of conservation banking programs on Fed-
16 eral land to mitigate impacts to natural re-
17 sources on State, tribal, and private land; and

18 (2) any administrative action to be taken by the
19 Secretaries in response to the recommendations.

20 (c) AVAILABILITY TO THE PUBLIC.—Not later than
21 30 days after the date on which the report described in
22 subsection (b) is submitted to Congress, the Secretaries
23 shall make the results of the study available to the public.

1 **SEC. 218. APPLICABILITY OF LAW.**

2 Wind or solar generation projects with a capacity of
3 20 megawatts or more that are issued a lease, right-of-
4 way, permit, or other authorization under applicable law
5 shall not be subject to the rental fee exemption for rights-
6 of-way under section 504(g) of the Federal Land Policy
7 and Management Act of 1976 (43 U.S.C. 1764(g)).

○