

111TH CONGRESS
1ST SESSION

H. R. 3505

To increase the supply of American made energy, reduce energy costs to the American taxpayer, provide a long-term energy framework to reduce dependence on foreign oil, tap into American sources of energy, and reduce the size of the Federal deficit.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. GARY G. MILLER of California (for himself and Mr. ROONEY) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, and Science and Technology, 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 increase the supply of American made energy, reduce energy costs to the American taxpayer, provide a long-term energy framework to reduce dependence on foreign oil, tap into American sources of energy, and reduce the size of the Federal deficit.

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 “American Energy Pro-
5 duction and Price Reduction Act”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—SENSE OF CONGRESS

- Sec. 101. Sense of Congress.

TITLE II—AMERICAN OIL PRODUCTION

Subtitle A—Outer Continental Shelf

- Sec. 201. Definitions under the Submerged Lands Act.
- Sec. 202. Seaward boundaries of States.
- Sec. 203. Exceptions from confirmation and establishment of States' title, power, and rights.
- Sec. 204. Definitions under the Outer Continental Shelf Lands Act.
- Sec. 205. Determination of Adjacent Zones and Planning Areas.
- Sec. 206. Administration of leasing.
- Sec. 207. Grant of leases by Secretary.
- Sec. 208. Disposition of receipts.
- Sec. 209. Reservation of lands and rights.
- Sec. 210. Outer Continental Shelf leasing program.
- Sec. 211. Coordination with Adjacent States.
- Sec. 212. Environmental studies.
- Sec. 213. Outer Continental Shelf incompatible use.
- Sec. 214. Repurchase of certain leases.
- Sec. 215. Offsite environmental mitigation.
- Sec. 216. OCS regional headquarters.
- Sec. 217. Leases for areas located within 100 miles of California or Florida.
- Sec. 218. Coastal impact assistance.
- Sec. 219. Repeal of the Gulf of Mexico Energy Security Act of 2006.

Subtitle B—ANWR

- Sec. 231. Short title.
- Sec. 232. Definitions.
- Sec. 233. Leasing program for lands within the Coastal Plain.
- Sec. 234. Lease sales.
- Sec. 235. Grant of leases by the Secretary.
- Sec. 236. Lease terms and conditions.
- Sec. 237. Coastal Plain environmental protection.
- Sec. 238. Expedited judicial review.
- Sec. 239. Federal and State distribution of revenues.
- Sec. 240. Rights-of-way across the Coastal Plain.
- Sec. 241. Conveyance.
- Sec. 242. Local government impact aid and community service assistance.

TITLE III—NUCLEAR POWER

- Sec. 301. Waste Confidence.
- Sec. 302. ASME Nuclear Certification credit.

TITLE IV—REGULATORY BURDENS

- Sec. 401. Greenhouse gas regulation under Clean Air Act.
- Sec. 402. NEPA judicial review.
- Sec. 403. Repeal of 2007 amendments to renewable fuel standard.
- Sec. 404. Repeal of requirement to consult regarding impacts on global warming and polar bear population.
- Sec. 405. Light bulb choice.
- Sec. 406. Repeal of deduction for income attributable to domestic production activities.

TITLE V—SOLAR POWER

- Sec. 501. Short title.
- Sec. 502. Exemption of solar energy projects from environmental impact statement requirement.

TITLE VI—NATURAL GAS

- Sec. 601. Natural gas vehicle research, development, and demonstration projects.
- Sec. 602. Alternative fuel credit with respect to compressed or liquefied natural gas made permanent.
- Sec. 603. Alternative fuel vehicle credit made permanent with respect to vehicles powered by compressed or liquefied natural gas.
- Sec. 604. Allowance of vehicle and infrastructure credits against regular and minimum tax and transferability of credits.
- Sec. 605. Credit for producing vehicles fueled by natural gas or liquified natural gas.

TITLE VII—CLEAN COAL

- Sec. 701. Coal-to-liquid facilities.
- Sec. 702. Permanent extension of the credit for nonbusiness energy property and the credit for gas produced from biomass and for synthetic fuels produced from coal.
- Sec. 703. Coal-to-liquid fuel loan guarantee program.
- Sec. 704. Coal-to-liquid facilities loan program.
- Sec. 705. 7-year depreciation for clean coal technology or for carbon sequestration technology installed or retro-fit at power-plants.
- Sec. 706. Extension of 50 cent per gallon alternative fuels excise tax credit.
- Sec. 707. Provides a 20 percent investment tax credit capped at \$200 million total per ctl plant placed in service before 2016.
- Sec. 708. Reduces recovery period for certain energy production and distribution facilities.
- Sec. 709. DOE clean coal technology loan guarantees and direct loans.
- Sec. 710. Carbon dioxide storage capacity assessment.
- Sec. 711. Efficiency audit and quantification.

TITLE VIII—TAX INCENTIVES

- Sec. 801. Extension of credit for energy efficient appliances.
- Sec. 802. Extension of credit for nonbusiness energy property.
- Sec. 803. Extension of credit for residential energy efficient property.
- Sec. 804. Extension of new energy efficient home credit.
- Sec. 805. Extension of energy efficient commercial buildings deduction.
- Sec. 806. Extension of special rule to implement FERC and State electric restructuring policy.
- Sec. 807. Home energy audits.

Sec. 808. Extension of renewable electricity, refined coal, and Indian coal production credit.

Sec. 809. Extension of energy credit.

Sec. 810. Credit for clean renewable energy bonds made permanent.

Sec. 811. Extension of credits for biodiesel and renewable diesel.

Sec. 812. Alternative fuel vehicle refueling property credit made permanent.

1 **TITLE I—SENSE OF CONGRESS**

2 **SEC. 101. SENSE OF CONGRESS.**

3 It is the sense of Congress that at no time shall Con-
4 gress enact legislation that will lead to the increase of do-
5 mestic energy prices.

6 **TITLE II—AMERICAN OIL** 7 **PRODUCTION**

8 **Subtitle A—Outer Continental** 9 **Shelf**

10 **SEC. 201. DEFINITIONS UNDER THE SUBMERGED LANDS** 11 **ACT.**

12 Section 2 of the Submerged Lands Act (43 U.S.C.
13 1301) is amended—

14 (1) in subparagraph (2) of paragraph (a) by
15 striking all after “seaward to a line” and inserting
16 “twelve nautical miles distant from the coast line of
17 such State;”;

18 (2) by striking out paragraph (b) and redesignig-
19 nating the subsequent paragraphs in order as para-
20 graphs (b) through (g);

1 (3) by striking the period at the end of para-
2 graph (g) (as so redesignated) and inserting “;
3 and”;

4 (4) by adding the following:

5 “(i) The term ‘Secretary’ means the Secretary of the
6 Interior.”; and

7 (5) by defining “State” as it is defined in sec-
8 tion 2(r) of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1331(r)).

10 **SEC. 202. SEAWARD BOUNDARIES OF STATES.**

11 Section 4 of the Submerged Lands Act (43 U.S.C.
12 1312) is amended—

13 (1) in the first sentence by striking “original”,
14 and in the same sentence by striking “three geo-
15 graphical” and inserting “twelve nautical”; and

16 (2) by striking all after the first sentence and
17 inserting the following: “Extension and delineation
18 of lateral offshore State boundaries under the provi-
19 sions of this Act shall follow the lines used to deter-
20 mine the Adjacent Zones of coastal States under the
21 Outer Continental Shelf Lands Act to the extent
22 such lines extend twelve nautical miles for the near-
23 est coastline.”.

1 **SEC. 203. EXCEPTIONS FROM CONFIRMATION AND ESTAB-**
2 **LISHMENT OF STATES' TITLE, POWER, AND**
3 **RIGHTS.**

4 Section 5 of the Submerged Lands Act (43 U.S.C.
5 1313) is amended—

6 (1) by redesignating paragraphs (a) through (c)
7 in order as paragraphs (1) through (3);

8 (2) by inserting “(a)” before “There is ex-
9 cepted”; and

10 (3) by inserting at the end the following:

11 “(b) **EXCEPTION OF OIL AND GAS MINERAL**
12 **RIGHTS.**—There is excepted from the operation of sections
13 3 and 4 all of the oil and gas mineral rights for lands
14 beneath the navigable waters that are located within the
15 expanded offshore State seaward boundaries established
16 under this Act. These oil and gas mineral rights shall re-
17 main Federal property and shall be considered to be part
18 of the Federal outer Continental Shelf for purposes of the
19 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
20 seq.) and subject to leasing under the authority of that
21 Act and to laws applicable to the leasing of the oil and
22 gas resources of the Federal outer Continental Shelf. All
23 existing Federal oil and gas leases within the expanded
24 offshore State seaward boundaries shall continue un-
25 changed by the provisions of this Act, except as otherwise
26 provided herein. However, a State may exercise all of its

1 sovereign powers of taxation within the entire extent of
2 its expanded offshore State boundaries.”.

3 **SEC. 204. DEFINITIONS UNDER THE OUTER CONTINENTAL**
4 **SHELF LANDS ACT.**

5 Section 2 of the Outer Continental Shelf Lands Act
6 (43 U.S.C. 1331) is amended—

7 (1) by amending paragraph (f) to read as fol-
8 lows:

9 “(f) The term ‘affected State’ means the ‘Adjacent
10 State’.”;

11 (2) by striking the semicolon at the end of each
12 of paragraphs (a) through (o) and inserting a pe-
13 riod;

14 (3) by striking “; and” at the end of paragraph
15 (p) and inserting a period;

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

17 “(r) The term ‘Adjacent State’ means, with respect
18 to any program, plan, lease sale, leased tract, or other ac-
19 tivity, proposed, conducted, or approved pursuant to the
20 provisions of this Act, any State the laws of which are
21 declared, pursuant to section 4(a)(2), to be the law of the
22 United States for the portion of the outer Continental
23 Shelf on which such program, plan, lease sale, leased tract,
24 or activity appertains or is, or is proposed to be, con-
25 ducted. For purposes of this paragraph, the term ‘State’

1 includes the Commonwealth of Puerto Rico, the Common-
2 wealth of the Northern Mariana Islands, the Virgin Is-
3 lands, American Samoa, Guam, and the other territories
4 of the United States.

5 “(s) The term ‘Adjacent Zone’ means, with respect
6 to any program, plan, lease sale, leased tract, or other ac-
7 tivity proposed, conducted, or approved pursuant to the
8 provisions of this Act, the portion of the outer Continental
9 Shelf for which the laws of a particular Adjacent State
10 are declared, pursuant to section 4(a)(2), to be the law
11 of the United States.

12 “(t) The term ‘miles’ means statute miles.

13 “(u) The term ‘coastline’ has the same meaning as
14 the term ‘coast line’ as defined in section 2(c) of the Sub-
15 merged Lands Act (43 U.S.C. 1301(c)).

16 “(v) The term ‘Neighboring State’ means a coastal
17 State having a common boundary at the coastline with the
18 Adjacent State.”; and

19 (5) in paragraph (a), by inserting after “con-
20 trol” the following: “or lying within the United
21 States exclusive economic zone adjacent to the terri-
22 tories of the United States”.

1 **SEC. 205. DETERMINATION OF ADJACENT ZONES AND**
2 **PLANNING AREAS.**

3 Section 4(a)(2)(A) of the Outer Continental Shelf
4 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
5 first sentence by striking “, and the President” and all
6 that follows through the end of the sentence and inserting
7 the following: “. The lines extending seaward and defining
8 each State’s Adjacent Zone, and each OCS Planning Area,
9 are as indicated on the maps for each outer Continental
10 Shelf region entitled ‘Alaska OCS Region State Adjacent
11 Zone and OCS Planning Areas’, ‘Pacific OCS Region
12 State Adjacent Zones and OCS Planning Areas’, ‘Gulf of
13 Mexico OCS Region State Adjacent Zones and OCS Plan-
14 ning Areas’, and ‘Atlantic OCS Region State Adjacent
15 Zones and OCS Planning Areas’, all of which are dated
16 September 2005 and on file in the Office of the Director,
17 Minerals Management Service.”.

18 **SEC. 206. ADMINISTRATION OF LEASING.**

19 Section 5 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1334) is amended by adding at the end the
21 following:

22 “(k) VOLUNTARY PARTIAL RELINQUISHMENT OF A
23 LEASE.—Any lessee of a producing lease may relinquish
24 to the Secretary any portion of a lease that the lessee has
25 no interest in producing and that the Secretary finds is
26 geologically prospective. In return for any such relinquish-

1 ment, the Secretary shall provide to the lessee a royalty
2 incentive for the portion of the lease retained by the lessee,
3 in accordance with regulations promulgated by the Sec-
4 retary to carry out this subsection. The Secretary shall
5 publish final regulations implementing this subsection
6 within 365 days after the date of the enactment of the
7 American Energy Production and Price Reduction Act.

8 “(1) NATURAL GAS LEASE REGULATIONS.—Not later
9 than July 1, 2010, the Secretary shall publish a final regu-
10 lation that shall—

11 “(1) establish procedures for entering into nat-
12 ural gas leases;

13 “(2) ensure that natural gas leases are only
14 available for tracts on the outer Continental Shelf
15 that are wholly within 100 miles of the coastline
16 within an area withdrawn from disposition by leas-
17 ing on the day after the date of enactment of the
18 American Energy Production and Price Reduction
19 Act;

20 “(3) provide that natural gas leases shall con-
21 tain the same rights and obligations established for
22 oil and gas leases, except as otherwise provided in
23 the American Energy Production and Price Reduc-
24 tion Act;

1 “(4) provide that, in reviewing the adequacy of
2 bids for natural gas leases, the value of any crude
3 oil estimated to be contained within any tract shall
4 be excluded;

5 “(5) provide that any crude oil produced from
6 a well and reinjected into the leased tract shall not
7 be subject to payment of royalty, and that the Sec-
8 retary shall consider, in setting the royalty rates for
9 a natural gas lease, the additional cost to the lessee
10 of not producing any crude oil; and

11 “(6) provide that any Federal law that applies
12 to an oil and gas lease on the outer Continental
13 Shelf shall apply to a natural gas lease unless other-
14 wise clearly inapplicable.”.

15 **SEC. 207. GRANT OF LEASES BY SECRETARY.**

16 Section 8 of the Outer Continental Shelf Lands Act
17 (43 U.S.C. 1337) is amended—

18 (1) in subsection (a)(1) by inserting after the
19 first sentence the following: “Further, the Secretary
20 may grant natural gas leases in a manner similar to
21 the granting of oil and gas leases and under the var-
22 ious bidding systems available for oil and gas
23 leases.”;

24 (2) by adding at the end of subsection (b) the
25 following: “The Secretary may issue more than one

1 lease for a given tract if each lease applies to a sepa-
2 rate and distinct range of vertical depths, horizontal
3 surface area, or a combination of the two. The Sec-
4 retary may issue regulations that the Secretary de-
5 termines are necessary to manage such leases con-
6 sistent with the purposes of this Act.”;

7 (3) by amending subsection (p)(2)(B) to read
8 as follows:

9 “(B) The Secretary shall provide for the
10 payment to coastal States, and their local coast-
11 al governments, of 75 percent of Federal re-
12 ceipts from projects authorized under this sec-
13 tion located partially or completely within the
14 area extending seaward of State submerged
15 lands out to 4 marine leagues from the coast-
16 line, and the payment to coastal States of 50
17 percent of the receipts from projects completely
18 located in the area more than 4 marine leagues
19 from the coastline. Payments shall be based on
20 a formula established by the Secretary by rule-
21 making no later than 180 days after the date
22 of the enactment of the American Energy Pro-
23 duction and Price Reduction Act that provides
24 for equitable distribution, based on proximity to
25 the project, among coastal States that have

1 coastline that is located within 200 miles of the
2 geographic center of the project.”;

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

4 “(q) NATURAL GAS LEASES.—

5 “(1) RIGHT TO PRODUCE NATURAL GAS.—A
6 lessee of a natural gas lease shall have the right to
7 produce the natural gas from a field on a natural
8 gas leased tract if the Secretary estimates that the
9 discovered field has at least 40 percent of the eco-
10 nomically recoverable Btu content of the field con-
11 tained within natural gas and such natural gas is ec-
12 onomical to produce.

13 “(2) CRUDE OIL.—A lessee of a natural gas
14 lease may not produce crude oil from the lease un-
15 less the Governor of the Adjacent State agrees to
16 such production.

17 “(3) ESTIMATES OF BTU CONTENT.—The Sec-
18 retary shall make estimates of the natural gas Btu
19 content of discovered fields on a natural gas lease
20 only after the completion of at least one exploration
21 well, the data from which has been tied to the re-
22 sults of a three-dimensional seismic survey of the
23 field. The Secretary may not require the lessee to
24 further delineate any discovered field prior to mak-
25 ing such estimates.

1 “(4) DEFINITION OF NATURAL GAS.—For pur-
2 poses of a natural gas lease, natural gas means nat-
3 ural gas and all substances produced in association
4 with gas, including, but not limited to, hydrocarbon
5 liquids (other than crude oil) that are obtained by
6 the condensation of hydrocarbon vapors and sepa-
7 rate out in liquid form from the produced gas
8 stream.

9 “(r) REMOVAL OF RESTRICTIONS ON JOINT BIDDING
10 IN CERTAIN AREAS OF THE OUTER CONTINENTAL
11 SHELF.—Restrictions on joint bidders shall no longer
12 apply to tracts located in the Alaska OCS Region. Such
13 restrictions shall not apply to tracts in other OCS regions
14 determined to be ‘frontier tracts’ or otherwise ‘high cost
15 tracts’ under final regulations that shall be published by
16 the Secretary by not later than 365 days after the date
17 of the enactment of the American Energy Production and
18 Price Reduction Act.

19 “(s) ROYALTY SUSPENSION PROVISIONS.—After the
20 date of the enactment of the American Energy Production
21 and Price Reduction Act, price thresholds shall apply to
22 any royalty suspension volumes granted by the Secretary.
23 Unless otherwise set by the Secretary by regulation or for
24 a particular lease sale, the price thresholds shall be \$40.50

1 for oil (January 1, 2006 dollars) and \$6.75 for natural
2 gas (January 1, 2006 dollars).

3 “(t) CONSERVATION OF RESOURCES FEES.—Not
4 later than one year after the date of the enactment of the
5 American Energy Production and Price Reduction Act,
6 the Secretary by regulation shall establish a conservation
7 of resources fee for nonproducing leases that will apply
8 to new and existing leases which shall be set at \$3.75 per
9 acre per year. This fee shall apply from and after October
10 1, 2008, and shall be treated as offsetting receipts.”;

11 (5) by striking subsection (a)(3)(A) and redesi-
12 gnating the subsequent subparagraphs as subpara-
13 graphs (A) and (B), respectively;

14 (6) in subsection (a)(3)(A) (as so redesignated)
15 by striking “In the Western” and all that follows
16 through “the Secretary” the first place it appears
17 and inserting “The Secretary”; and

18 (7) effective October 1, 2009, in subsection
19 (g)—

20 (A) by striking all after “(g)”, except para-
21 graph (3);

22 (B) by striking the last sentence of para-
23 graph (3); and

24 (C) by striking “(3)”.

1 **SEC. 208. DISPOSITION OF RECEIPTS.**

2 Section 9 of the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1338) is amended—

4 (1) by designating the existing text as sub-
5 section (a);

6 (2) in subsection (a) (as so designated) by in-
7 serting “, if not paid as otherwise provided in this
8 title” after “receipts”; and

9 (3) by adding the following:

10 “(b) TREATMENT OF OCS RECEIPTS FROM TRACTS
11 COMPLETELY WITHIN 100 MILES OF THE COASTLINE.—

12 “(1) DEPOSIT.—The Secretary shall deposit
13 into a separate account in the Treasury the portion
14 of OCS Receipts for each fiscal year that will be
15 shared under paragraphs (2), (3), and (4).

16 “(2) PHASED-IN RECEIPTS SHARING.—

17 “(A) Beginning October 1, 2009, the Sec-
18 retary shall share OCS Receipts derived from
19 the following areas:

20 “(i) Lease tracts located on portions
21 of the Gulf of Mexico OCS Region com-
22 pletely beyond 4 marine leagues from any
23 coastline and completely within 100 miles
24 of any coastline that were available for
25 leasing under the 2002–2007 5-Year OCS
26 Oil and Gas Leasing Program.

1 “(ii) Lease tracts in production prior
2 to October 1, 2008, completely beyond 4
3 marine leagues from any coastline and
4 completely within 100 miles of any coast-
5 line located on portions of the OCS that
6 were not available for leasing under the
7 2002–2007 5-Year OCS Oil and Gas Leas-
8 ing Program.

9 “(iii) Lease tracts for which leases are
10 issued prior to October 1, 2008, located in
11 the Alaska OCS Region completely beyond
12 4 marine leagues from any coastline and
13 completely within 100 miles of the coast-
14 line.

15 “(B) The Secretary shall share the fol-
16 lowing percentages of OCS Receipts from the
17 leases described in subparagraph (A) derived
18 during the fiscal year indicated:

19 “(i) For fiscal year 2010, 5 percent.

20 “(ii) For fiscal year 2011, 10 percent.

21 “(iii) For fiscal year 2012, 14 per-
22 cent.

23 “(iv) For fiscal year 2013, 19 percent.

24 “(v) For fiscal year 2014, 23 percent.

25 “(vi) For fiscal year 2015, 27 percent.

1 “(vii) For fiscal year 2016, 31 per-
2 cent.

3 “(viii) For fiscal year 2017, 35 per-
4 cent.

5 “(ix) For fiscal year 2018, 39 percent.

6 “(x) For fiscal year 2019, 43 percent.

7 “(xi) For fiscal year 2020, 47 percent.

8 “(xii) For fiscal year 2021 and each
9 subsequent fiscal year, 50 percent.

10 “(C) The provisions of this paragraph shall
11 not apply to leases that could not have been
12 issued but for section 5(k) of this Act or section
13 106(2) of the American Energy Production and
14 Price Reduction Act.

15 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
16 ning October 1, 2009, the Secretary shall share 50
17 percent of OCS Receipts derived from all leases lo-
18 cated completely beyond 4 marine leagues from any
19 coastline and completely within 100 miles of any
20 coastline not included within the provisions of para-
21 graph (2), and 100 percent of the balance of such
22 OCS Receipts shall be directed toward reducing the
23 national deficit and if such a deficit does not exist
24 then the OCS Receipts shall be directed toward re-
25 ducing the national debt.

1 “(4) RECEIPTS SHARING FROM TRACTS WITHIN
2 4 MARINE LEAGUES OF ANY COASTLINE.—

3 “(A) AREAS DESCRIBED IN PARAGRAPH
4 (2).—Beginning October 1, 2009, and con-
5 tinuing through September 30, 2011, the Sec-
6 retary shall share 25 percent of OCS Receipts
7 derived from all leases located within 4 marine
8 leagues from any coastline within areas de-
9 scribed in paragraph (2). For each fiscal year
10 after September 30, 2010, the Secretary shall
11 increase the percent shared in 5 percent incre-
12 ments each fiscal year until the sharing rate for
13 all leases located within 4 marine leagues from
14 any coastline within areas described in para-
15 graph (2) becomes 75 percent.

16 “(B) AREAS NOT DESCRIBED IN PARA-
17 GRAPH (2).—Beginning October 1, 2009, the
18 Secretary shall share 75 percent of OCS Re-
19 ceipts derived from all leases located completely
20 or partially within 4 marine leagues from any
21 coastline within areas not described paragraph
22 (2).

23 “(5) ALLOCATIONS.—The Secretary shall allo-
24 cate the OCS Receipts deposited into the separate

1 account established by paragraph (1) that are
2 shared under paragraphs (2), (3), and (4) as follows:

3 “(A) BONUS BIDS.—Deposits derived from
4 bonus bids from a leased tract, including inter-
5 est thereon, shall be allocated at the end of
6 each fiscal year to the Adjacent State.

7 “(B) ROYALTIES.—Deposits derived from
8 royalties from a leased tract, including interest
9 thereon, shall be allocated at the end of each
10 fiscal year to the Adjacent State and any other
11 producing State or States with a leased tract
12 within its Adjacent Zone within 100 miles of its
13 coastline that generated royalties during the fis-
14 cal year, if the other producing States have a
15 coastline point within 300 miles of any portion
16 of the leased tract, in which case the amount al-
17 located for the leased tract shall be—

18 “(i) one-third to the Adjacent State;

19 and

20 “(ii) two-thirds to each producing
21 State, including the Adjacent State, in-
22 versely proportional to the distance be-
23 tween the nearest point on the coastline of
24 the producing State and the geographic
25 center of the leased tract.

1 “(c) TREATMENT OF OCS RECEIPTS FROM TRACTS
2 PARTIALLY OR COMPLETELY BEYOND 100 MILES OF THE
3 COASTLINE.—

4 “(1) DEPOSIT.—The Secretary shall deposit
5 into a separate account in the Treasury the portion
6 of OCS Receipts for each fiscal year that will be
7 shared under paragraphs (2) and (3).

8 “(2) PHASED-IN RECEIPTS SHARING.—

9 “(A) Beginning October 1, 2009, the Sec-
10 retary shall share OCS Receipts derived from
11 the following areas:

12 “(i) Lease tracts located on portions
13 of the Gulf of Mexico OCS Region partially
14 or completely beyond 100 miles of any
15 coastline that were available for leasing
16 under the 2002–2007 5-Year OCS Oil and
17 Gas Leasing Program.

18 “(ii) Lease tracts in production prior
19 to October 1, 2009, partially or completely
20 beyond 100 miles of any coastline located
21 on portions of the OCS that were not
22 available for leasing under the 2002–2007
23 5-Year OCS Oil and Gas Leasing Pro-
24 gram.

1 “(iii) Lease tracts for which leases are
2 issued prior to October 1, 2009, located in
3 the Alaska OCS Region partially or com-
4 pletely beyond 100 miles of the coastline.

5 “(B) The Secretary shall share the fol-
6 lowing percentages of OCS Receipts from the
7 leases described in subparagraph (A) derived
8 during the fiscal year indicated:

9 “(i) For fiscal year 2010, 5 percent.

10 “(ii) For fiscal year 2011, 10 percent.

11 “(iii) For fiscal year 2012, 14 per-
12 cent.

13 “(iv) For fiscal year 2013, 19 percent.

14 “(v) For fiscal year 2014, 23 percent.

15 “(vi) For fiscal year 2015, 27 percent.

16 “(vii) For fiscal year 2016, 31 per-
17 cent.

18 “(viii) For fiscal year 2017, 35 per-
19 cent.

20 “(ix) For fiscal year 2018, 39 percent.

21 “(x) For fiscal year 2019, 43 percent.

22 “(xi) For fiscal year 2020, 47 percent.

23 “(xii) For fiscal year 2021 and each
24 subsequent fiscal year, 50 percent.

1 “(C) The provisions of this paragraph shall
2 not apply to leases that could not have been
3 issued but for section 5(k) of this Act or section
4 106(2) of the American Energy Production and
5 Price Reduction Act.

6 “(3) IMMEDIATE RECEIPTS SHARING.—Begin-
7 ning October 1, 2009, the Secretary shall share 50
8 percent of OCS Receipts derived on and after Octo-
9 ber 1, 2009, from all leases located partially or com-
10 pletely beyond 100 miles of any coastline not in-
11 cluded within the provisions of paragraph (2), except
12 that the Secretary shall only share 25 percent of
13 such OCS Receipts derived from all such leases
14 within a State’s Adjacent Zone if no leasing is al-
15 lowed within any portion of that State’s Adjacent
16 Zone located completely within 100 miles of any
17 coastline.

18 “(4) ALLOCATIONS.—The Secretary shall allo-
19 cate the OCS Receipts deposited into the separate
20 account established by paragraph (1) that are
21 shared under paragraphs (2) and (3) as follows:

22 “(A) BONUS BIDS.—Deposits derived from
23 bonus bids from a leased tract, including inter-
24 est thereon, shall be allocated at the end of
25 each fiscal year to the Adjacent State.

1 “(B) ROYALTIES.—Deposits derived from
2 royalties from a leased tract, including interest
3 thereon, shall be allocated at the end of each
4 fiscal year to the Adjacent State and any other
5 producing State or States with a leased tract
6 within its Adjacent Zone partially or completely
7 beyond 100 miles of its coastline that generated
8 royalties during the fiscal year, if the other pro-
9 ducing State or States have a coastline point
10 within 300 miles of any portion of the leased
11 tract, in which case the amount allocated for
12 the leased tract shall be—

13 “(i) one-third to the Adjacent State;

14 and

15 “(ii) two-thirds to each producing
16 State, including the Adjacent State, in-
17 versely proportional to the distance be-
18 tween the nearest point on the coastline of
19 the producing State and the geographic
20 center of the leased tract.

21 “(d) TRANSMISSION OF ALLOCATIONS.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after the end of each fiscal year, the Secretary shall
24 transmit—

1 “(A) to each State 60 percent of such
2 State’s allocations under subsections (b)(5)(A),
3 (b)(5)(B), (c)(4)(A), and (c)(4)(B) for the im-
4 mediate prior fiscal year;

5 “(B) to each coastal county-equivalent and
6 municipal political subdivision of such State a
7 total of 40 percent of such State’s allocations
8 under subsections (b)(5)(A), (b)(5)(B),
9 (c)(4)(A), and (c)(4)(B), together with all ac-
10 crued interest thereon; and

11 “(C) the remaining allocations under sub-
12 sections (b)(5) and (c)(4), together with all ac-
13 crued interest thereon.

14 “(2) ALLOCATIONS TO COASTAL COUNTY-
15 EQUIVALENT POLITICAL SUBDIVISIONS.—The Sec-
16 retary shall make an initial allocation of the OCS
17 Receipts to be shared under paragraph (1)(B) as fol-
18 lows:

19 “(A) 25 percent shall be allocated to coast-
20 al county-equivalent political subdivisions that
21 are completely more than 25 miles landward of
22 the coastline and at least a part of which lies
23 not more than 75 miles landward from the
24 coastline, with the allocation among such coast-

1 al county-equivalent political subdivisions based
2 on population.

3 “(B) 75 percent shall be allocated to coast-
4 al county-equivalent political subdivisions that
5 are completely or partially less than 25 miles
6 landward of the coastline, with the allocation
7 among such coastal county-equivalent political
8 subdivisions to be further allocated as follows:

9 “(i) 25 percent shall be allocated
10 based on the ratio of such coastal county-
11 equivalent political subdivision’s population
12 to the coastal population of all coastal
13 county-equivalent political subdivisions in
14 the State.

15 “(ii) 25 percent shall be allocated
16 based on the ratio of such coastal county-
17 equivalent political subdivision’s coastline
18 miles to the coastline miles of all coastal
19 county-equivalent political subdivisions in
20 the State as calculated by the Secretary.
21 In such calculations, coastal county-equa-
22 lent political subdivisions without a coast-
23 line shall be considered to have 50 percent
24 of the average coastline miles of the coast-

1 al county-equivalent political subdivisions
2 that do have coastlines.

3 “(iii) 25 percent shall be allocated to
4 all coastal county-equivalent political sub-
5 divisions having a coastline point within
6 300 miles of the leased tract for which
7 OCS Receipts are being shared based on a
8 formula that allocates the funds based on
9 such coastal county-equivalent political
10 subdivision’s relative distance from the
11 leased tract.

12 “(iv) 25 percent shall be allocated to
13 all coastal county-equivalent political sub-
14 divisions having a coastline point within
15 300 miles of the leased tract for which
16 OCS Receipts are being shared based on
17 the relative level of outer Continental Shelf
18 oil and gas activities in a coastal political
19 subdivision compared to the level of outer
20 Continental Shelf activities in all coastal
21 political subdivisions in the State. The Sec-
22 retary shall define the term ‘outer Conti-
23 nental Shelf oil and gas activities’ for pur-
24 poses of this subparagraph to include, but
25 not be limited to, construction of vessels,

1 drillships, and platforms involved in explo-
2 ration, production, and development on the
3 outer Continental Shelf; support and sup-
4 ply bases, ports, and related activities; of-
5 fices of geologists, geophysicists, engineers,
6 and other professionals involved in support
7 of exploration, production, and develop-
8 ment of oil and gas on the outer Conti-
9 nental Shelf; pipelines and other means of
10 transporting oil and gas production from
11 the outer Continental Shelf; and processing
12 and refining of oil and gas production from
13 the outer Continental Shelf. For purposes
14 of this subparagraph, if a coastal county-
15 equivalent political subdivision does not
16 have a coastline, its coastal point shall be
17 the point on the coastline closest to it.

18 “(3) ALLOCATIONS TO COASTAL MUNICIPAL PO-
19 LITICAL SUBDIVISIONS.—The initial allocation to
20 each coastal county-equivalent political subdivision
21 under paragraph (2) shall be further allocated to the
22 coastal county-equivalent political subdivision and
23 any coastal municipal political subdivisions located
24 partially or wholly within the boundaries of the

1 coastal county-equivalent political subdivision as fol-
2 lows:

3 “(A) One-third shall be allocated to the
4 coastal county-equivalent political subdivision.

5 “(B) Two-thirds shall be allocated on a per
6 capita basis to the municipal political subdivi-
7 sions and the county-equivalent political sub-
8 division, with the allocation to the latter based
9 upon its population not included within the
10 boundaries of a municipal political subdivision.

11 “(e) INVESTMENT OF DEPOSITS.—Amounts depos-
12 ited under this section shall be invested by the Secretary
13 of the Treasury in securities backed by the full faith and
14 credit of the United States having maturities suitable to
15 the needs of the account in which they are deposited and
16 yielding the highest reasonably available interest rates as
17 determined by the Secretary of the Treasury.

18 “(f) USE OF FUNDS.—A recipient of funds under this
19 section may use the funds for one or more of the following:

20 “(1) To reduce in-State college tuition at public
21 institutions of higher learning and otherwise support
22 public education, including career technical edu-
23 cation.

24 “(2) To make transportation infrastructure im-
25 provements.

1 “(3) To reduce taxes.

2 “(4) To promote, fund, and provide for—

3 “(A) coastal or environmental restoration;

4 “(B) fish, wildlife, and marine life habitat
5 enhancement;

6 “(C) waterways construction and mainte-
7 nance;

8 “(D) levee construction and maintenance
9 and shore protection; and

10 “(E) marine and oceanographic education
11 and research.

12 “(5) To promote, fund, and provide for—

13 “(A) infrastructure associated with energy
14 production activities conducted on the outer
15 Continental Shelf;

16 “(B) energy demonstration projects;

17 “(C) supporting infrastructure for shore-
18 based energy projects;

19 “(D) State geologic programs, including
20 geologic mapping and data storage programs,
21 and State geophysical data acquisition;

22 “(E) State seismic monitoring programs,
23 including operation of monitoring stations;

24 “(F) development of oil and gas resources
25 through enhanced recovery techniques;

1 “(G) alternative energy development, in-
2 cluding biofuels, coal-to-liquids, oil shale, tar
3 sands, geothermal, geopressure, wind, waves,
4 currents, hydro, and other renewable energy;

5 “(H) energy efficiency and conservation
6 programs; and

7 “(I) front-end engineering and design for
8 facilities that produce liquid fuels from hydro-
9 carbons and other biological matter.

10 “(6) To promote, fund, and provide for—

11 “(A) historic preservation programs and
12 projects;

13 “(B) natural disaster planning and re-
14 sponse; and

15 “(C) hurricane and natural disaster insur-
16 ance programs.

17 “(7) For any other purpose as determined by
18 State law.

19 “(g) NO ACCOUNTING REQUIRED.—No recipient of
20 funds under this section shall be required to account to
21 the Federal Government for the expenditure of such
22 funds, except as otherwise may be required by law. How-
23 ever, States may enact legislation providing for accounting
24 for and auditing of such expenditures. Further, funds allo-
25 cated under this section to States and political subdivi-

1 sions may be used as matching funds for other Federal
2 programs.

3 “(h) EFFECT OF FUTURE LAWS.—Enactment of any
4 future Federal statute that has the effect, as determined
5 by the Secretary, of restricting any Federal agency from
6 spending appropriated funds, or otherwise preventing it
7 from fulfilling its pre-existing responsibilities as of the
8 date of enactment of the statute, unless such responsibil-
9 ities have been reassigned to another Federal agency by
10 the statute with no prevention of performance, to issue
11 any permit or other approval impacting on the OCS oil
12 and gas leasing program, or any lease issued thereunder,
13 or to implement any provision of this Act shall automati-
14 cally prohibit any sharing of OCS Receipts under this sec-
15 tion directly with the States, and their coastal political
16 subdivisions, for the duration of the restriction. The Sec-
17 retary shall make the determination of the existence of
18 such restricting effects within 30 days of a petition by any
19 outer Continental Shelf lessee or producing State.

20 “(i) DEFINITIONS.—In this section:

21 “(1) COASTAL COUNTY-EQUIVALENT POLITICAL
22 SUBDIVISION.—The term ‘coastal county-equivalent
23 political subdivision’ means a political jurisdiction
24 immediately below the level of State government, in-
25 cluding a county, parish, borough in Alaska, inde-

1 pendent municipality not part of a county, parish, or
2 borough in Alaska, or other equivalent subdivision of
3 a coastal State, that lies within the coastal zone.

4 “(2) COASTAL MUNICIPAL POLITICAL SUBDIVI-
5 SION.—The term ‘coastal municipal political subdivi-
6 sion’ means a municipality located within and part
7 of a county, parish, borough in Alaska, or other
8 equivalent subdivision of a State, all or part of which
9 coastal municipal political subdivision lies within the
10 coastal zone.

11 “(3) COASTAL POPULATION.—The term ‘coastal
12 population’ means the population of all coastal coun-
13 ty-equivalent political subdivisions, as determined by
14 the most recent official data of the Bureau of the
15 Census.

16 “(4) COASTAL ZONE.—The term ‘coastal zone’
17 means that portion of a coastal State, including the
18 entire territory of any coastal county-equivalent po-
19 litical subdivision at least a part of which lies within
20 75 miles landward from the coastline, or a greater
21 distance as determined by State law enacted to im-
22 plement this section.

23 “(5) BONUS BIDS.—The term ‘bonus bids’
24 means all funds received by the Secretary to issue
25 an outer Continental Shelf minerals lease.

1 “(6) ROYALTIES.—The term ‘royalties’ means
2 all funds received by the Secretary from production
3 of oil or natural gas, or the sale of production taken
4 in-kind, from an outer Continental Shelf minerals
5 lease.

6 “(7) PRODUCING STATE.—The term ‘producing
7 State’ means an Adjacent State having an Adjacent
8 Zone containing leased tracts from which OCS re-
9 ceipts were derived.

10 “(8) OCS RECEIPTS.—The term ‘OCS Receipts’
11 means bonus bids, royalties, and conservation of re-
12 sources fees.”.

13 **SEC. 209. RESERVATION OF LANDS AND RIGHTS.**

14 Section 12 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1341) is amended—

16 (1) in subsection (a) by adding at the end the
17 following: “The President may partially or com-
18 pletely revise or revoke any prior withdrawal made
19 by the President under the authority of this section.
20 The President may not revise or revoke a withdrawal
21 that is extended by a State under subsection (h), nor
22 may the President withdraw from leasing any area
23 for which a State failed to prohibit, or petition to
24 prohibit, leasing under subsection (g). Further, in
25 the area of the outer Continental Shelf more than

1 100 miles from any coastline, not more than 25 per-
2 cent of the acreage of any OCS Planning Area may
3 be withdrawn from leasing under this section at any
4 point in time. A withdrawal by the President may be
5 for a term not to exceed 10 years. When considering
6 potential uses of the outer Continental Shelf, to the
7 maximum extent possible, the President shall accom-
8 modate competing interests and potential uses.”;

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

10 “(g) AVAILABILITY FOR LEASING WITHIN CERTAIN
11 AREAS OF THE OUTER CONTINENTAL SHELF.—

12 “(1) PROHIBITION AGAINST LEASING.—

13 “(A) UNAVAILABLE FOR LEASING WITH-
14 OUT STATE REQUEST.—Except as otherwise
15 provided in this subsection, from and after en-
16 actment of the American Energy Production
17 and Price Reduction Act, the Secretary shall
18 not offer for leasing for oil and gas, or natural
19 gas, any area within 50 miles of the coastline
20 that was withdrawn from disposition by leasing
21 in the Atlantic OCS Region or the Pacific OCS
22 Region, or the Gulf of Mexico OCS Region
23 Eastern Planning Area, as depicted on the
24 maps referred to in this subparagraph, under
25 the ‘Memorandum on Withdrawal of Certain

1 Areas of the United States Outer Continental
2 Shelf from Leasing Disposition’, 34 Weekly
3 Comp. Pres. Doc. 1111, dated June 12, 1998,
4 or any area within 50 miles of the coastline not
5 withdrawn under that Memorandum that is in-
6 cluded within the Gulf of Mexico OCS Region
7 Eastern Planning Area as indicated on the map
8 entitled ‘Gulf of Mexico OCS Region State Ad-
9 jacent Zones and OCS Planning Areas’ or the
10 Florida Straits Planning Area as indicated on
11 the map entitled ‘Atlantic OCS Region State
12 Adjacent Zones and OCS Planning Areas’, both
13 of which are dated September 2005 and on file
14 in the Office of the Director, Minerals Manage-
15 ment Service.

16 “(B) AREAS BETWEEN 50 AND 100 MILES
17 FROM THE COASTLINE.—Unless an Adjacent
18 State petitions under subsection (h) within one
19 year after the date of the enactment of the
20 American Energy Production and Price Reduc-
21 tion Act for natural gas leasing or by June 30,
22 2010, for oil and gas leasing, the Secretary
23 shall offer for leasing any area more than 50
24 miles but less than 100 miles from the coastline
25 that was withdrawn from disposition by leasing

1 in the Atlantic OCS Region, the Pacific OCS
2 Region, or the Gulf of Mexico OCS Region
3 Eastern Planning Area, as depicted on the
4 maps referred to in this subparagraph, under
5 the ‘Memorandum on Withdrawal of Certain
6 Areas of the United States Outer Continental
7 Shelf from Leasing Disposition’, 34 Weekly
8 Comp. Pres. Doc. 1111, dated June 12, 1998,
9 or any area more than 50 miles but less than
10 100 miles of the coastline not withdrawn under
11 that Memorandum that is included within the
12 Gulf of Mexico OCS Region Eastern Planning
13 Area as indicated on the map entitled ‘Gulf of
14 Mexico OCS Region State Adjacent Zones and
15 OCS Planning Areas’ or within the Florida
16 Straits Planning Area as indicated on the map
17 entitled ‘Atlantic OCS Region State Adjacent
18 Zones and OCS Planning Areas’, both of which
19 are dated September 2005 and on file in the
20 Office of the Director, Minerals Management
21 Service.

22 “(2) PETITION FOR LEASING.—

23 “(A) IN GENERAL.—The Governor of the
24 State, upon concurrence of its legislature, may
25 submit to the Secretary a petition requesting

1 that the Secretary make available any area that
2 is within the State's Adjacent Zone, included
3 within the provisions of paragraph (1), and that
4 (i) is greater than 25 miles from any point on
5 the coastline of a Neighboring State for the
6 conduct of offshore leasing, pre-leasing, and re-
7 lated activities with respect to natural gas leas-
8 ing; or (ii) is greater than 50 miles from any
9 point on the coastline of a Neighboring State
10 for the conduct of offshore leasing, pre-leasing,
11 and related activities with respect to oil and gas
12 leasing. The Adjacent State may also petition
13 for leasing any other area within its Adjacent
14 Zone if leasing is allowed in the similar area of
15 the Adjacent Zone of the applicable Neigh-
16 boring State, or if not allowed, if the Neigh-
17 boring State, acting through its Governor, ex-
18 presses its concurrence with the petition. The
19 Secretary shall only consider such a petition
20 upon making a finding that leasing is allowed
21 in the similar area of the Adjacent Zone of the
22 applicable Neighboring State or upon receipt of
23 the concurrence of the Neighboring State. The
24 date of receipt by the Secretary of such concur-
25 rence by the Neighboring State shall constitute

1 the date of receipt of the petition for that area
2 for which the concurrence applies.

3 “(B) LIMITATIONS ON LEASING.—In its
4 petition, a State with an Adjacent Zone that
5 contains leased tracts may condition new leas-
6 ing for oil and gas, or natural gas for tracts
7 within 25 miles of the coastline by—

8 “(i) requiring a net reduction in the
9 number of production platforms;

10 “(ii) requiring a net increase in the
11 average distance of production platforms
12 from the coastline;

13 “(iii) limiting permanent surface occu-
14 pancy on new leases to areas that are more
15 than 10 miles from the coastline;

16 “(iv) limiting some tracts to being
17 produced from shore or from platforms lo-
18 cated on other tracts; or

19 “(v) other conditions that the Adja-
20 cent State may deem appropriate as long
21 as the Secretary does not determine that
22 production is made economically or tech-
23 nically impracticable or otherwise impos-
24 sible.

1 “(C) ACTION BY SECRETARY.—Not later
2 than 90 days after receipt of a petition under
3 subparagraph (A), the Secretary shall approve
4 the petition, unless the Secretary determines
5 that leasing the area would probably cause seri-
6 ous harm or damage to the marine resources of
7 the State’s Adjacent Zone. Prior to approving
8 the petition, the Secretary shall complete an en-
9 vironmental assessment that documents the an-
10 ticipated environmental effects of leasing in the
11 area included within the scope of the petition.

12 “(D) FAILURE TO ACT.—If the Secretary
13 fails to approve or deny a petition in accordance
14 with subparagraph (C) the petition shall be con-
15 sidered to be approved 90 days after receipt of
16 the petition.

17 “(E) AMENDMENT OF THE 5-YEAR LEAS-
18 ING PROGRAM.—Notwithstanding section 18,
19 within 180 days of the approval of a petition
20 under subparagraph (C) or (D), after the expi-
21 ration of the time limits in paragraph (1)(B),
22 the Secretary shall amend the current 5-Year
23 Outer Continental Shelf Oil and Gas Leasing
24 Program to include a lease sale or sales for at
25 least 75 percent of the associated areas, unless

1 there are, from the date of approval, expiration
2 of such time limits, as applicable, fewer than 12
3 months remaining in the current 5-Year Leas-
4 ing Program in which case the Secretary shall
5 include the associated areas within lease sales
6 under the next 5-Year Leasing Program. For
7 purposes of amending the 5-Year Program in
8 accordance with this section, further consulta-
9 tions with States shall not be required. For
10 purposes of this section, an environmental as-
11 sessment performed under the provisions of the
12 National Environmental Policy Act of 1969 to
13 assess the effects of approving the petition shall
14 be sufficient to amend the 5-Year Leasing Pro-
15 gram.

16 “(h) OPTION TO EXTEND WITHDRAWAL FROM
17 LEASING WITHIN CERTAIN AREAS OF THE OUTER CON-
18 TINENTAL SHELF.—A State, through its Governor and
19 upon the concurrence of its legislature, may extend for a
20 period of time of up to 5 years for each extension the with-
21 drawal from leasing for all or part of any area within the
22 State’s Adjacent Zone located more than 50 miles, but less
23 than 100 miles, from the coastline that is subject to sub-
24 section (g)(1)(B). A State may extend multiple times for
25 any particular area but not more than once per calendar

1 year for any particular area. A State must prepare separate extensions, with separate votes by its legislature, for oil and gas leasing and for natural gas leasing. An extension by a State may affect some areas to be withdrawn from all leasing and some areas to be withdrawn only from one type of leasing.

7 “(i) EFFECT OF OTHER LAWS.—Adoption by any
8 Adjacent State of any constitutional provision, or enactment of any State statute, that has the effect, as determined by the Secretary, of restricting either the Governor or the Legislature, or both, from exercising full discretion related to subsection (g) or (h), or both, shall automatically (1) prohibit any sharing of OCS Receipts under this Act with the Adjacent State, and its coastal political subdivisions, and (2) prohibit the Adjacent State from exercising any authority under subsection (h), for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting constitutional provision or State statute within 30 days of a petition by any outer Continental Shelf lessee or coastal State.

21 “(j) PROHIBITION ON LEASING EAST OF THE MILITARY MISSION LINE.—

23 “(1) Notwithstanding any other provision of
24 law, from and after the enactment of the American
25 Energy Production and Price Reduction Act, prior

1 to January 1, 2022, no area of the outer Conti-
2 nental Shelf located in the Gulf of Mexico east of the
3 military mission line may be offered for leasing for
4 oil and gas or natural gas unless a waiver is issued
5 by the Secretary of Defense. If such a waiver is
6 granted, 62.5 percent of the OCS Receipts from a
7 lease within such area issued because of such waiver
8 shall be paid annually to the National Guards of all
9 States having a point within 1,000 miles of such a
10 lease, allocated among the States on a per capita
11 basis using the entire population of such States.

12 “(2) In this subsection, the term ‘military mis-
13 sion line’ means a line located at 86 degrees, 41
14 minutes West Longitude, and extending south from
15 the coast of Florida to the outer boundary of United
16 States territorial waters in the Gulf of Mexico.”.

17 **SEC. 210. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

18 Section 18 of the Outer Continental Shelf Lands Act
19 (43 U.S.C. 1344) is amended—

20 (1) in subsection (a), by adding at the end of
21 paragraph (3) the following: “The Secretary shall, in
22 each 5-Year Program, include lease sales that when
23 viewed as a whole propose to offer for oil and gas
24 or natural gas leasing at least 75 percent of the
25 available unleased acreage within each OCS Plan-

1 ning Area. Available unleased acreage is that portion
2 of the outer Continental Shelf that is not under
3 lease at the time of the proposed lease sale, and has
4 not otherwise been made unavailable for leasing by
5 law.”;

6 (2) in subsection (c), by striking so much as
7 precedes paragraph (3) and inserting the following:

8 “(c)(1) During the preparation of any proposed leas-
9 ing program under this section, the Secretary shall con-
10 sider and analyze leasing throughout the entire outer Con-
11 tinental Shelf without regard to any other law affecting
12 such leasing. During this preparation the Secretary shall
13 invite and consider suggestions from any interested Fed-
14 eral agency, including the Attorney General, in consulta-
15 tion with the Federal Trade Commission, and from the
16 Governor of any coastal State. The Secretary may also in-
17 vite or consider any suggestions from the executive of any
18 local government in a coastal State that have been pre-
19 viously submitted to the Governor of such State, and from
20 any other person. Further, the Secretary shall consult
21 with the Secretary of Defense regarding military oper-
22 ational needs in the outer Continental Shelf. The Sec-
23 retary shall work with the Secretary of Defense to resolve
24 any conflicts that might arise regarding offering any area
25 of the outer Continental Shelf for oil and gas or natural

1 gas leasing. If the Secretaries are not able to resolve all
2 such conflicts, any unresolved issues shall be elevated to
3 the President for resolution.

4 “(2) After the consideration and analysis required by
5 paragraph (1), including the consideration of the sugges-
6 tions received from any interested Federal agency, the
7 Federal Trade Commission, the Governor of any coastal
8 State, any local government of a coastal State, and any
9 other person, the Secretary shall publish in the Federal
10 Register a proposed leasing program accompanied by a
11 draft environmental impact statement prepared pursuant
12 to the National Environmental Policy Act of 1969. After
13 the publishing of the proposed leasing program and during
14 the comment period provided for on the draft environ-
15 mental impact statement, the Secretary shall submit a
16 copy of the proposed program to the Governor of each af-
17 fected State for review and comment. The Governor may
18 solicit comments from those executives of local govern-
19 ments in the Governor’s State that the Governor, in the
20 discretion of the Governor, determines will be affected by
21 the proposed program. If any comment by such Governor
22 is received by the Secretary at least 15 days prior to sub-
23 mission to the Congress pursuant to paragraph (3) and
24 includes a request for any modification of such proposed
25 program, the Secretary shall reply in writing, granting or

1 denying such request in whole or in part, or granting such
2 request in such modified form as the Secretary considers
3 appropriate, and stating the Secretary’s reasons therefor.
4 All such correspondence between the Secretary and the
5 Governor of any affected State, together with any addi-
6 tional information and data relating thereto, shall accom-
7 pany such proposed program when it is submitted to the
8 Congress.”; and

9 (3) by adding at the end the following:

10 “(i) PROJECTION OF STATE ADJACENT ZONE RE-
11 SOURCES AND STATE AND LOCAL GOVERNMENT SHARES
12 OF OCS RECEIPTS.—Concurrent with the publication of
13 the scoping notice at the beginning of the development of
14 each 5-Year Outer Continental Shelf Oil and Gas Leasing
15 Program, or as soon thereafter as possible, the Secretary
16 shall—

17 “(1) provide to each Adjacent State a current
18 estimate of proven and potential oil and gas re-
19 sources located within the State’s Adjacent Zone;
20 and

21 “(2) provide to each Adjacent State, and coast-
22 al political subdivisions thereof, a best-efforts projec-
23 tion of the OCS Receipts that the Secretary expects
24 will be shared with each Adjacent State, and its
25 coastal political subdivisions, using the assumption

1 that the unleased tracts within the State’s Adjacent
2 Zone are fully made available for leasing, including
3 long-term projected OCS Receipts. In addition, the
4 Secretary shall include a macroeconomic estimate of
5 the impact of such leasing on the national economy
6 and each State’s economy, including investment,
7 jobs, revenues, personal income, and other cat-
8 egories.”.

9 **SEC. 211. COORDINATION WITH ADJACENT STATES.**

10 Section 19 of the Outer Continental Shelf Lands Act
11 (43 U.S.C. 1345) is amended—

12 (1) in subsection (a) in the first sentence by in-
13 serting “, for any tract located within the Adjacent
14 State’s Adjacent Zone,” after “government”; and

15 (2) by adding the following:

16 “(f)(1) No Federal agency may permit or otherwise
17 approve, without the concurrence of the Adjacent State,
18 the construction of a crude oil or petroleum products (or
19 both) pipeline within the part of the Adjacent State’s Ad-
20 jacent Zone that is withdrawn from oil and gas or natural
21 gas leasing, except that such a pipeline may be approved,
22 without such Adjacent State’s concurrence, to pass
23 through such Adjacent Zone if at least 50 percent of the
24 production projected to be carried by the pipeline within

1 its first 10 years of operation is from areas of the Adja-
2 cent State’s Adjacent Zone.

3 “(2) No State may prohibit the construction within
4 its Adjacent Zone or its State waters of a natural gas pipe-
5 line that will transport natural gas produced from the
6 outer Continental Shelf. However, an Adjacent State may
7 prevent a proposed natural gas pipeline landing location
8 if it proposes two alternate landing locations in the Adja-
9 cent State, acceptable to the Adjacent State, located with-
10 in 50 miles on either side of the proposed landing loca-
11 tion.”.

12 **SEC. 212. ENVIRONMENTAL STUDIES.**

13 Section 20(d) of the Outer Continental Shelf Lands
14 Act (43 U.S.C. 1346) is amended—

15 (1) by inserting “(1)” after “(d)”; and

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

17 “(2) For all programs, lease sales, leases, and
18 actions under this Act, the following shall apply re-
19 garding the application of the National Environ-
20 mental Policy Act of 1969:

21 “(A) Granting or directing lease suspen-
22 sions and the conduct of all preliminary activi-
23 ties on outer Continental Shelf tracts, including
24 seismic activities, are categorically excluded
25 from the need to prepare either an environ-

1 mental assessment or an environmental impact
2 statement, and the Secretary shall not be re-
3 quired to analyze whether any exceptions to a
4 categorical exclusion apply for activities con-
5 ducted under the authority of this Act.

6 “(B) The environmental impact statement
7 developed in support of each 5-Year Oil and
8 Gas Leasing Program provides the environ-
9 mental analysis for all lease sales to be con-
10 ducted under the program and such sales shall
11 not be subject to further environmental anal-
12 ysis.

13 “(C) Exploration plans shall not be subject
14 to any requirement to prepare an environmental
15 impact statement, and the Secretary may find
16 that exploration plans are eligible for categor-
17 ical exclusion due to the impacts already being
18 considered within an environmental impact
19 statement or due to mitigation measures in-
20 cluded within the plan.

21 “(D) Within each OCS Planning Area,
22 after the preparation of the first development
23 and production plan environmental impact
24 statement for a leased tract within the Area, fu-
25 ture development and production plans for

1 leased tracts within the Area shall only require
2 the preparation of an environmental assessment
3 unless the most recent development and produc-
4 tion plan environmental impact statement with-
5 in the Area was finalized more than 10 years
6 prior to the date of the approval of the plan, in
7 which case an environmental impact statement
8 shall be required.”.

9 **SEC. 213. OUTER CONTINENTAL SHELF INCOMPATIBLE**
10 **USE.**

11 (a) IN GENERAL.—No Federal agency may permit
12 construction or operation (or both) of any facility, or des-
13 ignate or maintain a restricted transportation corridor or
14 operating area on the Federal outer Continental Shelf or
15 in State waters, that will be incompatible with, as deter-
16 mined by the Secretary of the Interior, oil and gas or nat-
17 ural gas leasing and substantially full exploration and pro-
18 duction of tracts that are geologically prospective for oil
19 or natural gas (or both).

20 (b) EXCEPTIONS.—Subsection (a) shall not apply to
21 any facility, transportation corridor, or operating area the
22 construction, operation, designation, or maintenance of
23 which is or will be—

1 (1) located in an area of the outer Continental
2 Shelf that is unavailable for oil and gas or natural
3 gas leasing by operation of law;

4 (2) used for a military readiness activity (as de-
5 fined in section 315(f) of Public Law 107–314; 16
6 U.S.C. 703 note); or

7 (3) required in the national interest, as deter-
8 mined by the President.

9 **SEC. 214. REPURCHASE OF CERTAIN LEASES.**

10 (a) **AUTHORITY TO REPURCHASE AND CANCEL CER-**
11 **TAIN LEASES.**—The Secretary of the Interior shall repur-
12 chase and cancel any Federal oil and gas, geothermal,
13 coal, oil shale, tar sands, or other mineral lease, whether
14 onshore or offshore, but not including any outer Conti-
15 nental Shelf oil and gas leases that were subject to litiga-
16 tion in the Court of Federal Claims on January 1, 2006,
17 if the Secretary finds that such lease qualifies for repur-
18 chase and cancellation under the regulations authorized
19 by this section.

20 (b) **REGULATIONS.**—Not later than 365 days after
21 the date of the enactment of this Act, the Secretary shall
22 publish a final regulation stating the conditions under
23 which a lease referred to in subsection (a) would qualify
24 for repurchase and cancellation, and the process to be fol-

1 lowed regarding repurchase and cancellation. Such regula-
2 tion shall include, but not be limited to, the following:

3 (1) The Secretary shall repurchase and cancel
4 a lease after written request by the lessee upon a
5 finding by the Secretary that—

6 (A) a request by the lessee for a required
7 permit or other approval complied with applica-
8 ble law, except the Coastal Zone Management
9 Act of 1972 (16 U.S.C. 1451 et seq.), and
10 terms of the lease and such permit or other ap-
11 proval was denied;

12 (B) a Federal agency failed to act on a re-
13 quest by the lessee for a required permit, other
14 approval, or administrative appeal within a reg-
15 ulatory or statutory timeframe associated with
16 the requested action, whether advisory or man-
17 datory, or if none, within 180 days; or

18 (C) a Federal agency attached a condition
19 of approval, without agreement by the lessee, to
20 a required permit or other approval if such con-
21 dition of approval was not mandated by Federal
22 statute or regulation in effect on the date of
23 lease issuance, or was not specifically allowed
24 under the terms of the lease.

1 (2) A lessee shall not be required to exhaust ad-
2 ministrative remedies regarding a permit request,
3 administrative appeal, or other required request for
4 approval for the purposes of this section.

5 (3) The Secretary shall make a final agency de-
6 cision on a request by a lessee under this section
7 within 180 days of request.

8 (4) Compensation to a lessee to repurchase and
9 cancel a lease under this section shall be the amount
10 that a lessee would receive in a restitution case for
11 a material breach of contract.

12 (5) Compensation shall be in the form of a
13 check or electronic transfer from the Department of
14 the Treasury from funds deposited into miscella-
15 neous receipts under the authority of the same Act
16 that authorized the issuance of the lease being re-
17 purchased.

18 (6) Failure of the Secretary to make a final
19 agency decision on a request by a lessee under this
20 section within 180 days of request shall result in a
21 10 percent increase in the compensation due to the
22 lessee if the lease is ultimately repurchased.

23 (c) NO PREJUDICE.—This section shall not be inter-
24 preted to prejudice any other rights that the lessee would
25 have in the absence of this section.

1 **SEC. 215. OFFSITE ENVIRONMENTAL MITIGATION.**

2 Notwithstanding any other provision of law, any per-
3 son conducting activities under the Mineral Leasing Act
4 (30 U.S.C. 181 et seq.), the Geothermal Steam Act (30
5 U.S.C. 1001 et seq.), the Mineral Leasing Act for Ac-
6 quired Lands (30 U.S.C. 351 et seq.), the Weeks Act (16
7 U.S.C. 552 et seq.), the General Mining Act of 1872 (30
8 U.S.C. 22 et seq.), the Materials Act of 1947 (30 U.S.C.
9 601 et seq.), or the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1331 et seq.), may in satisfying any mitigation
11 requirements associated with such activities propose miti-
12 gation measures on a site away from the area impacted
13 and the Secretary of the Interior shall accept these pro-
14 posed measures if the Secretary finds that they generally
15 achieve the purposes for which mitigation measures apper-
16 tained.

17 **SEC. 216. OCS REGIONAL HEADQUARTERS.**

18 Not later than July 1, 2010, the Secretary of the In-
19 terior shall establish the headquarters for the Atlantic
20 OCS Region, the headquarters for the Gulf of Mexico OCS
21 Region, and the headquarters for the Pacific OCS Region
22 within a State bordering the Atlantic OCS Region, a State
23 bordering the Gulf of Mexico OCS Region, and a State
24 bordering the Pacific OCS Region, respectively, from
25 among the States bordering those Regions, that petitions
26 by no later than January 1, 2010, for leasing, for oil and

1 gas or natural gas, covering at least 40 percent of the area
2 of its Adjacent Zone within 100 miles of the coastline.
3 Such Atlantic and Pacific OCS Regions headquarters shall
4 be located within 25 miles of the coastline and each MMS
5 OCS regional headquarters shall be the permanent duty
6 station for all Minerals Management Service personnel
7 that on a daily basis spend on average 60 percent or more
8 of their time in performance of duties in support of the
9 activities of the respective Region, except that the Min-
10 erals Management Service may house regional inspection
11 staff in other locations. Each OCS Region shall each be
12 led by a Regional Director who shall be an employee with-
13 in the Senior Executive Service.

14 **SEC. 217. LEASES FOR AREAS LOCATED WITHIN 100 MILES**
15 **OF CALIFORNIA OR FLORIDA.**

16 (a) AUTHORIZATION TO CANCEL AND EXCHANGE
17 CERTAIN EXISTING OIL AND GAS LEASES; PROHIBITION
18 ON SUBMITTAL OF EXPLORATION PLANS FOR CERTAIN
19 LEASES PRIOR TO JUNE 30, 2012.—

20 (1) AUTHORITY.—Within 2 years after the date
21 of enactment of this Act, the lessee of an existing oil
22 and gas lease for an area located completely within
23 100 miles of the coastline within the California or
24 Florida Adjacent Zones shall have the option, with-
25 out compensation, of exchanging such lease for a

1 new oil and gas lease having a primary term of 5
2 years. For the area subject to the new lease, the les-
3 see may select any unleased tract on the outer Con-
4 tinental Shelf that is in an area available for leasing.
5 Further, with the permission of the relevant Gov-
6 ernor, such a lessee may convert its existing oil and
7 gas lease into a natural gas lease having a primary
8 term of 5 years and covering the same area as the
9 existing lease or another area within the same
10 State's Adjacent Zone within 100 miles of the coast-
11 line.

12 (2) ADMINISTRATIVE PROCESS.—The Secretary
13 of the Interior shall establish a reasonable adminis-
14 trative process to implement paragraph (1). Ex-
15 changes and conversions under subsection (a), in-
16 cluding the issuance of new leases, shall not be con-
17 sidered to be major Federal actions for purposes of
18 the National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.). Further, such actions con-
20 ducted in accordance with this section are deemed to
21 be in compliance all provisions of the Outer Conti-
22 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

23 (3) OPERATING RESTRICTIONS.—A new lease
24 issued in exchange for an existing lease under this
25 section shall be subject to such national defense op-

1 erating stipulations on the OCS tract covered by the
2 new lease as may be applicable upon issuance.

3 (4) PRIORITY.—The Secretary shall give pri-
4 ority in the lease exchange process based on the
5 amount of the original bonus bid paid for the
6 issuance of each lease to be exchanged. The Sec-
7 retary shall allow leases covering partial tracts to be
8 exchanged for leases covering full tracts conditioned
9 upon payment of additional bonus bids on a per-acre
10 basis as determined by the average per acre of the
11 original bonus bid per acre for the partial tract
12 being exchanged.

13 (5) EXPLORATION PLANS.—Any exploration
14 plan submitted to the Secretary of the Interior after
15 the date of the enactment of this Act and before
16 July 1, 2012, for an oil and gas lease for an area
17 wholly within 100 miles of the coastline within the
18 California Adjacent Zone or Florida Adjacent Zone
19 shall not be treated as received by the Secretary
20 until the earlier of July 1, 2012, or the date on
21 which a petition by the Adjacent State for oil and
22 gas leasing covering the area within which is located
23 the area subject to the oil and gas lease was ap-
24 proved.

1 (b) FURTHER LEASE CANCELLATION AND EX-
2 CHANGE PROVISIONS.—

3 (1) CANCELLATION OF LEASE.—As part of the
4 lease exchange process under this section, the Sec-
5 retary shall cancel a lease that is exchanged under
6 this section.

7 (2) CONSENT OF LESSEES.—All lessees holding
8 an interest in a lease must consent to cancellation
9 of their leasehold interests in order for the lease to
10 be cancelled and exchanged under this section.

11 (3) WAIVER OF RIGHTS.—As a prerequisite to
12 the exchange of a lease under this section, the lessee
13 must waive any rights to bring any litigation against
14 the United States related to the transaction.

15 (4) PLUGGING AND ABANDONMENT.—The plug-
16 ging and abandonment requirements for any wells
17 located on any lease to be cancelled and exchanged
18 under this section must be complied with by the les-
19 sees prior to the cancellation and exchange.

20 (c) AREA PARTIALLY WITHIN 100 MILES OF FLOR-
21 IDA.—An existing oil and gas lease for an area located
22 partially within 100 miles of the coastline within the Flor-
23 ida Adjacent Zone may only be developed and produced
24 using wells drilled from well-head locations at least 100
25 miles from the coastline to any bottom-hole location on

1 the area of the lease. This subsection shall not apply if
2 Florida has petitioned for leasing closer to the coastline
3 than 100 miles.

4 (d) EXISTING OIL AND GAS LEASE DEFINED.—In
5 this section the term “existing oil and gas lease” means
6 an oil and gas lease in effect on the date of the enactment
7 of this Act.

8 **SEC. 218. COASTAL IMPACT ASSISTANCE.**

9 Section 31 of the Outer Continental Shelf Lands Act
10 (43 U.S.C. 1356a) is repealed.

11 **SEC. 219. REPEAL OF THE GULF OF MEXICO ENERGY SECU-**
12 **RITY ACT OF 2006.**

13 The Gulf of Mexico Energy Security Act of 2006 is
14 repealed effective October 1, 2008.

15 **Subtitle B—ANWR**

16 **SEC. 231. SHORT TITLE.**

17 This subtitle may be cited as the “American Energy
18 Independence and Price Reduction Act”.

19 **SEC. 232. DEFINITIONS.**

20 In this subtitle:

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

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

7 (b) REPEAL.—

8 (1) REPEAL.—Section 1003 of the Alaska Na-
9 tional Interest Lands Conservation Act of 1980 (16
10 U.S.C. 3143) is repealed.

11 (2) CONFORMING AMENDMENT.—The table of
12 contents in section 1 of such Act is amended by
13 striking the item relating to section 1003.

14 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
15 TAIN OTHER LAWS.—

16 (1) COMPATIBILITY.—For purposes of the Na-
17 tional Wildlife Refuge System Administration Act of
18 1966 (16 U.S.C. 668dd et seq.), the oil and gas
19 leasing program and activities authorized by this
20 section in the Coastal Plain are deemed to be com-
21 patible with the purposes for which the Arctic Na-
22 tional Wildlife Refuge was established, and no fur-
23 ther findings or decisions are required to implement
24 this determination.

1 (2) ADEQUACY OF THE DEPARTMENT OF THE
2 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
3 STATEMENT.—The “Final Legislative Environ-
4 mental Impact Statement” (April 1987) on the
5 Coastal Plain prepared pursuant to section 1002 of
6 the Alaska National Interest Lands Conservation
7 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
8 of the National Environmental Policy Act of 1969
9 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
10 quirements under the National Environmental Policy
11 Act of 1969 that apply with respect to prelease ac-
12 tivities, including actions authorized to be taken by
13 the Secretary to develop and promulgate the regula-
14 tions for the establishment of a leasing program au-
15 thorized by this subtitle before the conduct of the
16 first lease sale.

17 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
18 TIONS.—Before conducting the first lease sale under
19 this subtitle, the Secretary shall prepare an environ-
20 mental impact statement under the National Envi-
21 ronmental Policy Act of 1969 with respect to the ac-
22 tions authorized by this subtitle that are not re-
23 ferred to in paragraph (2). Notwithstanding any
24 other law, the Secretary is not required to identify
25 nonleasing alternative courses of action or to analyze

1 the environmental effects of such courses of action.
2 The Secretary shall only identify a preferred action
3 for such leasing and a single leasing alternative, and
4 analyze the environmental effects and potential miti-
5 gation measures for those two alternatives. The
6 identification of the preferred action and related
7 analysis for the first lease sale under this subtitle
8 shall be completed within 18 months after the date
9 of enactment of this Act. The Secretary shall only
10 consider public comments that specifically address
11 the Secretary's preferred action and that are filed
12 within 20 days after publication of an environmental
13 analysis. Notwithstanding any other law, compliance
14 with this paragraph is deemed to satisfy all require-
15 ments for the analysis and consideration of the envi-
16 ronmental effects of proposed leasing under this sub-
17 title.

18 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
19 ITY.—Nothing in this subtitle shall be considered to ex-
20 pand or limit State and local regulatory authority.

21 (e) SPECIAL AREAS.—

22 (1) IN GENERAL.—The Secretary, after con-
23 sultation with the State of Alaska, the city of
24 Kaktovik, and the North Slope Borough, may des-
25 ignate up to a total of 45,000 acres of the Coastal

1 Plain as a Special Area if the Secretary determines
2 that the Special Area is of such unique character
3 and interest so as to require special management
4 and regulatory protection. The Secretary shall des-
5 ignate as such a Special Area the Sadlerochit Spring
6 area, comprising approximately 4,000 acres.

7 (2) MANAGEMENT.—Each such Special Area
8 shall be managed so as to protect and preserve the
9 area’s unique and diverse character including its
10 fish, wildlife, and subsistence resource values.

11 (3) EXCLUSION FROM LEASING OR SURFACE
12 OCCUPANCY.—The Secretary may exclude any Spe-
13 cial Area from leasing. If the Secretary leases a Spe-
14 cial Area, or any part thereof, for purposes of oil
15 and gas exploration, development, production, and
16 related activities, there shall be no surface occu-
17 pancy of the lands comprising the Special Area.

18 (4) DIRECTIONAL DRILLING.—Notwithstanding
19 the other provisions of this subsection, the Secretary
20 may lease all or a portion of a Special Area under
21 terms that permit the use of horizontal drilling tech-
22 nology from sites on leases located outside the Spe-
23 cial Area.

24 (f) LIMITATION ON CLOSED AREAS.—The Sec-
25 retary’s sole authority to close lands within the Coastal

1 Plain to oil and gas leasing and to exploration, develop-
2 ment, and production is that set forth in this subtitle.

3 (g) REGULATIONS.—

4 (1) IN GENERAL.—The Secretary shall pre-
5 scribe such regulations as may be necessary to carry
6 out this subtitle, including rules and regulations re-
7 lating to protection of the fish and wildlife, their
8 habitat, subsistence resources, and environment of
9 the Coastal Plain, by no later than 15 months after
10 the date of enactment of this Act.

11 (2) REVISION OF REGULATIONS.—The Sec-
12 retary shall periodically review and, if appropriate,
13 revise the rules and regulations issued under sub-
14 section (a) to reflect any significant biological, envi-
15 ronmental, or engineering data that come to the Sec-
16 retary's attention.

17 **SEC. 234. LEASE SALES.**

18 (a) IN GENERAL.—Lands may be leased pursuant to
19 this subtitle to any person qualified to obtain a lease for
20 deposits of oil and gas under the Mineral Leasing Act (30
21 U.S.C. 181 et seq.).

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

24 (1) receipt and consideration of sealed nomina-
25 tions for any area in the Coastal Plain for inclusion

1 in, or exclusion (as provided in subsection (e)) from,
2 a lease sale;

3 (2) the holding of lease sales after such nomina-
4 tion process; and

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

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

10 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
11 lease sale under this subtitle, the Secretary shall offer for
12 lease those tracts the Secretary considers to have the
13 greatest potential for the discovery of hydrocarbons, tak-
14 ing into consideration nominations received pursuant to
15 subsection (b)(1), but in no case less than 200,000 acres.

16 (e) TIMING OF LEASE SALES.—The Secretary
17 shall—

18 (1) conduct the first lease sale under this sub-
19 title within 22 months after the date of the enact-
20 ment of this Act;

21 (2) evaluate the bids in such sale and issue
22 leases resulting from such sale, within 90 days after
23 the date of the completion of such sale; and

1 (3) conduct additional sales so long as sufficient
2 interest in development exists to warrant, in the Sec-
3 retary's judgment, the conduct of such sales.

4 **SEC. 235. GRANT OF LEASES BY THE SECRETARY.**

5 (a) IN GENERAL.—The Secretary may grant to the
6 highest responsible qualified bidder in a lease sale con-
7 ducted pursuant to section 134 any lands to be leased on
8 the Coastal Plain upon payment by the lessee of such
9 bonus as may be accepted by the Secretary.

10 (b) SUBSEQUENT TRANSFERS.—No lease issued
11 under this subtitle may be sold, exchanged, assigned, sub-
12 let, or otherwise transferred except with the approval of
13 the Secretary. Prior to any such approval the Secretary
14 shall consult with, and give due consideration to the views
15 of, the Attorney General.

16 **SEC. 236. LEASE TERMS AND CONDITIONS.**

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

19 (1) provide for the payment of a royalty of not
20 less than 12½ percent in amount or value of the
21 production removed or sold from the lease, as deter-
22 mined by the Secretary under the regulations appli-
23 cable to other Federal oil and gas leases;

24 (2) provide that the Secretary may close, on a
25 seasonal basis, portions of the Coastal Plain to ex-

1 ploratory drilling activities as necessary to protect
2 caribou calving areas and other species of fish and
3 wildlife;

4 (3) require that the lessee of lands within the
5 Coastal Plain shall be fully responsible and liable for
6 the reclamation of lands within the Coastal Plain
7 and any other Federal lands that are adversely af-
8 fected in connection with exploration, development,
9 production, or transportation activities conducted
10 under the lease and within the Coastal Plain by the
11 lessee or by any of the subcontractors or agents of
12 the lessee;

13 (4) provide that the lessee may not delegate or
14 convey, by contract or otherwise, the reclamation re-
15 sponsibility and liability to another person without
16 the express written approval of the Secretary;

17 (5) provide that the standard of reclamation for
18 lands required to be reclaimed under this subtitle
19 shall be, as nearly as practicable, a condition capable
20 of supporting the uses which the lands were capable
21 of supporting prior to any exploration, development,
22 or production activities, or upon application by the
23 lessee, to a higher or better use as approved by the
24 Secretary;

1 (6) contain terms and conditions relating to
2 protection of fish and wildlife, their habitat, subsist-
3 ence resources, and the environment as required
4 pursuant to section 133(a)(2);

5 (7) provide that the lessee, its agents, and its
6 contractors use best efforts to provide a fair share,
7 as determined by the level of obligation previously
8 agreed to in the 1974 agreement implementing sec-
9 tion 29 of the Federal Agreement and Grant of
10 Right of Way for the Operation of the Trans-Alaska
11 Pipeline, of employment and contracting for Alaska
12 Natives and Alaska Native Corporations from
13 throughout the State;

14 (8) prohibit the export of oil produced under
15 the lease; and

16 (9) contain such other provisions as the Sec-
17 retary determines necessary to ensure compliance
18 with the provisions of this subtitle and the regula-
19 tions issued under this subtitle.

20 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
21 as a term and condition of each lease under this subtitle
22 and in recognizing the Government's proprietary interest
23 in labor stability and in the ability of construction labor
24 and management to meet the particular needs and condi-
25 tions of projects to be developed under the leases issued

1 pursuant to this subtitle and the special concerns of the
2 parties to such leases, shall require that the lessee and
3 its agents and contractors negotiate to obtain a project
4 labor agreement for the employment of laborers and me-
5 chanics on production, maintenance, and construction
6 under the lease.

7 **SEC. 237. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

8 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
9 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

10 The Secretary shall, consistent with the requirements of
11 section 133, administer the provisions of this subtitle
12 through regulations, lease terms, conditions, restrictions,
13 prohibitions, stipulations, and other provisions that—

14 (1) ensure the oil and gas exploration, develop-
15 ment, and production activities on the Coastal Plain
16 will result in no significant adverse effect on fish
17 and wildlife, their habitat, and the environment;

18 (2) require the application of the best commer-
19 cially available technology for oil and gas explo-
20 ration, development, and production on all new ex-
21 ploration, development, and production operations;
22 and

23 (3) ensure that the maximum amount of sur-
24 face acreage covered by production and support fa-
25 cilities, including airstrips and any areas covered by

1 gravel berms or piers for support of pipelines, does
2 not exceed 2,000 acres on the Coastal Plain.

3 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

4 The Secretary shall also require, with respect to any pro-
5 posed drilling and related activities, that—

6 (1) a site-specific analysis be made of the prob-
7 able effects, if any, that the drilling or related activi-
8 ties will have on fish and wildlife, their habitat, sub-
9 sistence resources, and the environment;

10 (2) a plan be implemented to avoid, minimize,
11 and mitigate (in that order and to the extent prac-
12 ticable) any significant adverse effect identified
13 under paragraph (1); and

14 (3) the development of the plan shall occur
15 after consultation with the agency or agencies hav-
16 ing jurisdiction over matters mitigated by the plan.

17 (c) REGULATIONS TO PROTECT COASTAL PLAIN
18 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
19 AND THE ENVIRONMENT.—Before implementing the leas-
20 ing program authorized by this subtitle, the Secretary
21 shall prepare and promulgate regulations, lease terms,
22 conditions, restrictions, prohibitions, stipulations, and
23 other measures designed to ensure that the activities un-
24 dertaken on the Coastal Plain under this subtitle are con-

1 ducted in a manner consistent with the purposes and envi-
2 ronmental requirements of this subtitle.

3 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
4 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
5 proposed regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations for the leasing program
7 under this subtitle shall require compliance with all appli-
8 cable provisions of Federal and State environmental law,
9 and shall also require the following:

10 (1) Standards at least as effective as the safety
11 and environmental mitigation measures set forth in
12 items 1 through 29 at pages 167 through 169 of the
13 “Final Legislative Environmental Impact State-
14 ment” (April 1987) on the Coastal Plain.

15 (2) Seasonal limitations on exploration, develop-
16 ment, and related activities, where necessary, to
17 avoid significant adverse effects during periods of
18 concentrated fish and wildlife breeding, denning,
19 nesting, spawning, and migration.

20 (3) That exploration activities, except for sur-
21 face geological studies, be limited to the period be-
22 tween approximately November 1 and May 1 each
23 year and that exploration activities shall be sup-
24 ported, if necessary, by ice roads, winter trails with
25 adequate snow cover, ice pads, ice airstrips, and air

1 transport methods, except that such exploration ac-
2 tivities may occur at other times if the Secretary
3 finds that such exploration will have no significant
4 adverse effect on the fish and wildlife, their habitat,
5 and the environment of the Coastal Plain.

6 (4) Design safety and construction standards
7 for all pipelines and any access and service roads,
8 that—

9 (A) minimize, to the maximum extent pos-
10 sible, adverse effects upon the passage of mi-
11 gratory species such as caribou; and

12 (B) minimize adverse effects upon the flow
13 of surface water by requiring the use of cul-
14 verts, bridges, and other structural devices.

15 (5) Prohibitions on general public access and
16 use on all pipeline access and service roads.

17 (6) Stringent reclamation and rehabilitation re-
18 quirements, consistent with the standards set forth
19 in this subtitle, requiring the removal from the
20 Coastal Plain of all oil and gas development and
21 production facilities, structures, and equipment upon
22 completion of oil and gas production operations, ex-
23 cept that the Secretary may exempt from the re-
24 quirements of this paragraph those facilities, struc-
25 tures, or equipment that the Secretary determines

1 would assist in the management of the Arctic Na-
2 tional Wildlife Refuge and that are donated to the
3 United States for that purpose.

4 (7) Appropriate prohibitions or restrictions on
5 access by all modes of transportation.

6 (8) Appropriate prohibitions or restrictions on
7 sand and gravel extraction.

8 (9) Consolidation of facility siting.

9 (10) Appropriate prohibitions or restrictions on
10 use of explosives.

11 (11) Avoidance, to the extent practicable, of
12 springs, streams, and river systems; the protection
13 of natural surface drainage patterns, wetlands, and
14 riparian habitats; and the regulation of methods or
15 techniques for developing or transporting adequate
16 supplies of water for exploratory drilling.

17 (12) Avoidance or minimization of air traffic-re-
18 lated disturbance to fish and wildlife.

19 (13) Treatment and disposal of hazardous and
20 toxic wastes, solid wastes, reserve pit fluids, drilling
21 muds and cuttings, and domestic wastewater, includ-
22 ing an annual waste management report, a haz-
23 ardous materials tracking system, and a prohibition
24 on chlorinated solvents, in accordance with applica-
25 ble Federal and State environmental law.

1 (14) Fuel storage and oil spill contingency plan-
2 ning.

3 (15) Research, monitoring, and reporting re-
4 quirements.

5 (16) Field crew environmental briefings.

6 (17) Avoidance of significant adverse effects
7 upon subsistence hunting, fishing, and trapping by
8 subsistence users.

9 (18) Compliance with applicable air and water
10 quality standards.

11 (19) Appropriate seasonal and safety zone des-
12 ignations around well sites, within which subsistence
13 hunting and trapping shall be limited.

14 (20) Reasonable stipulations for protection of
15 cultural and archeological resources.

16 (21) All other protective environmental stipula-
17 tions, restrictions, terms, and conditions deemed
18 necessary by the Secretary.

19 (e) CONSIDERATIONS.—In preparing and promul-
20 gating regulations, lease terms, conditions, restrictions,
21 prohibitions, and stipulations under this section, the Sec-
22 retary shall consider the following:

23 (1) The stipulations and conditions that govern
24 the National Petroleum Reserve-Alaska leasing pro-
25 gram, as set forth in the 1999 Northeast National

1 Petroleum Reserve-Alaska Final Integrated Activity
2 Plan/Environmental Impact Statement.

3 (2) The environmental protection standards
4 that governed the initial Coastal Plain seismic explo-
5 ration program under parts 37.31 to 37.33 of title
6 50, Code of Federal Regulations.

7 (3) The land use stipulations for exploratory
8 drilling on the KIC-ASRC private lands that are set
9 forth in appendix 2 of the August 9, 1983, agree-
10 ment between Arctic Slope Regional Corporation and
11 the United States.

12 (f) FACILITY CONSOLIDATION PLANNING.—

13 (1) IN GENERAL.—The Secretary shall, after
14 providing for public notice and comment, prepare
15 and update periodically a plan to govern, guide, and
16 direct the siting and construction of facilities for the
17 exploration, development, production, and transpor-
18 tation of Coastal Plain oil and gas resources.

19 (2) OBJECTIVES.—The plan shall have the fol-
20 lowing objectives:

21 (A) Avoiding unnecessary duplication of fa-
22 cilities and activities.

23 (B) Encouraging consolidation of common
24 facilities and activities.

1 (C) Locating or confining facilities and ac-
2 tivities to areas that will minimize impact on
3 fish and wildlife, their habitat, and the environ-
4 ment.

5 (D) Utilizing existing facilities wherever
6 practicable.

7 (E) Enhancing compatibility between wild-
8 life values and development activities.

9 (g) ACCESS TO PUBLIC LANDS.—The Secretary
10 shall—

11 (1) manage public lands in the Coastal Plain
12 subject to subsections (a) and (b) of section 811 of
13 the Alaska National Interest Lands Conservation
14 Act (16 U.S.C. 3121); and

15 (2) ensure that local residents shall have rea-
16 sonable access to public lands in the Coastal Plain
17 for traditional uses.

18 **SEC. 238. EXPEDITED JUDICIAL REVIEW.**

19 (a) FILING OF COMPLAINT.—

20 (1) DEADLINE.—Subject to paragraph (2), any
21 complaint seeking judicial review of any provision of
22 this subtitle or any action of the Secretary under
23 this subtitle shall be filed—

1 (A) except as provided in subparagraph
2 (B), within the 90-day period beginning on the
3 date of the action being challenged; or

4 (B) in the case of a complaint based solely
5 on grounds arising after such period, within 90
6 days after the complainant knew or reasonably
7 should have known of the grounds for the com-
8 plaint.

9 (2) VENUE.—Any complaint seeking judicial re-
10 view of any provision of this subtitle or any action
11 of the Secretary under this subtitle may be filed only
12 in the United States Court of Appeals for the Dis-
13 trict of Columbia.

14 (3) LIMITATION ON SCOPE OF CERTAIN RE-
15 VIEW.—Judicial review of a Secretarial decision to
16 conduct a lease sale under this subtitle, including
17 the environmental analysis thereof, shall be limited
18 to whether the Secretary has complied with the
19 terms of this subtitle and shall be based upon the
20 administrative record of that decision. The Sec-
21 retary's identification of a preferred course of action
22 to enable leasing to proceed and the Secretary's
23 analysis of environmental effects under this subtitle
24 shall be presumed to be correct unless shown other-

1 wise by clear and convincing evidence to the con-
2 trary.

3 (b) LIMITATION ON OTHER REVIEW.—Actions of the
4 Secretary with respect to which review could have been
5 obtained under this section shall not be subject to judicial
6 review in any civil or criminal proceeding for enforcement.

7 **SEC. 239. FEDERAL AND STATE DISTRIBUTION OF REVE-**
8 **NUES.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of law, of the amount of adjusted bonus, rental, and
11 royalty revenues from Federal oil and gas leasing and op-
12 erations authorized under this subtitle—

13 (1) 50 percent shall be paid to the State of
14 Alaska; and

15 (2) the balance shall be deposited in the Fed-
16 eral Treasury to pay down the Federal deficit, and
17 if no deficit exists than to pay down the national
18 debt.

19 (b) PAYMENTS TO ALASKA.—Payments to the State
20 of Alaska under this section shall be made semiannually.

21 **SEC. 240. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

22 (a) IN GENERAL.—The Secretary shall issue rights-
23 of-way and easements across the Coastal Plain for the
24 transportation of oil and gas—

1 (1) except as provided in paragraph (2), under
2 section 28 of the Mineral Leasing Act (30 U.S.C.
3 185), without regard to title XI of the Alaska Na-
4 tional Interest Lands Conservation Act (30 U.S.C.
5 3161 et seq.); and

6 (2) under title XI of the Alaska National Inter-
7 est Lands Conservation Act (30 U.S.C. 3161 et
8 seq.), for access authorized by sections 1110 and
9 1111 of that Act (16 U.S.C. 3170 and 3171).

10 (b) **TERMS AND CONDITIONS.**—The Secretary shall
11 include in any right-of-way or easement issued under sub-
12 section (a) such terms and conditions as may be necessary
13 to ensure that transportation of oil and gas does not result
14 in a significant adverse effect on the fish and wildlife, sub-
15 sistence resources, their habitat, and the environment of
16 the Coastal Plain, including requirements that facilities be
17 sited or designed so as to avoid unnecessary duplication
18 of roads and pipelines.

19 (c) **REGULATIONS.**—The Secretary shall include in
20 regulations under section 133(g) provisions granting
21 rights-of-way and easements described in subsection (a)
22 of this section.

23 **SEC. 241. CONVEYANCE.**

24 In order to maximize Federal revenues by removing
25 claims on title to lands and clarifying land ownership pat-

1 terns within the Coastal Plain, the Secretary, notwith-
2 standing the provisions of section 1302(h)(2) of the Alas-
3 ka National Interest Lands Conservation Act (16 U.S.C.
4 3192(h)(2)), shall convey—

5 (1) to the Kaktovik Inupiat Corporation the
6 surface estate of the lands described in paragraph 1
7 of Public Land Order 6959, to the extent necessary
8 to fulfill the Corporation’s entitlement under sec-
9 tions 12 and 14 of the Alaska Native Claims Settle-
10 ment Act (43 U.S.C. 1611 and 1613) in accordance
11 with the terms and conditions of the Agreement be-
12 tween the Department of the Interior, the United
13 States Fish and Wildlife Service, the Bureau of
14 Land Management, and the Kaktovik Inupiat Cor-
15 poration effective January 22, 1993; and

16 (2) to the Arctic Slope Regional Corporation
17 the remaining subsurface estate to which it is enti-
18 tled pursuant to the August 9, 1983, agreement be-
19 tween the Arctic Slope Regional Corporation and the
20 United States of America.

21 **SEC. 242. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
22 **NITY SERVICE ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE AUTHORIZED.—

24 (1) IN GENERAL.—The Secretary may use
25 amounts available from the Coastal Plain Local Gov-

1 ernment Impact Aid Assistance Fund established by
2 subsection (d) to provide timely financial assistance
3 to entities that are eligible under paragraph (2) and
4 that are directly impacted by the exploration for or
5 production of oil and gas on the Coastal Plain under
6 this subtitle.

7 (2) ELIGIBLE ENTITIES.—The North Slope
8 Borough, the City of Kaktovik, and any other bor-
9 rough, municipal subdivision, village, or other com-
10 munity in the State of Alaska that is directly im-
11 pacted by exploration for, or the production of, oil
12 or gas on the Coastal Plain under this subtitle, as
13 determined by the Secretary, shall be eligible for fi-
14 nancial assistance under this section.

15 (b) USE OF ASSISTANCE.—Financial assistance
16 under this section may be used only for—

17 (1) planning for mitigation of the potential ef-
18 fects of oil and gas exploration and development on
19 environmental, social, cultural, recreational, and sub-
20 sistence values;

21 (2) implementing mitigation plans and main-
22 taining mitigation projects;

23 (3) developing, carrying out, and maintaining
24 projects and programs that provide new or expanded
25 public facilities and services to address needs and

1 problems associated with such effects, including fire-
2 fighting, police, water, waste treatment, medivac,
3 and medical services; and

4 (4) establishment of a coordination office, by
5 the North Slope Borough, in the City of Kaktovik,
6 which shall—

7 (A) coordinate with and advise developers
8 on local conditions, impact, and history of the
9 areas utilized for development; and

10 (B) provide to the Committee on Natural
11 Resources of the House of Representatives and
12 the Committee on Energy and Natural Re-
13 sources of the Senate an annual report on the
14 status of coordination between developers and
15 the communities affected by development.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—Any community that is eligi-
18 ble for assistance under this section may submit an
19 application for such assistance to the Secretary, in
20 such form and under such procedures as the Sec-
21 retary may prescribe by regulation.

22 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
23 community located in the North Slope Borough may
24 apply for assistance under this section either directly

1 to the Secretary or through the North Slope Bor-
2 ough.

3 (3) APPLICATION ASSISTANCE.—The Secretary
4 shall work closely with and assist the North Slope
5 Borough and other communities eligible for assist-
6 ance under this section in developing and submitting
7 applications for assistance under this section.

8 (d) ESTABLISHMENT OF FUND.—

9 (1) IN GENERAL.—There is established in the
10 Treasury the Coastal Plain Local Government Im-
11 pact Aid Assistance Fund.

12 (2) USE.—Amounts in the fund may be used
13 only for providing financial assistance under this
14 section.

15 (3) DEPOSITS.—Subject to paragraph (4), there
16 shall be deposited into the fund amounts received by
17 the United States as revenues derived from rents,
18 bonuses, and royalties from Federal leases and lease
19 sales authorized under this subtitle.

20 (4) LIMITATION ON DEPOSITS.—The total
21 amount in the fund may not exceed \$11,000,000.

22 (5) INVESTMENT OF BALANCES.—The Sec-
23 retary of the Treasury shall invest amounts in the
24 fund in interest-bearing Government securities.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
2 vide financial assistance under this section there is author-
3 ized to be appropriated to the Secretary from the Coastal
4 Plain Local Government Impact Aid Assistance Fund
5 \$5,000,000 for each fiscal year.

6 **TITLE III—NUCLEAR POWER**

7 **SEC. 301. WASTE CONFIDENCE.**

8 The Nuclear Regulatory Commission may not deny
9 an application for a license, permit, or other authorization
10 under the Atomic Energy Act of 1954 on the grounds that
11 sufficient capacity does not exist, or will not become avail-
12 able on a timely basis, for disposal of spent nuclear fuel
13 or high-level radioactive waste from the facility for which
14 the license, permit, or other authorization is sought.

15 **SEC. 302. ASME NUCLEAR CERTIFICATION CREDIT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 of the Internal Revenue Code of
18 1986 (relating to business related credits) is amended by
19 adding at the end the following new section:

20 **“SEC. 45R. ASME NUCLEAR CERTIFICATION CREDIT.**

21 “(a) IN GENERAL.—For purposes of section 38, the
22 ASME Nuclear Certification credit determined under this
23 section for any taxable year is an amount equal to 15 per-
24 cent of the qualified nuclear expenditures paid or incurred
25 by the taxpayer.

1 “(b) QUALIFIED NUCLEAR EXPENDITURES.—For
2 purposes of this section, the term ‘qualified nuclear ex-
3 penditures’ means any expenditure related to—

4 “(1) obtaining a certification under the Amer-
5 ican Society of Mechanical Engineers Nuclear Com-
6 ponent Certification program, or

7 “(2) increasing the taxpayer’s capacity to con-
8 struct, fabricate, assemble, or install components—

9 “(A) for any facility which uses nuclear en-
10 ergy to produce electricity, and

11 “(B) with respect to the construction, fab-
12 rication, assembly, or installation of which the
13 taxpayer is certified under such program.

14 “(c) TIMING OF CREDIT.—The credit allowed under
15 subsection (a) for any expenditures shall be allowed—

16 “(1) in the case of a qualified nuclear expendi-
17 ture described in subsection (b)(1), for the taxable
18 year of such certification, and

19 “(2) in the case of any other qualified nuclear
20 expenditure, for the taxable year in which such ex-
21 penditure is paid or incurred.

22 “(d) SPECIAL RULES.—

23 “(1) BASIS ADJUSTMENT.—For purposes of
24 this subtitle, if a credit is allowed under this section
25 for an expenditure, the increase in basis which would

1 result (but for this subsection) for such expenditure
2 shall be reduced by the amount of the credit allowed
3 under this section.

4 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
5 tion shall be allowed under this chapter for any
6 amount taken into account in determining the credit
7 under this section.

8 “(e) TERMINATION.—This section shall not apply to
9 any expenditures paid or incurred in taxable years begin-
10 ning after December 31, 2019.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Subsection (b) of section 38 of such Code
13 is amended by striking “plus” at the end of para-
14 graph (34), by striking the period at the end of
15 paragraph (35) and inserting “, plus”, and by add-
16 ing at the end the following new paragraph:

17 “(36) the ASME nuclear certification credit de-
18 termined under section 45R(a).”.

19 (2) Subsection (a) of section 1016 of such Code
20 (relating to adjustments to basis) is amended by
21 striking “and” at the end of paragraph (36), by
22 striking the period at the end of paragraph (37) and
23 inserting “, and”, and by adding at the end the fol-
24 lowing new paragraph:

1 “(38) to the extent provided in section
2 45R(e)(1).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to expenditures paid or incurred
5 in taxable years beginning after December 31, 2009.

6 **TITLE IV—REGULATORY** 7 **BURDENS**

8 **SEC. 401. GREENHOUSE GAS REGULATION UNDER CLEAN** 9 **AIR ACT.**

10 (a) DEFINITION OF AIR POLLUTANT.—Section
11 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is
12 amended by adding the following at the end thereof: “The
13 term ‘air pollutant’ shall not include carbon dioxide, water
14 vapor, methane, nitrous oxide, hydrofluorocarbons,
15 perfluorocarbons, or sulfur hexafluoride.”.

16 (b) CLIMATE CHANGE NOT REGULATED BY CLEAN
17 AIR ACT.—Nothing in the Clean Air Act shall be treated
18 as authorizing or requiring the regulation of climate
19 change or global warming.

20 **SEC. 402. NEPA JUDICIAL REVIEW.**

21 Title I of the National Environmental Policy Act of
22 1969 (42 U.S.C. 4331 et seq.) is amended by adding at
23 the end the following new section:

1 **“SEC. 106. JUDICIAL REVIEW.**

2 “(a) IN GENERAL.—Review of a Federal agency’s
3 compliance with section 102 of the Act may be filed in
4 the circuit in which the petitioner resides or transacts
5 business which is directly affected by the action. Any such
6 application for review shall be made within ninety days
7 from the date of promulgation of the Federal agency’s de-
8 cision.

9 “(b) PROCEDURES FOR REVIEW.—

10 “(1) LIMITATION.—In any judicial action under
11 this Act, judicial review of any issues concerning a
12 Federal agency’s compliance with section 102 shall
13 be limited to the administrative record. Otherwise
14 applicable principles of administrative law shall gov-
15 ern whether any supplemental materials may be con-
16 sidered by the court.

17 “(2) STANDARD.—In considering objections
18 raised in any judicial action under this Act, the
19 court shall uphold the Federal agency’s decision,
20 whether in is the first instance, a revocation, reces-
21 sion or other action, unless the objecting party can
22 demonstrate, on the administrative record, that the
23 decision was arbitrary and capricious or otherwise
24 not in accordance with law.

25 “(3) REMEDY.—If the court finds that the se-
26 lection of the response action was arbitrary and ca-

1 precious or otherwise not in accordance with law, the
2 court shall award such relief as the court deems ap-
3 propriate.

4 “(4) PROCEDURAL ERRORS.—In reviewing al-
5 leged procedural errors, the court may disallow costs
6 or damages only if the errors were so serious and re-
7 lated to matters of such central relevance to the ac-
8 tion that the action would have been significantly
9 changed had such errors not been made.

10 “(c) NOTICE OF ACTIONS.—Whenever any action is
11 brought under this Act in a court of the United States
12 by a plaintiff other than the United States, the plaintiff
13 shall provide a copy of the complaint to the Attorney Gen-
14 eral of the United States and to the Secretary or Adminis-
15 trator of the affected Federal agency.

16 “(d) INTERVENTION.—In any action commenced
17 under this Act, any person may intervene as a matter of
18 right when such person claims an interest relating to the
19 subject of the action and is so situated that the disposition
20 of the action may, as a practical matter, impair or impede
21 the person’s ability to protect that interest, unless the Sec-
22 retary or Administrator shows that the person’s interest
23 is adequately represented by existing parties.”.

1 **SEC. 403. REPEAL OF 2007 AMENDMENTS TO RENEWABLE**
2 **FUEL STANDARD.**

3 Section 211(o) of the Clean Air Act (42 U.S.C.
4 7545(o)) is amended to read as provided in section
5 1501(a)(2) of the Energy Policy Act of 2005 (Public Law
6 109–58; 119 Stat. 594, 1067).

7 **SEC. 404. REPEAL OF REQUIREMENT TO CONSULT REGARD-**
8 **ING IMPACTS ON GLOBAL WARMING AND**
9 **POLAR BEAR POPULATION.**

10 Section 429 of the Department of the Interior, Envi-
11 ronment, and Related Agencies Appropriations Act, 2009
12 (division E of Public Law 111–8) is repealed.

13 **SEC. 405. LIGHT BULB CHOICE.**

14 (a) **IN GENERAL.**—Effective 6 months after the date
15 of enactment of this Act, sections 321 and 322, and the
16 items in the table of contents relating thereto, of the En-
17 ergy Independence and Security Act of 2007 are repealed.

18 (b) **REVERSION.**—When the repeal occurs under
19 paragraph (1), the amendments made by sections 321 and
20 322 of the Energy Independence and Security Act of 2007
21 are hereby repealed, and the laws amended thereby shall
22 read as if those amendments had not been enacted.

1 **SEC. 406. REPEAL OF DEDUCTION FOR INCOME ATTRIB-**
2 **UTABLE TO DOMESTIC PRODUCTION ACTIVI-**
3 **TIES.**

4 (a) IN GENERAL.—Section 199 of the Internal Rev-
5 enue Code is repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Sections 86(b)(2)(A), 135(c)(4)(A),
8 137(b)(3)(A), 219(g)(3)(A)(ii), 221(b)(2)(C),
9 246(b)(1), and 469(i)(3)(F) of such Code are each
10 amended by striking “199,”.

11 (2) Clause (i) of section 163(j)(6)(A) of such
12 Code is amended by inserting “and” at the end of
13 subclause (II), by striking subclause (III) and by re-
14 designating subclause (IV) as subclause (III).

15 (3) Subparagraph (C) of section 170(b)(2) of
16 such Code is amended by striking clause (iv), by re-
17 designating clause (v) as clause (iv), and by insert-
18 ing “and” at the end of clause (iii).

19 (4) Subsection (d) of section 172 of such Code
20 is amended by striking paragraph (7).

21 (5) Subsection (a) of section 613 of such Code
22 is amended by striking “and without the deduction
23 under section 199”.

24 (6) Paragraph (1) of section 613A(d) of such
25 Code is amended by redesignating subparagraphs

1 (C), (D), and (E) as subparagraphs (B), (C), and
2 (D), respectively, and by striking subparagraph (B).

3 (7) Subsection (a) of section 1402 of such Code
4 is amended by inserting “and” at the end of para-
5 graph (15), by striking paragraph (16), and by re-
6 designating paragraph (17) as paragraph (16).

7 (8) The table of sections for part VI of sub-
8 chapter B of chapter 1 of such Code is amended by
9 striking the item relating to section 199.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2009.

13 **TITLE V—SOLAR POWER**

14 **SEC. 501. SHORT TITLE.**

15 This subtitle may be cited as the “Emergency Solar
16 Power Permit Act”.

17 **SEC. 502. EXEMPTION OF SOLAR ENERGY PROJECTS FROM**

18 **ENVIRONMENTAL IMPACT STATEMENT RE-**

19 **QUIREMENT.**

20 (a) IN GENERAL.—Title I of the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is
22 amended by adding at the end the following new section:

23 “SEC. 106. No action relating to the development, de-
24 ployment, or operation of a solar energy project on lands
25 managed by the Bureau of Land Management shall be

1 considered a major Federal action for the purposes of sec-
2 tion 102(2)(C).”.

3 (b) EFFECT FOR STATEMENTS UNDERWAY.—Each
4 department and agency of the Federal Government shall
5 cease the preparation of a statement, commenced pursu-
6 ant to section 102(2)(C) of the National Environmental
7 Policy Act of 1969 (42 U.S.C. 4332(2)(C)), for any action
8 described in the amendment made by subsection (a), to
9 the extent that the preparation of such statement would
10 delay or otherwise interfere with such action.

11 **TITLE VI—NATURAL GAS**

12 **SEC. 601. NATURAL GAS VEHICLE RESEARCH, DEVELOP-** 13 **MENT, AND DEMONSTRATION PROJECTS.**

14 (a) IN GENERAL.—The Secretary of Energy shall
15 conduct a 5-year program of natural gas vehicle research,
16 development, and demonstration. The Secretary shall co-
17 ordinate with the Administrator of the Environmental
18 Protection Agency, as necessary.

19 (b) PURPOSE.—The program under this section shall
20 focus on—

21 (1) the continued improvement and develop-
22 ment of new, cleaner, more efficient light-duty, me-
23 dium-duty, and heavy-duty natural gas vehicle en-
24 gines;

1 (2) the integration of those engines into light-
2 duty, medium-duty, and heavy-duty natural gas vehi-
3 cles for onroad and offroad applications;

4 (3) expanding product availability by assisting
5 manufacturers with the certification of the engines
6 or vehicles described in paragraph (1) or (2) to Fed-
7 eral or California certification requirements and in-
8 use emission standards;

9 (4) the demonstration and proper operation and
10 use of the vehicles described in paragraph (2) under
11 all operating conditions;

12 (5) the development and improvement of na-
13 tionally recognized codes and standards for the con-
14 tinued safe operation of natural gas vehicles and
15 their components;

16 (6) improvement in the reliability and efficiency
17 of natural gas fueling station infrastructure;

18 (7) the certification of natural gas fueling sta-
19 tion infrastructure to nationally recognized and in-
20 dustry safety standards;

21 (8) the improvement in the reliability and effi-
22 ciency of onboard natural gas fuel storage systems;

23 (9) the development of new natural gas fuel
24 storage materials;

1 (10) the certification of onboard natural gas
2 fuel storage systems to nationally recognized and in-
3 dustry safety standards; and

4 (11) the use of natural gas engines in hybrid
5 vehicles.

6 (c) CERTIFICATION OF CONVERSION SYSTEMS.—The
7 Secretary shall coordinate with the Administrator on
8 issues related to streamlining the certification of natural
9 gas conversion systems to the appropriate Federal certifi-
10 cation requirements and in-use emission standards.

11 (d) COOPERATION AND COORDINATION WITH INDUS-
12 TRY.—In developing and carrying out the program under
13 this section, the Secretary shall coordinate with the nat-
14 ural gas vehicle industry to ensure cooperation between
15 the public and the private sector.

16 (e) CONDUCT OF PROGRAM.—The program under
17 this section shall be conducted in accordance with sections
18 3001 and 3002 of the Energy Policy Act of 1992.

19 (f) REPORT.—Not later than 2 years after the date
20 of enactment of this Act, the Secretary shall provide a re-
21 port to Congress on the implementation of this section.

22 (g) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary
24 \$30,000,000 for each of the fiscal years 2010 through
25 2014 to carry out this section.

1 (h) DEFINITION.—For purposes of this section, the
2 term “natural gas” means compressed natural gas, lique-
3 fied natural gas, biomethane, and mixtures of hydrogen
4 and methane or natural gas.

5 **SEC. 602. ALTERNATIVE FUEL CREDIT WITH RESPECT TO**
6 **COMPRESSED OR LIQUEFIED NATURAL GAS**
7 **MADE PERMANENT.**

8 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of
9 section 6426(d) of the Internal Revenue Code of 1986 (re-
10 lating to alternative fuel credit) is amended to read as fol-
11 lows:

12 “(5) TERMINATION.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), this subsection shall not
15 apply to any sale or use for any period after
16 December 31, 2009 (September 30, 2014, in
17 the case of any sale or use involving liquefied
18 hydrogen).

19 “(B) COMPRESSED OR LIQUEFIED NAT-
20 URAL GAS.—Subparagraph (A) shall not apply
21 in the case of any sale or use involving com-
22 pressed or liquefied natural gas.”.

23 (b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-
24 graph (3) of section 6426(e) of such Code is amended to
25 read as follows:

1 “(3) TERMINATION.—

2 “(A) Except as provided in subparagraph
3 (B), this subsection shall not apply to any sale
4 or use for any period after December 31, 2009
5 (September 30, 2014, in the case of any sale or
6 use involving liquefied hydrogen).

7 “(B) COMPRESSED OR LIQUEFIED NAT-
8 URAL GAS.—Subparagraph (A) shall not apply
9 in the case of any sale or use involving com-
10 pressed or liquefied natural gas.”.

11 (c) PAYMENTS RELATING TO ALTERNATIVE FUEL OR
12 ALTERNATIVE FUEL MIXTURES.—Paragraph (6) of sec-
13 tion 6427(e) of such Code is amended by adding at the
14 end the following flush sentence:

15 “The preceding sentence shall not apply in the case
16 of any sale or use involving compressed or liquefied
17 natural gas.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to fuel sold or used after the date
20 of the enactment of this Act.

1 **SEC. 603. ALTERNATIVE FUEL VEHICLE CREDIT MADE PER-**
2 **MANENT WITH RESPECT TO VEHICLES POW-**
3 **ERED BY COMPRESSED OR LIQUEFIED NAT-**
4 **URAL GAS.**

5 (a) IN GENERAL.—Paragraph (4) of section 30B(k)
6 of the Internal Revenue Code of 1986 (relating to termi-
7 nation) is amended by adding at the end the following
8 flush sentence:

9 “The preceding sentence shall not apply in the case
10 of a vehicle powered by compressed or liquefied nat-
11 ural gas.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to property placed in service
14 after the date of the enactment of this Act.

15 **SEC. 604. ALLOWANCE OF VEHICLE AND INFRASTRUCTURE**
16 **CREDITS AGAINST REGULAR AND MINIMUM**
17 **TAX AND TRANSFERABILITY OF CREDITS.**

18 (a) BUSINESS CREDITS.—Subparagraph (B) of sec-
19 tion 38(c)(4) of the Internal Revenue Code of 1986 is
20 amended by striking “and” at the end of clause (vii), by
21 striking the period at the end of clause (viii) and inserting
22 “, and”, and by inserting after clause (viii) the following
23 new clauses:

24 “(ix) the portion of the credit deter-
25 mined under section 30B which is attrib-
26 utable to the application of subsection

1 (e)(3) thereof with respect to qualified al-
2 ternative fuel motor vehicles which are ca-
3 pable of being powered by compressed or
4 liquefied natural gas, and

5 “(x) the portion of the credit deter-
6 mined under section 30C which is attrib-
7 utable to the application of subsection (b)
8 thereof with respect to refueling property
9 which is used to store and or dispense
10 compressed or liquefied natural gas.”.

11 (b) PERSONAL CREDITS.—

12 (1) NEW QUALIFIED ALTERNATIVE FUEL
13 MOTOR VEHICLES.—Subsection (g) of section 30B of
14 such Code is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(3) SPECIAL RULE RELATING TO CERTAIN
17 NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHI-
18 CLES.—In the case of the portion of the credit deter-
19 mined under subsection (a) which is attributable to
20 the application of subsection (e)(3) with respect to
21 qualified alternative fuel motor vehicles which are
22 capable of being powered by compressed or liquefied
23 natural gas—

1 “(A) paragraph (2) shall (after the appli-
2 cation of paragraph (1)) be applied separately
3 with respect to such portion, and

4 “(B) in lieu of the limitation determined
5 under paragraph (2), such limitation shall not
6 exceed the excess (if any) of—

7 “(i) the sum of the regular tax liabil-
8 ity (as defined in section 26(b)) plus the
9 tentative minimum tax for the taxable
10 year, reduced by

11 “(ii) the sum of the credits allowable
12 under subpart A and sections 27 and 30.”.

13 (2) ALTERNATIVE FUEL VEHICLE REFUELING
14 PROPERTIES.—Subsection (d) of section 30C of such
15 Code is amended by adding at the end the following
16 new paragraph:

17 “(3) SPECIAL RULE RELATING TO CERTAIN AL-
18 TERNATIVE FUEL VEHICLE REFUELING PROP-
19 ERTIES.—In the case of the portion of the credit de-
20 termined under subsection (a) with respect to refuel-
21 ing property which is used to store and or dispense
22 compressed or liquefied natural gas and which is at-
23 tributable to the application of subsection (b)—

1 “(A) paragraph (2) shall (after the appli-
2 cation of paragraph (1)) be applied separately
3 with respect to such portion, and

4 “(B) in lieu of the limitation determined
5 under paragraph (2), such limitation shall not
6 exceed the excess (if any) of—

7 “(i) the sum of the regular tax liabil-
8 ity (as defined in section 26(b)) plus the
9 tentative minimum tax for the taxable
10 year, reduced by

11 “(ii) the sum of the credits allowable
12 under subpart A and sections 27, 30, and
13 the portion of the credit determined under
14 section 30B which is attributable to the
15 application of subsection (e)(3) thereof.”.

16 (c) CREDITS MAY BE TRANSFERRED.—

17 (1) VEHICLE CREDITS.—Subsection (h) of sec-
18 tion 30B of such Code is amended by adding at the
19 end the following new paragraph:

20 “(11) TRANSFERABILITY OF CREDIT.—Nothing
21 in any law or rule of law shall be construed to limit
22 a taxpayer from transferring, through sale and re-
23 purchase agreement, the credit allowed by this sec-
24 tion for qualified alternative fuel motor vehicles

1 which are capable of being powered by compressed
2 or liquefied natural gas.”.

3 (2) INFRASTRUCTURE CREDIT.—Subsection (e)
4 of section 30C of such Code is amended by adding
5 at the end the following new paragraph:

6 “(6) CREDIT MAY BE TRANSFERRED.—Nothing
7 in any law or rule of law shall be construed to limit
8 a taxpayer from transferring the credit allowed by
9 this section through sale and repurchase agree-
10 ments.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply with respect to property placed in
13 service after the date of the enactment of this Act.

14 **SEC. 605. CREDIT FOR PRODUCING VEHICLES FUELED BY**
15 **NATURAL GAS OR LIQUIFIED NATURAL GAS.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 of the Internal Revenue Code of
18 1986 (relating to business related credits), as amended by
19 this Act, is amended by inserting after section 45R the
20 following new section:

21 **“SEC. 45S. PRODUCTION OF VEHICLES FUELED BY NAT-**
22 **URAL GAS OR LIQUIFIED NATURAL GAS.**

23 “(a) IN GENERAL.—For purposes of section 38, in
24 the case of a taxpayer who is a manufacturer of natural
25 gas vehicles, the natural gas vehicle credit determined

1 under this section for any taxable year with respect to
2 each eligible natural gas vehicle produced by the taxpayer
3 during such year is an amount equal to the lesser of—

4 “(1) 10 percent of the manufacturer’s basis in
5 such vehicle, or

6 “(2) \$4,000.

7 “(b) AGGREGATE CREDIT ALLOWED.—The aggre-
8 gate amount of credit allowed under subsection (a) with
9 respect to a taxpayer for any taxable year shall not exceed
10 \$200,000,000 reduced by the amount of the credit allowed
11 under subsection (a) to the taxpayer (or any predecessor)
12 for all prior taxable years.

13 “(c) DEFINITIONS.—For purposes of this section—

14 “(1) ELIGIBLE NATURAL GAS VEHICLE.—The
15 term ‘eligible natural gas vehicle’ means any motor
16 vehicle (as defined in section 30(c)(2))—

17 “(A) which—

18 “(i) is only capable of operating on
19 natural gas or liquefied natural gas, or

20 “(ii) is capable of operating on com-
21 pressed or liquefied natural gas and (but
22 not in combination with) gasoline or diesel
23 fuel, but in no case shall such vehicle have
24 an operating range of less than 200 miles

1 on compressed or liquefied natural gas,
2 and

3 “(B) the final assembly of which is in the
4 United States.

5 “(2) MANUFACTURER.—The term ‘manufac-
6 turer’ has the meaning given such term in regula-
7 tions prescribed by the Administrator of the Envi-
8 ronmental Protection Agency for purposes of the ad-
9 ministration of title II of the Clean Air Act (42
10 U.S.C. 7521 et seq.).

11 “(d) SPECIAL RULES.—For purposes of this sec-
12 tion—

13 “(1) IN GENERAL.—Rules similar to the rules
14 of subsections (c), (d), and (e) of section 52 shall
15 apply.

16 “(2) CONTROLLED GROUPS.—

17 “(A) IN GENERAL.—All persons treated as
18 a single employer under subsection (a) or (b) of
19 section 52 or subsection (m) or (o) of section
20 414 shall be treated as a single producer.

21 “(B) INCLUSION OF FOREIGN CORPORA-
22 TIONS.—For purposes of subparagraph (A), in
23 applying subsections (a) and (b) of section 52
24 to this section, section 1563 shall be applied
25 without regard to subsection (b)(2)(C) thereof.

TITLE VII—CLEAN COAL**2 SEC. 701. COAL-TO-LIQUID FACILITIES.**

3 (a) IN GENERAL.—Section 168 of the Internal Rev-
4 enue Code of 1986 (relating to accelerated cost recovery
5 system) is amended by adding at the end the following:

6 “(o) SPECIAL ALLOWANCE FOR COAL-TO-LIQUID
7 PLANT PROPERTY.—

8 “(1) ADDITIONAL ALLOWANCE.—In the case of
9 any qualified coal-to-liquid plant property—

10 “(A) the depreciation deduction provided
11 by section 167(a) for the taxable year in which
12 such property is placed in service shall include
13 an allowance equal to 50 percent of the ad-
14 justed basis of such property, and

15 “(B) the adjusted basis of such property
16 shall be reduced by the amount of such deduc-
17 tion before computing the amount otherwise al-
18 lowable as a depreciation deduction under this
19 chapter for such taxable year and any subse-
20 quent taxable year.

21 “(2) QUALIFIED COAL-TO-LIQUID PLANT PROP-
22 erty.—

23 “(A) IN GENERAL.—The term ‘qualified
24 coal-to-liquid plant property’ means property of

1 a character subject to the allowance for depre-
2 ciation—

3 “(i) which is part of a commercial-
4 scale project that converts coal to 1 or
5 more liquid or gaseous transportation fuel
6 that demonstrates the capture, and seques-
7 tration or disposal or use of, the carbon di-
8 oxide produced in the conversion process,
9 and that, on the basis of carbon dioxide se-
10 questration plan prepared by the applicant,
11 is certified by the Administrator of the En-
12 vironmental Protection Agency, in con-
13 sultation with the Secretary of Energy, as
14 producing fuel with life cycle carbon diox-
15 ide emissions at or below the average life-
16 cycle carbon dioxide emissions for the same
17 type of fuel produced at traditional petro-
18 leum based facilities with similar annual
19 capacities,

20 “(ii) which is used in the United
21 States solely to produce coal-to-liquid fuels,

22 “(iii) the original use of which com-
23 mences with the taxpayer after the date of
24 the enactment of this subsection,

1 “(iv) which has a nameplate capacity
2 of 30,000 barrels per day production of
3 coal-to-liquid fuels,

4 “(v) which is acquired by the taxpayer
5 by purchase (as defined in section 179(d))
6 after the date of the enactment of this sub-
7 section, but only if no written binding con-
8 tract for the acquisition was in effect on or
9 before the date of the enactment of this
10 subsection, and

11 “(vi) which is placed in service by the
12 taxpayer before January 1, 2013.

13 “(B) EXCEPTIONS.—

14 “(i) ALTERNATIVE DEPRECIATION
15 PROPERTY.—Such term shall not include
16 any property described in section
17 168(k)(2)(D)(i).

18 “(ii) TAX-EXEMPT BOND-FINANCED
19 PROPERTY.—Such term shall not include
20 any property any portion of which is fi-
21 nanced with the proceeds of any obligation
22 the interest on which is exempt from tax
23 under section 103.

24 “(iii) ELECTION OUT.—If a taxpayer
25 makes an election under this subparagraph

1 with respect to any class of property for
2 any taxable year, this subsection shall not
3 apply to all property in such class placed
4 in service during such taxable year.

5 “(3) SPECIAL RULES.—For purposes of this
6 subsection, rules similar to the rules of subpara-
7 graph (E) of section 168(k)(2) shall apply, except
8 that such subparagraph shall be applied—

9 “(A) by substituting ‘the date of the enact-
10 ment of subsection (l)’ for ‘December 31, 2007’
11 each place it appears therein,

12 “(B) by substituting ‘January 1, 2013’ for
13 ‘January 1, 2010’ in clause (i) thereof, and

14 “(C) by substituting ‘qualified coal-to-liq-
15 uid plant property’ for ‘qualified property’ in
16 clause (iv) thereof.

17 “(4) ALLOWANCE AGAINST ALTERNATIVE MIN-
18 IMUM TAX.—For purposes of this subsection, rules
19 similar to the rules of section 168(k)(2)(G) shall
20 apply.

21 “(5) RECAPTURE.—For purposes of this sub-
22 section, rules similar to the rules under section
23 179(d)(10) shall apply with respect to any qualified
24 coal-to-liquid plant property which ceases to be
25 qualified coal-to-liquid plant property.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to property placed in service after
3 the date of the enactment of this Act, in taxable years
4 ending after such date.

5 **SEC. 702. PERMANENT EXTENSION OF THE CREDIT FOR**
6 **NONBUSINESS ENERGY PROPERTY AND THE**
7 **CREDIT FOR GAS PRODUCED FROM BIOMASS**
8 **AND FOR SYNTHETIC FUELS PRODUCED**
9 **FROM COAL.**

10 (a) CREDIT FOR NONBUSINESS ENERGY PROPERTY
11 MADE PERMANENT.—

12 (1) IN GENERAL.—Section 25C of the Internal
13 Revenue Code of 1986 is amended by striking sub-
14 section (g).

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall apply to property placed in
17 service after December 31, 2008.

18 (b) CREDIT FOR GAS PRODUCED FROM BIOMASS
19 AND FOR SYNTHETIC FUELS PRODUCED FROM COAL
20 MADE PERMANENT.—

21 (1) IN GENERAL.—Subparagraph (B) of section
22 45K(f)(1) of such Code is amended to read as fol-
23 lows:

1 “(B) if such facility is originally placed in
2 service after December 31, 1992, paragraph (2)
3 of subsection (e) shall not apply.”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to fuel sold after De-
6 cember 31, 2008.

7 **SEC. 703. COAL-TO-LIQUID FUEL LOAN GUARANTEE PRO-**
8 **GRAM.**

9 (a) ELIGIBLE PROJECTS.—Section 1703(b) of the
10 Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is
11 amended by adding at the end the following:

12 “(11) Large-scale coal-to-liquid facilities (as de-
13 fined in section 101 of the Coal-to-Liquid Fuel Pro-
14 motion Act of 2007) that use a feedstock, the major-
15 ity of which is the coal resources of the United
16 States, to produce not less than 10,000 barrels a
17 day of liquid transportation fuel.”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
19 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514)
20 is amended by adding at the end the following:

21 “(c) COAL-TO-LIQUID PROJECTS.—

22 “(1) IN GENERAL.—There are authorized to be
23 appropriated such sums as are necessary to provide
24 the cost of guarantees for projects involving large-

1 scale coal-to-liquid facilities under section
2 1703(b)(11).

3 “(2) ALTERNATIVE FUNDING.—If no appropria-
4 tions are made available under paragraph (1), an eli-
5 gible applicant may elect to provide payment to the
6 Secretary, to be delivered if and at the time the ap-
7 plication is approved, in the amount of the estimated
8 cost of the loan guarantee to the Federal Govern-
9 ment, as determined by the Secretary.

10 “(3) LIMITATIONS.—

11 “(A) IN GENERAL.—No loan guarantees
12 shall be provided under this title for projects
13 described in paragraph (1) after (as determined
14 by the Secretary)—

15 “(i) the tenth such loan guarantee is
16 issued under this title; or

17 “(ii) production capacity covered by
18 such loan guarantees reaches 100,000 bar-
19 rels per day of coal-to-liquid fuel.

20 “(B) INDIVIDUAL PROJECTS.—

21 “(i) IN GENERAL.—A loan guarantee
22 may be provided under this title for any
23 large-scale coal-to-liquid facility described
24 in paragraph (1) that produces no more

1 than 20,000 barrels of coal-to-liquid fuel
2 per day.

3 “(ii) NON-FEDERAL FUNDING RE-
4 QUIREMENT.—To be eligible for a loan
5 guarantee under this title, a large-scale
6 coal-to-liquid facility described in para-
7 graph (1) that produces more than 20,000
8 barrels per day of coal-to-liquid fuel shall
9 be eligible to receive a loan guarantee for
10 the proportion of the cost of the facility
11 that represents 20,000 barrels of coal-to-
12 liquid fuel per day of production.

13 “(4) REQUIREMENTS.—

14 “(A) GUIDELINES.—Not later than 180
15 days after the date of enactment of this sub-
16 section, the Secretary shall publish guidelines
17 for the coal-to-liquids loan guarantee applica-
18 tion process.

19 “(B) APPLICATIONS.—Not later than 1
20 year after the date of enactment of this sub-
21 section, the Secretary shall begin to accept ap-
22 plications for coal-to-liquid loan guarantees
23 under this subsection.

24 “(C) DEADLINE.—Not later than 1 year
25 from the date of acceptance of an application

1 under subparagraph (B), the Secretary shall
2 evaluate the application and make final deter-
3 minations under this subsection.

4 “(5) REPORTS TO CONGRESS.—The Secretary
5 shall submit to the Committee on Energy and Nat-
6 ural Resources of the Senate and the Committee on
7 Energy and Commerce of the House of Representa-
8 tives a report describing the status of the program
9 under this subsection not later than each of—

10 “(A) 180 days after the date of enactment
11 of this subsection;

12 “(B) 1 year after the date of enactment of
13 this subsection; and

14 “(C) the dates on which the Secretary ap-
15 proves the first and fifth applications for coal-
16 to-liquid loan guarantees under this sub-
17 section.”.

18 **SEC. 704. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.**

19 (a) DEFINITION OF ELIGIBLE RECIPIENT.—In this
20 section, the term “eligible recipient” means an individual,
21 organization, or other entity that owns, operates, or plans
22 to construct a coal-to-liquid facility that will produce at
23 least 10,000 barrels per day of coal-to-liquid fuel.

24 (b) ESTABLISHMENT.—The Secretary shall establish
25 a program under which the Secretary shall provide loans,

1 in a total amount not to exceed \$20,000,000, for use by
2 eligible recipients to pay the Federal share of the cost of
3 obtaining any services necessary for the planning, permit-
4 ting, and construction of a coal-to-liquid facility.

5 (c) APPLICATION.—To be eligible to receive a loan
6 under subsection (b), the eligible recipient shall submit to
7 the Secretary an application at such time, in such manner,
8 and containing such information as the Secretary may re-
9 quire.

10 (d) NON-FEDERAL MATCH.—To be eligible to receive
11 a loan under this section, an eligible recipient shall use
12 non-Federal funds to provide a dollar-for-dollar match of
13 the amount of the loan.

14 (e) REPAYMENT OF LOAN.—

15 (1) IN GENERAL.—To be eligible to receive a
16 loan under this section, an eligible recipient shall
17 agree to repay the original amount of the loan to the
18 Secretary not later than 5 years after the date of the
19 receipt of the loan.

20 (2) SOURCE OF FUNDS.—Repayment of a loan
21 under paragraph (1) may be made from any financ-
22 ing or assistance received for the construction of a
23 coal-to-liquid facility described in subsection (a), in-
24 cluding a loan guarantee provided under section

1 1703(b)(11) of the Energy Policy Act of 2005 (42
2 U.S.C. 16513(b)(11)).

3 (f) REQUIREMENTS.—

4 (1) GUIDELINES.—Not later than 180 days
5 after the date of enactment of this Act, the Sec-
6 retary shall publish guidelines for the coal-to-liquids
7 loan application process.

8 (2) APPLICATIONS.—Not later than 1 year
9 after the date of enactment of this Act, the Sec-
10 retary shall begin to accept applications for coal-to-
11 liquid loans under this section.

12 (g) REPORTS TO CONGRESS.—Not later than each of
13 180 days and 1 year after the date of enactment of this
14 Act, the Secretary shall submit to the Committee on En-
15 ergy and Natural Resources of the Senate and the Com-
16 mittee on Energy and Commerce of the House of Rep-
17 resentatives a report describing the status of the program
18 under this section.

19 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$200,000,000, to remain available until expended.

1 **SEC. 705. 7-YEAR DEPRECIATION FOR CLEAN COAL TECH-**
2 **NOLOGY OR FOR CARBON SEQUESTRATION**
3 **TECHNOLOGY INSTALLED OR RETRO-FIT AT**
4 **POWER-PLANTS.**

5 (a) IN GENERAL.—Subparagraph (C) of section
6 168(e)(3) of the Internal Revenue Code of 1986 is amend-
7 ed by striking “and” at the end of clause (iv), by striking
8 the period at the end of clause (v) and inserting “, and”,
9 and by inserting after clause (v) the following new clause:

10 “(v) any property installed with re-
11 spect to any coal fired power plant gener-
12 ating power that retrofits the operation of
13 such plant to decrease its carbon output by
14 at least 10 percent per year.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to property placed in service
17 after December 31, 2009.

18 **SEC. 706. EXTENSION OF 50 CENT PER GALLON ALTER-**
19 **NATIVE FUELS EXCISE TAX CREDIT.**

20 Paragraph (5) of section 6426(d) of the Internal Rev-
21 enue Code of 1986 is amended—

22 (1) by striking “2009” and inserting “2019”,
23 and

24 (2) by striking “2014” and inserting “2024”.

1 **SEC. 707. PROVIDES A 20 PERCENT INVESTMENT TAX CRED-**
2 **IT CAPPED AT \$200 MILLION TOTAL PER CTL**
3 **PLANT PLACED IN SERVICE BEFORE 2016.**

4 The Internal Revenue Service shall treat the syn-
5 thetic gas produced from coal-to-liquids with the same tax
6 treatment as covered by the industrial gasification tax
7 credit.

8 **SEC. 708. REDUCES RECOVERY PERIOD FOR CERTAIN EN-**
9 **ERGY PRODUCTION AND DISTRIBUTION FA-**
10 **CILITIES.**

11 In the case of an individual or business, there shall
12 be allowed as a credit against the taxes imposed by sub-
13 title A of the Internal Revenue Code of 1986 an amount
14 equal to 30 percent of the expenditures made by such indi-
15 vidual or business for energy production and distribution
16 facilities.

17 **SEC. 709. DOE CLEAN COAL TECHNOLOGY LOAN GUARAN-**
18 **TEES AND DIRECT LOANS.**

19 The Secretary of Energy may provide clean coal tech-
20 nology loan guarantees and direct loans for the research,
21 development, demonstration, and deployment of clean coal
22 technology, to build up to five commercial-scale coal-fired
23 plants with carbon capture and sequestration capabilities.
24 For each such loan guarantee or loan, at least 50 percent
25 of the total cost of the project shall be provided by the
26 private sector.

1 **SEC. 710. CARBON DIOXIDE STORAGE CAPACITY ASSESS-**
2 **MENT.**

3 (a) DEFINITIONS.—In this section:

4 (1) ASSESSMENT.—The term “assessment”
5 means the national assessment of capacity for car-
6 bon dioxide completed under subsection (f).

7 (2) CAPACITY.—The term “capacity” means the
8 portion of a storage formation that can retain car-
9 bon dioxide in accordance with the requirements (in-
10 cluding physical, geological, and economic require-
11 ments) established under the methodology developed
12 under subsection (b).

13 (3) ENGINEERED HAZARD.—The term “engi-
14 neered hazard” includes the location and completion
15 history of any well that could affect potential stor-
16 age.

17 (4) RISK.—The term “risk” includes any risk
18 posed by geomechanical, geochemical,
19 hydrogeological, structural, and engineered hazards.

20 (5) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior, acting through the Di-
22 rector of the United States Geological Survey.

23 (6) STORAGE FORMATION.—The term “storage
24 formation” means a deep saline formation,
25 unmineable coal seam, or oil or gas reservoir that is

1 capable of accommodating a volume of industrial
2 carbon dioxide.

3 (b) METHODOLOGY.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary shall develop
5 a methodology for conducting an assessment under sub-
6 section (f), taking into consideration—

7 (1) the geographical extent of all potential stor-
8 age formations in all States;

9 (2) the capacity of the potential storage forma-
10 tions;

11 (3) the injectivity of the potential storage for-
12 mations;

13 (4) an estimate of potential volumes of oil and
14 gas recoverable by injection and storage of industrial
15 carbon dioxide in potential storage formations;

16 (5) the risk associated with the potential stor-
17 age formations; and

18 (6) the Carbon Sequestration Atlas of the
19 United States and Canada that was completed by
20 the Department of Energy in April 2006.

21 (c) COORDINATION.—

22 (1) FEDERAL COORDINATION.—

23 (A) CONSULTATION.—The Secretary shall
24 consult with the Secretary of Energy and the
25 Administrator of the Environmental Protection

1 Agency on issues of data sharing, format, devel-
2 opment of the methodology, and content of the
3 assessment required under this title to ensure
4 the maximum usefulness and success of the as-
5 sessment.

6 (B) COOPERATION.—The Secretary of En-
7 ergy and the Administrator shall cooperate with
8 the Secretary to ensure, to the maximum extent
9 practicable, the usefulness and success of the
10 assessment.

11 (2) STATE COORDINATION.—The Secretary
12 shall consult with State geological surveys and other
13 relevant entities to ensure, to the maximum extent
14 practicable, the usefulness and success of the assess-
15 ment.

16 (d) EXTERNAL REVIEW AND PUBLICATION.—On
17 completion of the methodology under subsection (b), the
18 Secretary shall—

19 (1) publish the methodology and solicit com-
20 ments from the public and the heads of affected
21 Federal and State agencies;

22 (2) establish a panel of individuals with exper-
23 tise in the matters described in paragraphs (1)
24 through (5) of subsection (b) composed, as appro-
25 priate, of representatives of Federal agencies, insti-

1 tutions of higher education, nongovernmental organi-
2 zations, State organizations, industry, and inter-
3 national geoscience organizations to review the
4 methodology and comments received under para-
5 graph (1); and

6 (3) on completion of the review under para-
7 graph (2), publish in the Federal Register the re-
8 vised final methodology.

9 (e) PERIODIC UPDATES.—The methodology devel-
10 oped under this section shall be updated periodically (in-
11 cluding at least once every 5 years) to incorporate new
12 data as the data becomes available.

13 (f) NATIONAL ASSESSMENT.—

14 (1) IN GENERAL.—Not later than 2 years after
15 the date of publication of the methodology under
16 subsection (d)(1), the Secretary, in consultation with
17 the Secretary of Energy and State geological sur-
18 veys, shall complete a national assessment of capac-
19 ity for carbon dioxide in accordance with the meth-
20 odology.

21 (2) GEOLOGICAL VERIFICATION.—As part of
22 the assessment under this subsection, the Secretary
23 shall carry out a drilling program to supplement the
24 geological data relevant to determining storage ca-

1 capacity of carbon dioxide in geological storage forma-
2 tions, including—

3 (A) well log data;

4 (B) core data; and

5 (C) fluid sample data.

6 (3) PARTNERSHIP WITH OTHER DRILLING PRO-
7 GRAMS.—As part of the drilling program under
8 paragraph (2), the Secretary shall enter, as appro-
9 priate, into partnerships with other entities to collect
10 and integrate data from other drilling programs rel-
11 evant to the storage of carbon dioxide in geologic
12 formations.

13 (4) INCORPORATION INTO NATCARB.—

14 (A) IN GENERAL.—On completion of the
15 assessment, the Secretary of Energy shall incor-
16 porate the results of the assessment using the
17 NatCarb database, to the maximum extent
18 practicable.

19 (B) RANKING.—The database shall include
20 the data necessary to rank potential storage
21 sites for capacity and risk, across the United
22 States, within each State, by formation, and
23 within each basin.

24 (5) REPORT.—Not later than 180 days after
25 the date on which the assessment is completed, the

1 Secretary shall submit to the Committee on Energy
2 and Natural Resources of the Senate and the Com-
3 mittee on Science and Technology of the House of
4 Representatives a report describing the findings
5 under the assessment.

6 (6) PERIODIC UPDATES.—The national assess-
7 ment developed under this section shall be updated
8 periodically (including at least once every 5 years) to
9 support public and private sector decisionmaking.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to carry out this section
12 \$30,000,000 for the period of fiscal years 2009 through
13 2013.

14 **SEC. 711. EFFICIENCY AUDIT AND QUANTIFICATION.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of this Act, the Secretary of Energy
17 (referred to in this section as the “Secretary”) shall con-
18 duct an efficiency audit, and quantify the operating effi-
19 ciencies, of all coal-fired electric generation facilities in the
20 United States.

21 (b) REPORT.—Not later than 180 days after the date
22 of completion of the audit and quantification under sub-
23 section (a), the Secretary, in consultation with the Admin-
24 istrator of the Environmental Protection Agency, shall
25 submit to the Committees on Energy and Natural Re-

1 sources and Environment and Public Works of the Senate
2 and the Committee on Energy and Commerce of the
3 House of Representatives, a report that—

4 (1) identifies all commercially available tech-
5 nologies, processes, and other approaches to increas-
6 ing the efficiency of the coal-fired electric generation
7 facilities audited;

8 (2) includes a methodology for determining
9 which technologies and processes, in the absence of
10 the obstacles identified under paragraph (3), would
11 be sufficiently cost effective to recoup all costs of the
12 technologies and processes in not more than 5 years
13 after the date of installation or implementation, re-
14 spectively, of the technologies or processes;

15 (3) identifies the technical, economic, regu-
16 latory, environmental, and other obstacles to coal-
17 fired electric generation facilities undertaking the in-
18 stallation of the technologies or incorporation of the
19 processes described in paragraph (2);

20 (4) includes recommendations as to legislative,
21 administrative, and other actions that could reduce
22 or eliminate the obstacles identified under paragraph
23 (3); and

24 (5) includes calculations of—

1 (A) the additional power to be expected
2 from the installation or implementation of those
3 technologies and processes that are considered
4 to be economic under the methodology described
5 in paragraph (2); and

6 (B) the greenhouse gas emissions that are
7 or could be avoided through installation or im-
8 plementation of those technologies and proc-
9 esses.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary to carry out this section.

13 **TITLE VIII—TAX INCENTIVES**

14 **SEC. 801. EXTENSION OF CREDIT FOR ENERGY EFFICIENT** 15 **APPLIANCES.**

16 (a) IN GENERAL.—Subsection (b) of section 45M of
17 the Internal Revenue Code of 1986 (relating to applicable
18 amount) is amended—

19 (1) in paragraphs (1)(A), (2)(B), and (3)(B),
20 by striking “in calendar year 2008 or 2009” each
21 place it appears and inserting “after calendar year
22 2007”,

23 (2) in paragraphs (1)(B), (2)(C), (2)(D),
24 (3)(C), and (3)(D), by striking “in calendar year

1 2008, 2009, or 2010” and inserting “after calendar
2 year 2007”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to appliances produced after De-
5 cember 31, 2009.

6 **SEC. 802. EXTENSION OF CREDIT FOR NONBUSINESS EN-**
7 **ERGY PROPERTY.**

8 Section 25C of the Internal Revenue Code of 1986
9 is amended by striking subsection (g).

10 **SEC. 803. EXTENSION OF CREDIT FOR RESIDENTIAL EN-**
11 **ERGY EFFICIENT PROPERTY.**

12 Section 25D of the Internal Revenue Code of 1986
13 is amended by striking subsection (g).

14 **SEC. 804. EXTENSION OF NEW ENERGY EFFICIENT HOME**
15 **CREDIT.**

16 Section 45L of the Internal Revenue Code of 1986
17 is amended by striking subsection (g).

18 **SEC. 805. EXTENSION OF ENERGY EFFICIENT COMMERCIAL**
19 **BUILDINGS DEDUCTION.**

20 Section 179D of the Internal Revenue Code of 1986
21 is amended by striking subsection (h).

1 **SEC. 806. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
2 **FERC AND STATE ELECTRIC RESTRUC-**
3 **TURING POLICY.**

4 Paragraph (3) of section 451(i) of the Internal Rev-
5 enue Code of 1986 is amended by striking “before Janu-
6 ary 1, 2008 (before January 1, 2010, in the case of a
7 qualified electric utility),”.

8 **SEC. 807. HOME ENERGY AUDITS.**

9 (a) IN GENERAL.—Subpart A of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of
11 1986 is amended by inserting after section 25D the fol-
12 lowing new section:

13 **“SEC. 25E. HOME ENERGY AUDITS.**

14 “(a) IN GENERAL.—In the case of an individual,
15 there shall be allowed as a credit against the tax imposed
16 by this chapter for the taxable year an amount equal to
17 50 percent of the amount of qualified energy audit paid
18 or incurred by the taxpayer during the taxable year.

19 “(b) LIMITATIONS.—

20 “(1) DOLLAR LIMITATION.—The amount al-
21 lowed as a credit under subsection (a) with respect
22 to a residence of the taxpayer for a taxable year
23 shall not exceed \$400.

24 “(2) LIMITATION BASED ON AMOUNT OF
25 TAX.—In the case of any taxable year to which sec-

1 tion 26(a)(2) does not apply, the credit allowed
2 under subsection (a) shall not exceed the excess of—

3 “(A) the sum of the regular tax liability
4 (as defined in section 26(b)) plus the tax im-
5 posed by section 55, over

6 “(B) the sum of the credits allowable
7 under this subpart (other than this section) and
8 section 27 for the taxable year.

9 “(c) QUALIFIED ENERGY AUDIT.—For purposes of
10 this section, the term ‘qualified energy audit’ means an
11 energy audit of the principal residence of the taxpayer per-
12 formed by a qualified energy auditor through a com-
13 prehensive site visit. Such audit may include a blower door
14 test, an infra-red camera test, and a furnace combustion
15 efficiency test. In addition, such audit shall include such
16 substitute tests for the tests specified in the preceding sen-
17 tence, and such additional tests, as the Secretary may by
18 regulation require. A principal residence shall not be taken
19 into consideration under this subparagraph unless such
20 residence is located in the United States.

21 “(d) PRINCIPAL RESIDENCE.—For purposes of this
22 section, the term ‘principal residence’ has the same mean-
23 ing as when used in section 121.

24 “(e) QUALIFIED ENERGY AUDITOR.—

1 “(1) IN GENERAL.—The Secretary shall specify
2 by regulations the qualifications required to be a
3 qualified energy auditor for purposes of this section.
4 Such regulations shall include rules prohibiting con-
5 flicts-of-interest, including the disallowance of com-
6 missions or other payments based on goods or non-
7 audit services purchased by the taxpayer from the
8 auditor.

9 “(2) CERTIFICATION.—The Secretary shall pre-
10 scribe the procedures and methods for certifying
11 that an auditor is a qualified energy auditor. To the
12 maximum extent practicable, such procedures and
13 methods shall provide for a variety of sources to ob-
14 tain certifications.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 23(b)(4)(B) of the Internal Revenue
17 Code of 1986 is amended by inserting “and section
18 25E” after “this section”.

19 (2) Section 23(c)(1) of such Code is amended
20 by inserting “, 25E,” after “25D”.

21 (3) Section 24(b)(3)(B) of such Code is amend-
22 ed by striking “and 25B” and inserting “, 25B, and
23 25E”.

1 (4) Clauses (i) and (ii) of section 25(e)(1)(C) of
2 such Code are each amended by inserting “25E,”
3 after “25D,”.

4 (5) Section 25B(g)(2) of such Code is amended
5 by striking “section 23” and inserting “sections 23
6 and 25E”.

7 (6) Section 25D(c)(1) of such Code is amended
8 by inserting “and section 25E” after “this section”.

9 (7) Section 25D(c)(2) of such Code is amended
10 by striking “and 25B” and inserting “25B, and
11 25E”.

12 (8) The table of sections for subpart A of part
13 IV of subchapter A chapter 1 of such Code is
14 amended by inserting after the item relating to sec-
15 tion 25D the following new item:

“Sec. 25E. Home energy audits.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts paid or incurred in tax-
18 able years beginning after the date of the enactment of
19 this Act.

20 **SEC. 808. EXTENSION OF RENEWABLE ELECTRICITY, RE-**
21 **FINED COAL, AND INDIAN COAL PRODUCTION**
22 **CREDIT.**

23 (a) CREDIT MADE PERMANENT.—

1 (1) IN GENERAL.—Subsection (d) of section 45
2 of the Internal Revenue Code of 1986 (relating to
3 qualified facilities) is amended—

4 (A) by striking “and before January 1,
5 2014” each place it occurs,

6 (B) by striking “, and before January 1,
7 2014” in paragraphs (1) and (2)(A)(i), and

8 (C) by striking “before January 1, 2009”
9 in paragraph (10).

10 (2) OPEN-LOOP BIOMASS FACILITIES.—Sub-
11 paragraph (A) of section 45(d)(3) of such Code is
12 amended to read as follows:

13 “(A) IN GENERAL.—In the case of a facil-
14 ity using open-loop biomass to produce elec-
15 tricity, the term ‘qualified facility’ means any
16 facility owned by the taxpayer which is origi-
17 nally placed in service after October 22, 2004.”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to electricity produced
20 and sold after December 31, 2008, in taxable years
21 ending after such date.

22 (b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM
23 TAX.—

24 (1) IN GENERAL.—Clause (iii) of section
25 38(c)(4)(B) of such Code (relating to specified cred-

1 its) is amended by striking “produced—” and all
2 that follows and inserting “produced at a facility
3 which is originally placed in service after the date of
4 the enactment of this paragraph.”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall apply to taxable years begin-
7 ning after the date of the enactment of this Act.

8 **SEC. 809. EXTENSION OF ENERGY CREDIT.**

9 (a) SOLAR ENERGY PROPERTY.—Paragraphs
10 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) of the Internal
11 Revenue Code of 1986 (relating to energy credit) are each
12 amended by striking “but only with respect to periods end-
13 ing before January 1, 2017”.

14 (b) FUEL CELL PROPERTY.—Section 48(c)(1) of
15 such Code (relating to qualified fuel cell property) is
16 amended by striking subparagraph (D).

17 (c) MICROTURBINE PROPERTY.—Section 48(c)(2) of
18 such Code (relating to qualified microturbine property) is
19 amended by striking subparagraph (D).

20 (d) COMBINED HEAT AND POWER SYSTEM PROP-
21 erty.—Section 48(c)(3) of such Code (relating to com-
22 bined heat and power system property) is amended by in-
23 serting “and” at the end of clause (ii), by striking “, and”
24 at the end of clause (iii) and inserting a period, and by
25 striking clause (iv).

1 **SEC. 810. CREDIT FOR CLEAN RENEWABLE ENERGY BONDS**
2 **MADE PERMANENT.**

3 Section 54 of the Internal Revenue Code of 1986 (re-
4 lating to termination) is amended by striking subsection
5 (m).

6 **SEC. 811. EXTENSION OF CREDITS FOR BIODIESEL AND RE-**
7 **NEWABLE DIESEL.**

8 (a) **IN GENERAL.**—Section 40A of the Internal Rev-
9 enue Code of 1986 is amended by striking subsection (g).

10 (b) **BIODIESEL MIXTURE CREDIT.**—

11 (1) Section 6426(c) of the Internal Revenue
12 Code of 1986 is amended by striking paragraph (6).

13 (2) Section 6427(e)(5) of the Internal Revenue
14 Code of 1986 is amended by striking subparagraph
15 (B) and redesignating subparagraphs (C) and (D)
16 as subparagraphs (B) and (C), respectively.

17 **SEC. 812. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
18 **ERTY CREDIT MADE PERMANENT.**

19 Section 30C of the Internal Revenue Code of 1986
20 is amended by striking subsection (g).

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