

116TH CONGRESS
1ST SESSION

H. R. 4294

To empower States to manage the development and production of oil and gas on available Federal land, to distribute revenues from oil and gas leasing on the Outer Continental Shelf to certain coastal States, to promote alternative energy development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 2019

Mr. SCALISE (for himself, Mr. BISHOP of Utah, Ms. CHENEY, Mr. GOSAR, Mr. DUNCAN, and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To empower States to manage the development and production of oil and gas on available Federal land, to distribute revenues from oil and gas leasing on the Outer Continental Shelf to certain coastal States, to promote alternative energy development, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Energy First Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is the following:

Sec. 1. Short title; table of contents.

TITLE I—ONSHORE OIL AND GAS

- Sec. 101. Cooperative federalism in oil and gas permitting on available Federal land.
- Sec. 102. Conveyance to certain States of property interest in State share of royalties and other payments.
- Sec. 103. Access to Federal oil and gas from non-Federal surface estate.
- Sec. 104. State and Tribal authority for hydraulic fracturing regulation.
- Sec. 105. Review of Integrated Activity Plan for the National Petroleum Reserve in Alaska.
- Sec. 106. Protested lease sales.
- Sec. 107. Clarification regarding liability under Migratory Bird Treaty Act.
- Sec. 108. Amendments to the Energy Policy Act of 2005.
- Sec. 109. Administrative protest process reform.
- Sec. 110. Notifications of permit to drill.

TITLE II—OFFSHORE OIL AND GAS

- Sec. 201. Limitation of authority of the President to withdraw areas of the Outer Continental Shelf from oil and gas leasing.
- Sec. 202. Disposition of revenues from oil and gas leasing on the Outer Continental Shelf to Atlantic States and Alaska.
- Sec. 203. Distribution of Outer Continental Shelf revenues to Gulf producing States.
- Sec. 204. Addressing permits for taking of marine mammals.
- Sec. 205. Energy Development in the Eastern Gulf of Mexico.

TITLE III—ALTERNATIVE ENERGY

- Sec. 301. Geothermal, solar, and wind leasing priority areas.
- Sec. 302. Geothermal production on Federal lands.
- Sec. 303. Facilitation of coproduction of geothermal energy on oil and gas leases.
- Sec. 304. Noncompetitive leasing of adjoining areas for development of geothermal resources.
- Sec. 305. Application of Outer Continental Shelf Lands Act with respect to territories of the United States.
- Sec. 306. Disposition of revenues with respect to territories of the United States.
- Sec. 307. Wind lease sales for areas of Outer Continental Shelf.
- Sec. 308. Establishment of Coral Reef Conservation Fund.

TITLE IV—LIMITATIONS ON LEASING MORATORIUMS

- Sec. 401. Coal leases.
- Sec. 402. Congressional authority requirement.

1 **TITLE I—ONSHORE OIL AND GAS**

2 **SEC. 101. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
 3 **MITTING ON AVAILABLE FEDERAL LAND.**

4 (a) IN GENERAL.—The Mineral Leasing Act (30
 5 U.S.C. 181 et seq.) is amended—

6 (1) by redesignating section 44 as section 48;

7 and

8 (2) by adding after section 43 the following new
 9 section:

10 **“SEC. 44. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
 11 **MITTING ON AVAILABLE FEDERAL LAND.**

12 “(a) AUTHORIZATIONS.—

13 “(1) IN GENERAL.—Upon receipt of an applica-
 14 tion under subsection (b), the Secretary may dele-
 15 gate to a State exclusive authority—

16 “(A) to issue an Application for Permit to
 17 Drill on available Federal land; or

18 “(B) to approve drilling plans on available
 19 Federal land.

20 “(2) SUNDRY NOTICES.—Any authorization
 21 under paragraph (1) may, upon the request of the
 22 State, include authority to process sundry notices.

23 “(3) INSPECTION AND ENFORCEMENT.—Any
 24 authorization under paragraph (1) may, upon the re-
 25 quest of the State, include authorization to inspect

1 and enforce an Application for Permit to Drill or
2 drilling plan, as applicable. An authorization under
3 paragraph (1)(A) shall not affect the ability of the
4 Secretary to collect inspection fees under section
5 108(d) of the Federal Oil and Gas Royalty Manage-
6 ment Act of 1982 (30 U.S.C. 1718(d)).

7 “(b) STATE APPLICATION PROCESS.—

8 “(1) SUBMISSION OF APPLICATION.—A State
9 may submit an application under subparagraph (A)
10 or (B) of subsection (a)(1) to the Secretary at such
11 time and in such manner as the Secretary may re-
12 quire.

13 “(2) CONTENT OF APPLICATION.—An applica-
14 tion submitted under this subsection shall include—

15 “(A) a description of the State program
16 that the State proposes to administer under
17 State law, including a State drilling plan; and

18 “(B) a statement from the Governor or At-
19 torney General of such State that the laws of
20 such State provide adequate authority to carry
21 out the State program.

22 “(3) DEADLINE FOR APPROVAL OR DIS-
23 APPROVAL.—Not later than 180 days after the date
24 of receipt of an application under this subsection,

1 the Secretary shall approve or disapprove such appli-
2 cation.

3 “(4) CRITERIA FOR APPROVAL.—The Secretary
4 may approve an application received under this sub-
5 section only if the Secretary has—

6 “(A) determined that the State applicant
7 would be at least as effective as the Secretary
8 in issuing Applications for Permit to Drill or in
9 approving drilling plans, as applicable;

10 “(B) determined that the State program of
11 the State applicant—

12 “(i) complies with this Act; and

13 “(ii) provides for the termination or
14 modification of an issued Application for
15 Permit to Drill or approved drilling plan,
16 as applicable, for cause, including for—

17 “(I) the violation of any condi-
18 tion of the issued Application for Per-
19 mit to Drill or approved drilling plan;

20 “(II) obtaining the issued Appli-
21 cation for Permit to Drill or approved
22 drilling plan by misrepresentation; or

23 “(III) failure to fully disclose in
24 the application all relevant facts;

1 “(C) determined that the State applicant
2 has sufficient administrative and technical per-
3 sonnel and sufficient funding to carry out the
4 State program;

5 “(D) provided notice to the public, solicited
6 public comment, and held a public hearing with-
7 in such State;

8 “(E) determined that approval of the ap-
9 plication would not result in decreased royalty
10 payments owed to the United States under sec-
11 tion 35(a), except as provided in subsection (e)
12 of that section; and

13 “(F) in the case of a State applicant seek-
14 ing authority under subsection (a)(3) to inspect
15 and enforce Applications for Permit to Drill or
16 drilling plans, as applicable, entered into a
17 memorandum of understanding with such State
18 applicant that delineates the Federal and State
19 responsibilities with respect to such inspection
20 and enforcement.

21 “(5) DISAPPROVAL.—If the Secretary dis-
22 approves an application submitted under this sub-
23 section, then the Secretary shall—

24 “(A) notify, in writing, such State appli-
25 cant of the reason for the disapproval and any

1 revisions or modifications necessary to obtain
2 approval; and

3 “(B) provide any additional information,
4 data, or analysis upon which the disapproval is
5 based.

6 “(6) RESUBMITTAL OF APPLICATION.—A State
7 may resubmit an application under this subsection
8 at any time.

9 “(7) STATE MEMORANDUM OF UNDER-
10 STANDING.—Before a State submits an application
11 under this subsection, the Secretary may, at the re-
12 quest of such State, enter into a memorandum of
13 understanding with such State regarding the pro-
14 posed State program—

15 “(A) to delineate the Federal and State re-
16 sponsibilities for oil and gas regulations;

17 “(B) to provide technical assistance; and

18 “(C) to share best management practices.

19 “(c) ADMINISTRATIVE FEES FOR APPLICATIONS FOR
20 PERMIT TO DRILL.—

21 “(1) IN GENERAL.—A State for which authority
22 has been delegated under subsection (a)(1)(A) may
23 collect a fee for each application for an Application
24 for Permit to Drill that is submitted to the State.

1 “(2) NO COLLECTION OF FEE BY SEC-
2 RETARY.—The Secretary may not collect a fee from
3 the applicant or from the State for an application
4 for an Application for Permit to Drill that is sub-
5 mitted to a State for which authority has been dele-
6 gated under subsection (a)(1)(A).

7 “(3) FEE AMOUNT.—The fee collected under
8 paragraph (1) shall be less than or equal to the
9 amount of the fee described in section 35(d)(2).

10 “(4) USE.—A State shall use 100 percent of
11 the fees collected under this subsection for the ad-
12 ministration of the approved State program of the
13 State.

14 “(d) VOLUNTARY TERMINATION OF AUTHORITY.—A
15 State may voluntarily terminate any authority delegated
16 to such State under subsection (a) upon providing written
17 notice to the Secretary 60 days in advance of the date
18 of termination. Upon expiration of such 60-day period, the
19 Secretary shall resume any activities for which authority
20 was delegated to the State under subsection (a).

21 “(e) APPEAL OF DENIAL OF APPLICATION FOR AP-
22 PLICATION FOR PERMIT TO DRILL OR APPLICATION FOR
23 APPROVAL OF DRILLING PLAN.—

24 “(1) IN GENERAL.—If a State for which the
25 Secretary has delegated authority under subsection

1 (a)(1) denies an application for an Application for
2 Permit to Drill or an application for approval of a
3 drilling plan, the applicant may appeal such decision
4 to the Department of the Interior Office of Hearings
5 and Appeals.

6 “(2) FEE ALLOWED.—The Secretary may
7 charge the applicant a fee for the appeal referred to
8 in paragraph (1).

9 “(f) FEDERAL ADMINISTRATION OF STATE PRO-
10 GRAM.—

11 “(1) NOTIFICATION.—If the Secretary has rea-
12 son to believe that a State is not administering or
13 enforcing an approved State program, the Secretary
14 shall notify the relevant State regulatory authority
15 of any possible deficiencies.

16 “(2) STATE RESPONSE.—Not later than 30
17 days after the date on which a State receives notifi-
18 cation of a possible deficiency under paragraph (1),
19 the State shall—

20 “(A) take appropriate action to correct the
21 possible deficiency; and

22 “(B) notify the Secretary of the action in
23 writing.

24 “(3) DETERMINATION.—

1 “(A) IN GENERAL.—On expiration of the
2 30-day period referred to in paragraph (2), if
3 the Secretary determines that a violation of all
4 or any part of an approved State program has
5 resulted from a failure of the State to admin-
6 ister or enforce the approved State program of
7 the State or that the State has not dem-
8 onstrated its capability and intent to administer
9 or enforce such a program, the Secretary shall
10 issue public notice of such a determination.

11 “(B) APPEAL.—A State may appeal the
12 determination of the Secretary under subpara-
13 graph (A) in the applicable United States Dis-
14 trict Court. The Secretary may not resume ac-
15 tivities under paragraph (4) pending the resolu-
16 tion of the appeal.

17 “(4) RESUMPTION BY SECRETARY.—Subject to
18 paragraph (3)(B), 30 days after the date on which
19 the Secretary issues the public notice described in
20 paragraph 3(A), the Secretary shall resume any ac-
21 tivities for which authority was delegated to the
22 State during the period—

23 “(A) beginning on the date 30 days after
24 the date on which the Secretary issues the pub-
25 lic notice under paragraph (3)(A); and

1 “(B) ending on the date on which the Sec-
2 retary determines that the State will administer
3 or enforce, as applicable, such State’s approved
4 State program.

5 “(5) STANDING.—States with approved regu-
6 latory programs shall have standing to sue the Sec-
7 retary for any action taken under this subsection.

8 “(g) DEFINITIONS.—In this section:

9 “(1) AVAILABLE FEDERAL LAND.—The term
10 ‘available Federal land’ means any Federal land
11 that—

12 “(A) is located within the boundaries of a
13 State;

14 “(B) is not held by the United States in
15 trust for the benefit of a federally recognized
16 Indian Tribe or a member of such an Indian
17 Tribe;

18 “(C) is not a unit of the National Park
19 System;

20 “(D) is not a unit of the National Wildlife
21 Refuge System, except for the portion of such
22 unit for which oil and gas drilling is allowed
23 under law;

1 “(E) is not a congressionally approved wil-
2 derness area under the Wilderness Act (16
3 U.S.C. 1131 et seq.); and

4 “(F) has been identified as land available
5 for lease or has been leased for the exploration,
6 development, and production of oil and gas—

7 “(i) by the Bureau of Land Manage-
8 ment under—

9 “(I) a resource management plan
10 under the process provided for in the
11 Federal Land Policy and Management
12 Act of 1976 (43 U.S.C. 1701 et seq.);
13 or

14 “(II) an integrated activity plan
15 with respect to the National Petro-
16 leum Reserve in Alaska; or

17 “(ii) by the Forest Service under a
18 National Forest management plan under
19 the Forest and Rangeland Renewable Re-
20 sources Planning Act of 1974 (16 U.S.C.
21 1600 et seq.).

22 “(2) DRILLING PLAN.—The term ‘drilling plan’
23 means a plan described under section 3162.3–1(e) of
24 title 43, Code of Federal Regulations (or successor
25 regulation).

1 “(3) APPLICATION FOR PERMIT TO DRILL.—

2 The term ‘Application for Permit to Drill’ or ‘Appli-
3 cations for Permit to Drill’ means a permit—

4 “(A) that grants authority to drill for oil
5 and gas; and

6 “(B) for which an application has been re-
7 ceived that contains—

8 “(i) a drilling plan;

9 “(ii) a surface use plan of operations
10 described under section 3162.3–1(f) of title
11 43, Code of Federal Regulations (or suc-
12 cessor regulation);

13 “(iii) evidence of bond coverage; and

14 “(iv) such other information as may
15 be required by applicable orders and no-
16 tices.

17 “(4) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of the Interior.

19 “(5) STATE.—The term ‘State’ means each of
20 the several States.

21 “(6) STATE APPLICANT.—The term ‘State ap-
22 plicant’ means a State that has submitted an appli-
23 cation under subsection (b).

1 “(7) STATE PROGRAM.—The term ‘State pro-
2 gram’ means a program that provides for a State
3 to—

4 “(A) issue Applications for Permit to Drill
5 or approve drilling plans, as applicable, on
6 available Federal land; and

7 “(B) impose sanctions for violations of
8 State laws, regulations, or any condition of an
9 issued Application for Permit to Drill or ap-
10 proved drilling plan, as applicable.

11 “(8) SUNDRY NOTICE.—The term ‘sundry no-
12 tice’ means a written request—

13 “(A) to perform work not covered under an
14 Application for Permit to Drill or drilling plan;
15 or

16 “(B) for a change to operations covered
17 under a an Application for Permit to Drill or
18 drilling plan.”.

19 (b) INSPECTION FEES.—Section 108 of the Federal
20 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
21 1718) is amended by adding at the end the following:

22 “(d) INSPECTION FEES FOR CERTAIN STATES.—

23 “(1) IN GENERAL.—The Secretary shall con-
24 duct inspections of operations under each oil and gas
25 lease. The Secretary shall collect annual nonrefund-

1 able inspection fees in the amount specified in para-
2 graph (2), from each designated operator under each
3 oil and gas lease on Federal that is subject to in-
4 spection under subsection (b) and that is located in
5 a State for which the Secretary has delegated au-
6 thority under section 44(a)(1)(A) of the Mineral
7 Leasing Act.

8 “(2) AMOUNT.—The amount of the fees col-
9 lected under paragraph (1) shall be—

10 “(A) \$700 for each lease or unit or
11 communitization agreement with no active or
12 inactive wells, but with surface use, disturbance
13 or reclamation;

14 “(B) \$1,225 for each lease or unit or
15 communitization agreement with 1 to 10 wells,
16 with any combination of active or inactive wells;

17 “(C) \$4,900 for each lease or unit or
18 communitization agreement with 11 to 50 wells,
19 with any combination of active or inactive wells;
20 and

21 “(D) \$9,800 for each lease or unit or
22 communitization agreement with more than 50
23 wells, with any combination of active or inactive
24 wells.

1 “(3) ONSHORE ENERGY SAFETY FUND.—There
2 is established in the Treasury a fund, to be known
3 as the ‘Onshore Energy Safety Fund’ (referred to in
4 this subsection as the ‘Fund’), into which shall be
5 deposited all amounts collected as fees under para-
6 graph (1) and which shall be available as provided
7 under paragraph (4).

8 “(4) AVAILABILITY OF FEES.—Notwithstanding
9 section 3302 of title 31, United States Code, all
10 amounts deposited in the Fund—

11 “(A) shall be credited as offsetting collec-
12 tions;

13 “(B) shall be available for expenditure for
14 purposes of carrying out inspections of onshore
15 oil and gas operations in those States for which
16 the Secretary has delegated authority under
17 section 44(a)(1)(A) of the Mineral Leasing Act;

18 “(C) shall be available only to the extent
19 provided for in advance in an appropriations
20 Act; and

21 “(D) shall remain available until expended.

22 “(5) PAYMENT DUE DATE.—The Secretary
23 shall require payment of any fee assessed under this
24 subsection within 30 days after the Secretary pro-

1 vides notice of the assessment of the fee after the
2 completion of an inspection.

3 “(6) PENALTY.—If a designated operator as-
4 sessed a fee under this subsection fails to pay the
5 full amount of the fee as prescribed in this sub-
6 section, the Secretary may, in addition to utilizing
7 any other applicable enforcement authority, assess
8 civil penalties against the operator under section 109
9 in the same manner as if this section were a mineral
10 leasing law.

11 “(7) NOTIFICATION TO STATE OF NONCOMPLI-
12 ANCE.—If, on the basis of any inspection under sub-
13 section (b), the Secretary determines that an oper-
14 ator is in noncompliance with the requirements of
15 mineral leasing laws and this chapter, the Secretary
16 shall notify the State of such noncompliance imme-
17 diately.”.

18 (c) EXISTING AUTHORITIES.—Section 390(a) of the
19 Energy Policy Act of 2005 (42 U.S.C. 15942(a)) is
20 amended—

21 (1) by striking “Action by the Secretary of the
22 Interior” and inserting “The Secretary of the Inte-
23 rior,”;

24 (2) by inserting a comma after “Agriculture”;

1 (3) by striking “with respect to any of the ac-
 2 tivities described in subsection (b) shall be subject to
 3 a rebuttable presumption that the use of” and in-
 4 serting “shall apply”; and

5 (4) by striking “would apply if the activity” and
 6 inserting “for each action described in subsection (b)
 7 if the action”.

8 **SEC. 102. CONVEYANCE TO CERTAIN STATES OF PROPERTY**
 9 **INTEREST IN STATE SHARE OF ROYALTIES**
 10 **AND OTHER PAYMENTS.**

11 (a) IN GENERAL.—Section 35 of the Mineral Leasing
 12 Act (30 U.S.C. 191) is amended—

13 (1) in subsection (a), by striking “shall be paid
 14 into the Treasury” and inserting “shall, except as
 15 provided in subsection (e), be paid into the Treas-
 16 ury”;

17 (2) in subsection (c)(1), by inserting “and ex-
 18 cept as provided in subsection (e)” before “, any
 19 rentals”; and

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

21 “(e) CONVEYANCE TO CERTAIN STATES OF PROP-
 22 ERTY INTEREST IN STATE SHARE.—

23 “(1) IN GENERAL.—Notwithstanding any other
 24 provision of law, on request of a State and in lieu
 25 of any payments to the State under subsection (a),

1 the Secretary of the Interior shall convey to the
2 State all right, title, and interest in and to the per-
3 centage specified in that subsection for that State
4 that would otherwise be required to be paid into the
5 Treasury under that subsection.

6 “(2) AMOUNT.—Notwithstanding any other
7 provision of law, after a conveyance to a State under
8 paragraph (1), any person shall pay directly to the
9 State any amount owed by the person for which the
10 right, title, and interest has been conveyed to the
11 State under this subsection.

12 “(3) NOTICE.—The Secretary of the Interior
13 shall promptly provide to each holder of a lease of
14 public land to which subsection (a) applies that is lo-
15 cated in a State to which right, title, and interest is
16 conveyed under this subsection notice that—

17 “(A) the Secretary of the Interior has con-
18 veyed to the State all right, title, and interest
19 in and to the amounts referred to in paragraph
20 (1); and

21 “(B) the leaseholder is required to pay the
22 amounts directly to the State.

23 “(4) REPORT.—A State that has received a
24 conveyance under this subsection shall report month-
25 ly to the Office of Natural Resources Revenue of the

1 Department of the Interior the amount paid to such
2 State pursuant to this subsection.

3 “(5) APPLICATION WITH RESPECT TO FEDERAL
4 OIL AND GAS ROYALTY MANAGEMENT ACT.—With
5 respect to the interest conveyed to a State under
6 this subsection from sales, bonuses, royalties (includ-
7 ing interest charges), and rentals collected under the
8 Federal Oil and Gas Royalty Management Act of
9 1983 (30 U.S.C. 1701 et seq.), this subsection shall
10 only apply with respect to States for which the Sec-
11 retary has delegated any authority under section
12 44(a)(1).”.

13 (b) ADMINISTRATIVE COSTS.—Section 35(b) of the
14 Mineral Leasing Act (30 U.S.C. 191(b)) is amended by
15 striking “In determining” and inserting “Except with re-
16 spect to States for which the Secretary has delegated any
17 authority under section 44(a)(1), in determining”.

18 (c) CONFORMING AMENDMENT.—Section 205(f) of
19 the Federal Oil and Gas Royalty Management Act of 1982
20 (30 U.S.C. 1735(f)) is amended by striking “All moneys”
21 and inserting “Subject to subsection (e) of section 35 of
22 the Mineral Leasing Act (30 U.S.C. 191), all moneys”.

1 **SEC. 103. ACCESS TO FEDERAL OIL AND GAS FROM NON-**
2 **FEDERAL SURFACE ESTATE.**

3 Section 17 of the Mineral Leasing Act (30 U.S.C.
4 226) is amended by adding at the end the following:

5 “(q) NO FEDERAL PERMIT REQUIRED FOR OIL AND
6 GAS ACTIVITIES ON CERTAIN LAND.—

7 “(1) IN GENERAL.—The Secretary shall not re-
8 quire an operator to obtain a Federal drilling permit
9 for oil and gas exploration and production activities
10 conducted on non-Federal surface estate, provided
11 that—

12 “(A) the United States holds an ownership
13 interest of less than 50 percent of the sub-
14 surface mineral estate to be accessed by the
15 proposed action; and

16 “(B) the operator submits to the Secretary
17 a State permit to conduct oil and gas explo-
18 ration and production activities on the non-Fed-
19 eral surface estate.

20 “(2) NO FEDERAL ACTION.—Oil and gas explo-
21 ration and production activities carried out under
22 paragraph (1)—

23 “(A) shall require no additional Federal
24 action;

25 “(B) may commence 30 days after submis-
26 sion of the State permit to the Secretary;

1 “(C) are categorically excluded from any
2 further analysis and documentation under the
3 National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.);

5 “(D) shall not require any analysis under
6 section 106 of the National Historic Preserva-
7 tion Act of 1966, as amended (54 U.S.C.
8 306108); and

9 “(E) shall not require any analysis, assess-
10 ment, or consultation under section 7 of the
11 Endangered Species Act of 1973 (16 U.S.C.
12 1536).

13 “(3) ROYALTIES AND PRODUCTION ACCOUNT-
14 ABILITY.—(A) Nothing in this subsection shall affect
15 the amount of royalties due to the United States
16 under this Act from the production of oil and gas,
17 or alter the Secretary’s authority to conduct audits
18 and collect civil penalties pursuant to the Federal
19 Oil and Gas Royalty Management Act of 1982 (30
20 U.S.C. 1711 et seq.).

21 “(B) The Secretary may conduct on-site reviews
22 and inspections to ensure proper accountability,
23 measurement, and reporting of production of Fed-
24 eral oil and gas, and payment of royalties.

1 “(4) EXCEPTIONS.—This subsection shall not
 2 apply to actions on Indian lands or resources man-
 3 aged in trust for the benefit of Indian tribes.”.

4 **SEC. 104. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
 5 **FRACTURING REGULATION.**

6 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
 7 amended by inserting after section 44 (as added by section
 8 101) the following:

9 **“SEC. 45. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
 10 **FRACTURING REGULATION.**

11 “(a) IN GENERAL.—The Secretary of the Interior
 12 shall not enforce any Federal regulation, guidance, or per-
 13 mit requirement regarding hydraulic fracturing relating to
 14 oil, gas, or geothermal production activities on or under
 15 any land in any State that has regulations, guidance, or
 16 permit requirements for that activity.

17 “(b) STATE AUTHORITY.—The Secretary of the Inte-
 18 rior shall defer to State regulations, guidance, and permit
 19 requirements for all activities regarding hydraulic frac-
 20 turing relating to oil, gas, or geothermal production activi-
 21 ties on Federal land.

22 “(c) TRANSPARENCY OF STATE REGULATIONS.—

23 “(1) IN GENERAL.—Each State shall submit to
 24 the Bureau of Land Management a copy of the reg-
 25 ulations of such State that apply to hydraulic frac-

1 turing operations on Federal land, including those
2 that require disclosure of chemicals used in hydrau-
3 lic fracturing operations.

4 “(2) AVAILABILITY.—The Secretary of the In-
5 terior shall make available to the public on the
6 website of the Secretary the regulations submitted
7 under paragraph (1).

8 “(d) TRIBAL AUTHORITY ON TRUST LAND.—The
9 Secretary of the Interior shall not enforce any Federal reg-
10 ulation, guidance, or permit requirement with respect to
11 hydraulic fracturing on any land held in trust or restricted
12 status for the benefit of a federally recognized Indian
13 Tribe or a member of such an Indian Tribe, except with
14 the express consent of the beneficiary on whose behalf
15 such land is held in trust or restricted status.

16 “(e) HYDRAULIC FRACTURING DEFINED.—In this
17 section the term ‘hydraulic fracturing’ means the process
18 of creating small cracks, or fractures, in underground geo-
19 logical formations for well stimulation purposes of bring-
20 ing hydrocarbons into the wellbore and to the surface for
21 capture.’”.

22 **SEC. 105. REVIEW OF INTEGRATED ACTIVITY PLAN FOR**
23 **THE NATIONAL PETROLEUM RESERVE IN**
24 **ALASKA.**

25 The Secretary of the Interior shall—

1 (1) conduct a review of the National Petroleum
2 Reserve—Alaska Final Integrated Activity Plan/Envi-
3 ronmental Impact Statement, for which notice of
4 availability was published in the Federal Register on
5 December 28, 2012 (77 Fed. Reg. 76515), to deter-
6 mine which lands within the National Petroleum Re-
7 serve in Alaska should be made available for oil and
8 gas leasing; and

9 (2) make available the lands described in para-
10 graph (1) for oil and gas leasing.

11 **SEC. 106. PROTESTED LEASE SALES.**

12 Section 17(b)(1)(A) of the Mineral Leasing Act (30
13 U.S.C. 226(b)(1)(A)) is amended by inserting “The Sec-
14 retary shall resolve any protest to a lease sale within 60
15 days following such payment.” after “annual rental for the
16 first lease year.”.

17 **SEC. 107. CLARIFICATION REGARDING LIABILITY UNDER**
18 **MIGRATORY BIRD TREATY ACT.**

19 Section 6 of the Migratory Bird Treaty Act (16
20 U.S.C. 707) is amended by adding at the end the fol-
21 lowing:

22 “(e) This Act shall not be construed to prohibit any
23 activity proscribed by section 2 of this Act that is acci-
24 dental or incidental to the presence or operation of an oth-
25 erwise lawful activity.”.

1 **SEC. 108. AMENDMENTS TO THE ENERGY POLICY ACT OF**
2 **2005.**

3 Section 390 of the Energy Policy Act of 2005 (42
4 U.S.C. 15942) is amended to read as follows:

5 **“SEC. 390. NATIONAL ENVIRONMENTAL POLICY ACT RE-**
6 **VIEW.**

7 “(a) NATIONAL ENVIRONMENTAL POLICY ACT RE-
8 VIEW.—Action by the Secretary of the Interior, in man-
9 aging the public lands, or the Secretary of Agriculture,
10 in managing National Forest System lands, with respect
11 to any of the activities described in subsection (d) shall
12 be categorically excluded from any further analysis and
13 documentation under the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.) if the activity is
15 conducted pursuant to the Mineral Leasing Act (30
16 U.S.C. 181 et seq.) for the purpose of exploration or devel-
17 opment of oil or gas.

18 “(b) CATEGORICAL EXCLUSION.—Use of a categor-
19 ical exclusion created in this section—

20 “(1) shall not require a finding of no extraor-
21 dinary circumstances; and

22 “(2) shall be effective for the full term of the
23 authorized permit or approval.

24 “(c) APPLICATION.—This section shall not apply to
25 an action of the Secretary of the Interior or the Secretary

1 of Agriculture on Indian lands or resources managed in
2 trust for the benefit of Indian Tribes.

3 “(d) ACTIVITIES DESCRIBED.—The activities re-
4 ferred to in subsection (a) are:

5 “(1) Reinstating a lease pursuant to section 31
6 of the Mineral Leasing Act (30 U.S.C. 188).

7 “(2) The following activities, provided that any
8 new surface disturbance is contiguous with the foot-
9 print of the original authorization and does not ex-
10 ceed 20 acres or the acreage evaluated in a docu-
11 ment previously prepared under section 102(2)(C) of
12 the National Environmental Policy Act of 1969 (42
13 U.S.C. 4332(2)(C)) with respect to such activity,
14 whichever is greater:

15 “(A) Drilling an oil or gas well at a well
16 pad site at which drilling has occurred pre-
17 viously.

18 “(B) Expansion of an existing oil or gas
19 well pad site to accommodate an additional well.

20 “(C) Expansion or modification of an ex-
21 isting oil or gas well pad site, road, pipeline, fa-
22 cility, or utilities submitted in a sundry notice.

23 “(3) Drilling of an oil or gas well at a new well
24 pad site, provided that the new surface disturbance
25 does not exceed 20 acres or the acreage evaluated in

1 a document previously prepared under section
2 102(2)(C) of the National Environmental Policy Act
3 of 1969 (42 U.S.C. 4332(2)(C)) with respect to such
4 activity, whichever is greater.

5 “(4) Construction or realignment of a road,
6 pipeline, or utilities within an existing right-of-way
7 or within a right-of-way corridor established in a
8 land use plan.

9 “(5) The following activities when conducted
10 from non-Federal surface into federally owned min-
11 erals, provided that the operator submits to the Sec-
12 retary concerned certification of a surface use agree-
13 ment with the non-Federal landowner:

14 “(A) Drilling an oil or gas well at a well
15 pad site at which drilling has occurred pre-
16 viously.

17 “(B) Expansion of an existing oil or gas
18 well pad site to accommodate an additional well.

19 “(C) Expansion or modification of an ex-
20 isting oil or gas well pad site, road, pipeline, fa-
21 cilities or utilities submitted in a sundry notice.

22 “(6) Drilling of an oil or gas well from non-
23 Federal surface and non-Federal subsurface into
24 Federal mineral estate.

1 “(7) Construction of up to 1 mile of new road
2 on Federal or non-Federal surface, not to exceed 2
3 miles in total.

4 “(8) Construction of up to 3 miles of individual
5 pipelines or utilities, regardless of surface owner-
6 ship.”.

7 **SEC. 109. ADMINISTRATIVE PROTEST PROCESS REFORM.**

8 Section 17 of the Mineral Leasing Act (30 U.S.C.
9 226) is amended by adding at the end the following:

10 “(q) PROTEST FILING FEE.—

11 “(1) IN GENERAL.—Before processing any pro-
12 test filed under this section, the Secretary shall col-
13 lect a filing fee from the protestor to recover the
14 cost for processing documents filed for each adminis-
15 trative protest.

16 “(2) AMOUNT.—The filing fee shall be cal-
17 culated as follows:

18 “(A) For each protest filed in a submission
19 not exceeding 10 pages in length, the base filing
20 fee shall be \$150.

21 “(B) For each submission exceeding 10
22 pages in length, an addition to the base filing
23 fee, an assessment of \$5 per page in excess of
24 10 pages shall apply.

“(C) For protests that include more than one oil and gas lease parcel, right-of-way, or application for permit to drill in a submission, an additional assessment of \$10 per additional lease parcel, right-of-way, or application for permit to drill shall apply.

“(3) ADJUSTMENT.—

“(A) IN GENERAL.—Beginning on January 1, 2021, and annually thereafter, the Secretary shall adjust the filing fees established in this subsection to whole dollar amounts to reflect changes in the Producer Price Index, as published by the Bureau of Labor Statistics, for the previous 12 months.

“(B) PUBLICATION OF ADJUSTED FILING FEES.—At least 30 days before the filing fees as adjusted under this paragraph take effect, the Secretary shall publish notification of the adjustment of such fees in the Federal Register.”.

SEC. 110. NOTIFICATIONS OF PERMIT TO DRILL.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 45, as added by section 104, the following:

1 **“SEC. 46. NOTIFICATIONS OF PERMIT TO DRILL.**

2 “(a) IN GENERAL.—Not later than 1 year after the
3 date of the enactment of this section, the Secretary shall
4 establish procedures by which an operator may conduct
5 drilling and production activities on available Federal land
6 and non-Federal land that is located in a State to which
7 the Secretary has not delegated exclusive authority under
8 section 44(a)(1) after sending to the Secretary a notifica-
9 tion of permit to drill under this section in lieu of obtain-
10 ing an Application for Permit to Drill.

11 “(b) CONTENT OF NOTIFICATION.—To be considered
12 a complete notification of permit to drill under this sec-
13 tion, an operator shall include in the notification of permit
14 to drill submitted under this section—

15 “(1) a notification of permit to drill form;

16 “(2) a surface use plan of operations;

17 “(3) a drilling plan;

18 “(4) a well plat certified by a registered sur-
19 veyor;

20 “(5) an operator certification;

21 “(6) evidence of bond coverage; and

22 “(7) a notification of permit to drill fee in an
23 amount to be determined by the Secretary.

24 “(c) JUSTIFICATIONS FOR OBJECTION.—

25 “(1) IN GENERAL.—Except as otherwise pro-
26 vided in this subsection, the Secretary may not ob-

1 ject to a notification of permit to drill under this
2 section if the notification—

3 “(A) demonstrates that the drilling oper-
4 ations described in the notification of permit to
5 drill will be located in—

6 “(i) a developed field, where there are
7 existing oil and gas wells within a 5-mile
8 radius and for which an approved land use
9 plan or environmental review was prepared
10 within the last 10 years under the National
11 Environmental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.) that analyzed such
13 drilling operations as a reasonably foresee-
14 able activity;

15 “(ii) a location or well pad site at
16 which drilling has occurred within 10 years
17 before the date of spudding the well and
18 the proposed operations do not increase
19 the surface disturbance on the location or
20 well pad site;

21 “(iii) an area consisting of individual
22 surface disturbances of less than 10 acres
23 and the total surface disturbance on the
24 lease is not greater than 150 acres and for
25 which an approved land use plan or envi-

1 ronmental review was prepared within the
2 last 10 years under the National Environ-
3 mental Policy Act of 1969 (42 U.S.C.
4 4321 et seq.) that analyzed such drilling
5 operations as a reasonably foreseeable ac-
6 tivity;

7 “(iv) an area consisting of Federal
8 mineral interests that is located within the
9 boundaries of a communitization agree-
10 ment or unit agreement which contains
11 minerals leased by a State or private min-
12 eral owner for which a drilling permit has
13 been approved by a State regulatory agen-
14 cy; or

15 “(v) an area in which a categorical ex-
16 clusion under the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4321 et
18 seq.) applies for oil and gas drilling or re-
19 entry activities; or

20 “(B) includes—

21 “(i) an environmental review that con-
22 cludes that actions described in the notifi-
23 cation of permit to drill pose no significant
24 effects on the human environment or
25 threatened or endangered species; and

1 “(ii) an archeological review that con-
2 cludes that actions described in the notifi-
3 cation of permit to drill pose no significant
4 effects on cultural or historic properties or
5 resources.

6 “(2) ENDANGERED SPECIES PROTECTION.—

7 “(A) IN GENERAL.—Notwithstanding para-
8 graph (1), the Secretary shall object to a notifi-
9 cation of permit to drill if the activity described
10 in such notification of permit to drill is likely to
11 jeopardize the continued existence of a species
12 that is a threatened species or endangered spe-
13 cies under the Endangered Species Act of 1973
14 (16 U.S.C. 1531 et seq.) or result in the de-
15 struction or adverse modification of critical
16 habitat of such species.

17 “(B) WITHDRAWAL OF OBJECTION.—The
18 Secretary may withdraw an objection under
19 subparagraph (A) if the operator consults with
20 the Secretary on such objection and places con-
21 ditions on the notification of permit to drill suf-
22 ficient to comply with the Endangered Species
23 Act of 1973 (16 U.S.C. 1531 et seq.).

24 “(3) NATIONAL HISTORIC PRESERVATION.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (1), the Secretary shall object to a notifi-
3 cation of permit to drill if the activity described
4 in such notification of permit to drill is likely to
5 affect properties listed, or eligible for listing, in
6 the National Register of Historic Places under
7 section 306108 of title 54, United States Code
8 (commonly known as the National Historic
9 Preservation Act of 1966).

10 “(B) WITHDRAWAL OF OBJECTION.—The
11 Secretary may withdraw an objection under
12 subparagraph (A) if the operator consults with
13 the Secretary on such objection and places con-
14 ditions on the notification of permit to drill suf-
15 ficient to comply with section 306108 of title
16 54, United States Code (commonly known as
17 the National Historic Preservation Act of
18 1966).

19 “(d) OBJECTION OR NO ACTION.—

20 “(1) NOTIFICATION OF INCOMPLETE NOTIFICA-
21 TION.—Not later than 15 days after receipt of a no-
22 tification of permit to drill, or a revised notification
23 of permit to drill, from an operator under this sec-
24 tion, the Secretary shall notify the operator in writ-

1 ing if the notification of permit to drill is not com-
2 plete.

3 “(2) NOTIFICATION OF OBJECTIONS.—The Sec-
4 retary shall notify an operator of any objections to
5 the notification of permit to drill not later than 45
6 days after receipt of a complete notification of per-
7 mit to drill from an operator under this section.

8 “(3) NO ACTION REQUIRED.—If the Secretary
9 has not notified an operator under either paragraph
10 (1) or paragraph (2) within 45 days after receipt of
11 a notification of permit to drill from the operator
12 under this section, the operator may, without further
13 action from the Secretary, conduct the drilling and
14 production activities for which the notification of
15 permit to drill was submitted.

16 “(4) OPPORTUNITY TO RESUBMIT NOTIFICA-
17 TION.—If the Secretary notifies an operator under
18 paragraph (1) of an incomplete notification or para-
19 graph (2) of an objection, the Secretary shall allow
20 the operator to address such incomplete notification
21 or objection and revise and resubmit the notification
22 of permit to drill.

23 “(5) OPPORTUNITY TO RESUBMIT NOTIFICA-
24 TION AS APPLICATION FOR PERMIT TO DRILL.—If
25 the Secretary notifies an operator under paragraph

1 (2) of an objection, the Secretary shall allow the op-
2 erator to resubmit such information in the form of
3 an Application for Permit to Drill.

4 “(e) NOTIFICATION FEE.—The Secretary may not
5 charge an operator under this section a fee for submitting
6 a notification of permit to drill greater than the fee the
7 Secretary charges an applicant for an Application for Per-
8 mit to Drill.

9 “(f) ENVIRONMENTAL REVIEW.—

10 “(1) IN GENERAL.—An environmental review or
11 archeological review described in subsection
12 (c)(1)(B) may be completed by a third-party con-
13 tractor approved by the Secretary or pursuant to a
14 memorandum of understanding between the operator
15 and the Secretary.

16 “(2) FIELD WORK AUTHORIZATION.—The Sec-
17 retary shall issue a field work authorization to a
18 third-party contractor for the purposes of paragraph
19 (1) within a reasonable time.

20 “(3) REQUEST FOR CONCURRENCE.—The Sec-
21 retary shall allow a third-party contractor to submit
22 a request to the State Historic Preservation Office
23 on behalf of the Secretary.

24 “(g) ADDITIONAL SURFACE USE PERMITS.—The
25 Secretary may not require an operator that has submitted

1 a notification of permit to drill for which the Secretary
2 did not object to obtain a surface use permit for an action
3 included in the notification of permit to drill.

4 “(h) SITE INSPECTION.—The Secretary may not re-
5 quire an operator that has submitted a notification of per-
6 mit to drill for which the Secretary did not object to sub-
7 mit to a site inspection before commencement of the activi-
8 ties described in the notification of permit to drill.

9 “(i) FEDERAL ENFORCEMENT.—The Secretary may
10 conduct inspections of and evaluate activities described in
11 a notification of permit to drill for purposes of bringing
12 an enforcement action. The Secretary may suspend en-
13 forcement proceedings if the operator modifies its activi-
14 ties to comply with the notification of permit to drill or
15 obtains an Application for Permit to Drill for such activi-
16 ties.

17 “(j) APPLICATION OF THE NATIONAL ENVIRON-
18 MENTAL POLICY ACT.—

19 “(1) NO ACTION BY SECRETARY.—The decision
20 by the Secretary to take no action under subsection
21 (c)(1)(B)(2) shall not constitute a major Federal ac-
22 tion under section 102(2)(C) of the National Envi-
23 ronmental Policy Act of 1969 (42 U.S.C.
24 4332(2)(C)).

1 “(2) DEVELOPMENT OF REGULATIONS.—The
 2 development of any regulation pursuant to this sec-
 3 tion shall constitute a major Federal action under
 4 section 102(2)(C) of the National Environmental
 5 Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

6 “(k) DEFINITIONS.—In this section:

7 “(1) IN GENERAL.—The terms ‘Application for
 8 Permit to Drill’, ‘applications for Permit to Drill’,
 9 ‘available Federal land’, and ‘drilling plan’ have the
 10 meaning given those terms in section 44.

11 “(2) SURFACE USE PLAN OF OPERATION.—The
 12 term ‘surface use plan of operation’ means a plan
 13 containing—

14 “(A) the road and drill pad location;

15 “(B) details of pad construction;

16 “(C) methods for containment and disposal
 17 of waste material;

18 “(D) plans for reclamation of the surface;

19 “(E) any other information specified in ap-
 20 plicable orders or notices; and

21 “(F) any other pertinent data as the Sec-
 22 retary may require.”.

TITLE II—OFFSHORE OIL AND GAS

SEC. 201. LIMITATION OF AUTHORITY OF THE PRESIDENT TO WITHDRAW AREAS OF THE OUTER CONTI- NENTAL SHELF FROM OIL AND GAS LEASING.

(a) LIMITATION ON WITHDRAWAL FROM DISPOS-
TION OF LANDS ON THE OUTER CONTINENTAL SHELF.—

Section 12 of the Outer Continental Shelf Lands Act (43
U.S.C. 1341) is amended by amending subsection (a) to
read as follows:

“(a) LIMITATION ON WITHDRAWAL.—

“(1) IN GENERAL.—Except as otherwise pro-
vided in this section, no lands of the outer Conti-
nental Shelf may be withdrawn from disposition ex-
cept by an Act of Congress.

“(2) NATIONAL MARINE SANCTUARIES.—The
President may withdraw from disposition any of the
unleased lands of the outer Continental Shelf located
in a national marine sanctuary designated in accord-
ance with the National Marine Sanctuaries Act (16
U.S.C. 1431 et seq.) or otherwise by statute.

“(3) EXISTING WITHDRAWALS.—

“(A) IN GENERAL.—Except for the with-
drawals listed in subparagraph (B), any with-
drawal from disposition of lands on the outer

1 Continental Shelf before the date of the enact-
2 ment of this subsection shall have no force or
3 effect.

4 “(B) EXCEPTIONS.—Subparagraph (A)
5 shall not apply to the following withdrawals:

6 “(i) Any withdrawal in a national ma-
7 rine sanctuary designated in accordance
8 with the National Marine Sanctuaries Act.

9 “(ii) Any withdrawal in a national
10 monument declared under section 320301
11 of title 54, United States Code, or the Act
12 of June 8, 1906 (ch. 3060; 34 Stat. 225).

13 “(iii) Any withdrawal in the North
14 Aleutian Basin Planning Area, including
15 Bristol Bay.”.

16 (b) TERMINATION OF AUTHORITY TO ESTABLISH
17 MARINE NATIONAL MONUMENTS.—Section 320301 of
18 title 54, United States Code, is amended by adding at the
19 end the following:

20 “(e) LIMITATION ON MARINE NATIONAL MONU-
21 MENTS.—

22 “(1) IN GENERAL.—Notwithstanding sub-
23 sections (a) and (b), the President may not declare
24 or reserve any ocean waters (as such term is defined
25 in section 3 of the Marine Protection, Research, and

1 Sanctuaries Act of 1972 (33 U.S.C. 1402)) or lands
 2 beneath ocean waters as a national monument.

3 “(2) MARINE NATIONAL MONUMENTS DES-
 4 IGNATED BEFORE THE DATE OF THE ENACTMENT
 5 OF THIS SUBSECTION.—This subsection shall not af-
 6 fect any national monument designated by the Presi-
 7 dent before the date of the enactment of this Act.”.

8 **SEC. 202. DISPOSITION OF REVENUES FROM OIL AND GAS**
 9 **LEASING ON THE OUTER CONTINENTAL**
 10 **SHELF TO ATLANTIC STATES AND ALASKA.**

11 Section 9 of the Outer Continental Shelf Lands Act
 12 (43 U.S.C. 1338) is amended—

13 (1) by striking “All rentals” and inserting the
 14 following:

15 “(a) IN GENERAL.—Except as otherwise provided in
 16 this section, all rentals”; and

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

18 “(b) DISTRIBUTION OF REVENUE TO PRODUCING
 19 STATES.—

20 “(1) DEFINITIONS.—In this subsection:

21 “(A) COVERED PLANNING AREA.—

22 “(i) IN GENERAL.—Subject to clause
 23 (ii), the term ‘covered planning area’
 24 means each of the following planning
 25 areas, as such planning areas are generally

1 depicted in the later of the 2017–2022
2 Outer Continental Shelf Oil and Gas Leas-
3 ing Proposed Final Program, dated No-
4 vember 2016, or a subsequent oil and gas
5 leasing program developed under section
6 18 of the Outer Continental Shelf Lands
7 Act (43 U.S.C. 1344):

8 “(I) Mid-Atlantic.

9 “(II) South Atlantic.

10 “(III) Any planning area located
11 off the coast of Alaska.

12 “(ii) EXCLUSIONS.—The term ‘cov-
13 ered planning area’ does not include any
14 area in the Atlantic—

15 “(I) north of the southernmost
16 lateral seaward administrative bound-
17 ary of the State of Maryland; or

18 “(II) south of the northernmost
19 lateral seaward administrative bound-
20 ary of the State of Florida.

21 “(B) PRODUCING STATE.—The term ‘pro-
22 ducing State’ means each of the following
23 States:

24 “(i) Virginia.

25 “(ii) North Carolina.

1 “(iii) South Carolina.

2 “(iv) Georgia.

3 “(v) Alaska.

4 “(C) QUALIFIED REVENUES.—

5 “(i) IN GENERAL.—The term ‘quali-
6 fied revenues’ means revenues derived from
7 rentals, royalties, bonus bids, and other
8 sums due and payable to the United States
9 under oil and gas leases entered into on or
10 after the date of the enactment of this Act
11 for an area in a covered planning area.

12 “(ii) EXCLUSIONS.—The term ‘quali-
13 fied revenues’ does not include—

14 “(I) revenues from the forfeiture
15 of a bond or other surety securing ob-
16 ligations other than royalties, civil
17 penalties, or royalties taken by the
18 Secretary in-kind and not sold;

19 “(II) revenues generated from
20 leases subject to section 8(g); and

21 “(III) the portion of rental reve-
22 nues in excess of those that would
23 have been collected at the rental rates
24 in effect before August 5, 1993.

25 “(2) DEPOSIT OF QUALIFIED REVENUES.—

1 “(A) PHASE I.—With respect to qualified
2 revenues under leases awarded under the first
3 leasing program approved under section 18(a)
4 that takes effect after the date of the enact-
5 ment of this section, the Secretary of the Treas-
6 ury shall deposit or allocate, as applicable—

7 “(i) 87.5 percent into the general
8 fund of the Treasury; and

9 “(ii) 12.5 percent to States in accord-
10 ance with paragraph (3).

11 “(B) PHASE II.—With respect to qualified
12 revenues under leases awarded under the sec-
13 ond leasing program approved under section
14 18(a) that takes effect after the date of the en-
15 actment of this section, the Secretary of the
16 Treasury shall deposit or allocate, as applica-
17 ble—

18 “(i) 75 percent into the general fund
19 of the Treasury; and

20 “(ii) 25 percent to States in accord-
21 ance with paragraph (3).

22 “(C) PHASE III.—With respect to qualified
23 revenues under leases awarded under the third
24 leasing program approved under section 18(a)
25 that takes effect after the date of the enact-

1 ment of this section and under any such leasing
2 program subsequent to such third leasing pro-
3 gram, the Secretary of the Treasury shall de-
4 posit or allocate, as applicable—

5 “(i) 50 percent into the general fund
6 of the Treasury; and

7 “(ii) 50 percent into a special account
8 in the Treasury from which the Secretary
9 of the Treasury shall disburse—

10 “(I) 75 percent to States in ac-
11 cordance with paragraph (3); and

12 “(II) 25 percent to the Secretary
13 of the Interior for units of the Na-
14 tional Park System.

15 “(3) ALLOCATION TO PRODUCING STATES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (B) and (C), the Secretary of the Treas-
18 ury shall allocate the qualified revenues distrib-
19 uted to States under paragraph (2) to each pro-
20 ducing State in an amount based on a formula
21 established by the Secretary of the Interior, by
22 regulation, that—

23 “(i) is inversely proportional to the re-
24 spective distances between—

1 “(I) the point on the coastline of
2 the producing State that is closest to
3 the geographical center of the applica-
4 ble leased tract; and

5 “(II) the geographical center of
6 that leased tract;

7 “(ii) does not allocate qualified reve-
8 nues to any producing State that is further
9 than 200 nautical miles from the leased
10 tract; and

11 “(iii) allocates not less than 10 per-
12 cent of qualified revenues to each pro-
13 ducing State that is 200 or fewer nautical
14 miles from the leased tract.

15 “(B) PAYMENTS TO NONCONTIGUOUS
16 COASTAL STATES.—

17 “(i) IN GENERAL.—With respect to
18 each producing State that is a noncontig-
19 uous coastal State, the Secretary of the
20 Treasury shall pay 20 percent of the allo-
21 cable share of such State determined under
22 this paragraph to the coastal political sub-
23 divisions of such State.

24 “(ii) ALLOCATION.—The amount paid
25 by the Secretary of the Treasury to coastal

1 political subdivisions under this subpara-
2 graph shall be allocated to each coastal po-
3 litical subdivision in accordance with sub-
4 paragraphs (B) and (E) of section
5 31(b)(4).

6 “(iii) DEFINITION OF COASTAL POLIT-
7 ICAL SUBDIVISION.—In this subparagraph,
8 the term ‘coastal political subdivision’
9 means—

10 “(I) a county-equivalent subdivi-
11 sion of a State for which—

12 “(aa) all or part lies within
13 the coastal zone of the State (as
14 defined in section 304 of the
15 Coastal Zone Management Act of
16 1972 (16 U.S.C. 1453)); and

17 “(bb) the closest coastal
18 point is not more than 200 nau-
19 tical miles from the geographical
20 center of any leased tract on the
21 outer Continental Shelf; or

22 “(II) a municipal subdivision of a
23 State for which—

24 “(aa) the closest point is
25 more than 200 nautical miles

1 from the geographical center of a
2 leased tract on the outer Conti-
3 nental Shelf; and

4 “(bb) the State has deter-
5 mined to be a significant staging
6 area for oil and gas servicing,
7 supply vessels, operations, sup-
8 pliers, or workers.

9 “(C) PAYMENTS TO CONTIGUOUS COASTAL
10 STATES.—

11 “(i) IN GENERAL.—With respect to
12 each producing State that is a contiguous
13 coastal State, the Secretary of the Treas-
14 ury shall pay—

15 “(I) 50 percent of the allocable
16 share of such State determined under
17 this paragraph to the State treasury
18 to be used by the State in accordance
19 with clause (ii);

20 “(II) 25 percent of the allocable
21 share of such State determined under
22 this paragraph to coastal towns; and

23 “(III) 25 percent of the allocable
24 share of such State determined under
25 this paragraph to coastal counties.

1 “(ii) USE OF FUNDS.—Funds received
2 by a producing State under clause (i)(I)
3 shall be used by such State—

4 “(I) to enhance State land and
5 water conservation efforts, particu-
6 larly in inlets, waterways, and beach-
7 es;

8 “(II) for the purposes of beach
9 nourishment and coastline enhance-
10 ments;

11 “(III) for the protection of coast-
12 al wildlife;

13 “(IV) to support estuary health
14 and aquaculture management;

15 “(V) for dredging and port infra-
16 structure development;

17 “(VI) grants to support the geo-
18 logical and geophysical sciences or pe-
19 troleum engineering programs or de-
20 partments at institutions of higher
21 education (as such term is defined in
22 section 101 of the Higher Education
23 Act of 1965 (20 U.S.C. 1001)) that
24 are accredited by the Accreditation
25 Board for Engineering and Tech-

1 nology and located within the pro-
 2 ducing State; or

3 “(VII) for any other purpose that
 4 enhances coastal communities, as de-
 5 termined by the Governor of the pro-
 6 ducing State.

7 “(iii) DEFINITION OF COASTAL
 8 TOWN.—In this subparagraph, the term
 9 ‘coastal town’ means an economic and resi-
 10 dential center not more than 20 miles from
 11 the coast of the producing State.

12 “(4) ADMINISTRATION.—Amounts made avail-
 13 able under paragraph (2)(B) shall—

14 “(A) be made available, without further
 15 appropriation, in accordance with this sub-
 16 section;

17 “(B) remain available until expended;

18 “(C) be in addition to any amounts appro-
 19 priated under—

20 “(i) chapter 2003 of title 54, United
 21 States Code;

22 “(ii) any other provision of this Act;
 23 and

24 “(iii) any other provision of law; and

1 “(D) be made available during the fiscal
 2 year immediately following the fiscal year in
 3 which such amounts were received.”.

4 **SEC. 203. DISTRIBUTION OF OUTER CONTINENTAL SHELF**
 5 **REVENUES TO GULF PRODUCING STATES.**

6 Section 105 of the Gulf of Mexico Energy Security
 7 Act of 2006 (43 U.S.C. 1331 note) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1), by striking “50” and
 10 inserting “37.5”; and

11 (B) in paragraph (2)—

12 (i) by striking “50” and inserting
 13 “62.5”;

14 (ii) in subparagraph (A), by striking
 15 “75” and inserting “80”; and

16 (iii) in subparagraph (B), by striking
 17 “25” and inserting “20”; and

18 (2) by striking subsection (f).

19 **SEC. 204. ADDRESSING PERMITS FOR TAKING OF MARINE**
 20 **MAMMALS.**

21 Section 101(a)(5)(D) of the Marine Mammal Protec-
 22 tion Act of 1972 (16 U.S.C. 1371(a)(5)(D)) is amended
 23 as follows:

24 (1) In clause (i)—

1 (A) by striking “citizens of the United
2 States” and inserting “persons”;

3 (B) by striking “within a specific geo-
4 graphic region”;

5 (C) by striking “of small numbers”;

6 (D) by striking “such citizens” and insert-
7 ing “such persons”; and

8 (E) by striking “within that region”.

9 (2) In clause (ii)—

10 (A) in subclause (I), by striking “, and
11 other means of effecting the least practicable
12 impact on such species or stock and its habi-
13 tat”;

14 (B) in subclause (III), by striking “re-
15 quirements pertaining to the monitoring and re-
16 porting of such taking by harassment, includ-
17 ing” and inserting “efficient and practical re-
18 quirements pertaining to the monitoring of such
19 taking by harassment while the activity is being
20 conducted and the reporting of such taking, in-
21 cluding, as the Secretary determines nec-
22 essary,”; and

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

24 “Any condition imposed pursuant to subclause (I), (II),
25 or (III) may not result in more than a minor change to

1 the specified activity and may not alter the basic design,
 2 location, scope, duration, or timing of the specified activ-
 3 ity.”.

4 (3) In clause (iii), by striking “receiving an ap-
 5 plication under this subparagraph” and inserting
 6 “an application is accepted or required to be consid-
 7 ered complete under subclause (I)(aa), (II)(aa), or
 8 (IV) of clause (viii), as applicable,”.

9 (4) In clause (vi), by striking “a determination
 10 of ‘least practicable adverse impact on such species
 11 or stock’ under clause (i)(I)” and inserting “condi-
 12 tions imposed under subclause (I), (II), or (III) of
 13 clause (ii)”.

14 (5) By adding at the end the following:

15 “(viii)(I) The Secretary shall—

16 “(aa) accept as complete a written request for
 17 authorization under this subparagraph for incidental
 18 taking described in clause (i), by not later than 45
 19 days after the date of submission of the request; or

20 “(bb) provide to the requester, by not later than
 21 15 days after the date of submission of the request,
 22 a written notice describing any additional informa-
 23 tion required to complete the request.

24 “(II) If the Secretary provides notice under subclause
 25 (I)(bb), the Secretary shall, by not later than 30 days after

1 the date of submission of the additional information de-
2 scribed in the notice—

3 “(aa) accept the written request for authoriza-
4 tion under this subparagraph for incidental taking
5 described in clause (i); or

6 “(bb) deny the request and provide the re-
7 requester a written explanation of the reasons for the
8 denial.

9 “(III) The Secretary may not make a second request
10 for information, request that the requester withdraw and
11 resubmit the request, or otherwise delay a decision on the
12 request.

13 “(IV) If the Secretary fails to respond to a request
14 for authorization under this subparagraph in the manner
15 provided in subclause (I) or (II), the request shall be con-
16 sidered to be complete.

17 “(ix)(I) At least 90 days before the expiration of any
18 authorization issued under this subparagraph, the holder
19 of such authorization may apply for a one-year extension
20 of such authorization. The Secretary shall grant such ex-
21 tension within 14 days after the date of such request on
22 the same terms and without further review if there has
23 been no substantial change in the activity carried out
24 under such authorization nor in the status of the marine
25 mammal species or stock, as applicable, as reported in the

1 final annual stock assessment reports for such species or
2 stock.

3 “(II) In subclause (I) the term ‘substantial change’
4 means a change that prevents the Secretary from making
5 the required findings to issue an authorization under
6 clause (i) with respect to such species or stock.

7 “(III) The Secretary shall notify the applicant of
8 such substantial changes with specificity and in writing
9 within 14 days after the applicant’s submittal of the exten-
10 sion request.

11 “(x) If the Secretary fails to make the required find-
12 ings and, as appropriate, issue the authorization within
13 120 days after the application is accepted or required to
14 be considered complete under subclause (I)(aa), (II)(aa),
15 or (III) of clause (viii), as applicable, the authorization
16 is deemed to have been issued on the terms stated in the
17 application and without further process or restrictions
18 under this Act.

19 “(xi) Any taking of a marine mammal in compliance
20 with an authorization under this subparagraph is exempt
21 from the prohibition on taking in section 9 of the Endan-
22 gered Species Act of 1973 (16 U.S.C. 1538). Any Federal
23 agency authorizing, funding, or carrying out an action
24 that results in such taking, and any agency action author-
25 izing such taking, is exempt from the requirement to con-

1 sult regarding potential impacts to marine mammal spe-
 2 cies or designated critical habitat under section 7(a)(2)
 3 of such Act (16 U.S.C. 1536(a)(2)).”.

4 **SEC. 205. ENERGY DEVELOPMENT IN THE EASTERN GULF**
 5 **OF MEXICO.**

6 (a) COMPATIBILITY BETWEEN MILITARY MISSION
 7 AND OIL AND GAS OPERATIONS.—

8 (1) UPDATING MEMORANDUM OF AGREE-
 9 MENT.—Not later than 270 days after the date of
 10 the enactment of this Act, the Secretary of the Inte-
 11 rior and the Secretary of Defense shall update the
 12 memorandum of agreement entitled “Memorandum
 13 of Agreement Between the Department of Defense
 14 and the Department of the Interior on Mutual con-
 15 cerns on the Outer Continental Shelf” to ensure
 16 compatibility between the military mission and oil
 17 and gas operations in the Eastern Gulf of Mexico.

18 (2) RESERVATIONS.—Nothing in this section
 19 shall be construed to affect section 12 of the Outer
 20 Continental Shelf Lands Act (42 U.S.C. 1341).

21 (3) EXISTING LEASES.—The stipulations and
 22 restrictions developed under this subsection shall not
 23 apply to existing leases in the Eastern Planning
 24 Area.

25 (b) DIRECTED LEASE SALES.—

1 (1) IN GENERAL.—Notwithstanding the omis-
2 sion of any of these areas from the National Outer
3 Continental Shelf Oil and Gas Leasing Program ap-
4 proved by the Secretary of the Interior under section
5 18 of the Outer Continental Shelf Lands Act (43
6 U.S.C. 1344), as in effect at the time of the lease
7 sale, but subject to paragraph (2) of this subsection,
8 the Secretary shall offer the following areas for oil
9 and gas leasing under such Act:

10 (A) All acreage of the Eastern Planning
11 Area that is not subject to subsection (a) of
12 section 104 of the Gulf of Mexico Energy Secu-
13 rity Act of 2006 (43 U.S.C. 1331 note), as such
14 Act was in effect on the date of the enactment
15 of this Act, by holding at least two lease sales
16 before December 31, 2021.

17 (B) All acreage of the Eastern Planning
18 Area by holding at least one additional sale
19 after June 30, 2022 and before December 31,
20 2022, and at least two additional sales each
21 subsequent year.

22 (2) NATIONAL ENVIRONMENTAL POLICY ACT
23 REQUIREMENTS.—The Secretary and all other Fed-
24 eral officials shall complete all actions required by
25 section 102(2)(C) of the National Environmental

1 Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with re-
2 spect to such lease sales by not later than one year
3 before the final lease sale conducted under para-
4 graph (1).

5 (3) DEFINITIONS.—In this section, the term
6 “Eastern Planning Area” means the Eastern Gulf of
7 Mexico Planning Area of the Outer Continental
8 Shelf, as designated in the document entitled
9 “2019–2024 National Outer Continental Shelf Oil
10 and Gas Leasing Draft Proposed Program”, dated
11 January 2018.

12 (c) LEASE TERMS.—

13 (1) IN GENERAL.—Paragraph (2) of section
14 8(b) of the Outer Continental Shelf Lands Act (43
15 U.S.C. 1337(b)) is amended to read as follows:

16 “(2) be for an initial period of—

17 “(A) five years, except as provided in sub-
18 paragraphs (B) and (C);

19 “(B) not to exceed ten years if the Sec-
20 retary finds that such longer period is necessary
21 to encourage exploration and development in
22 areas because of unusually deep water or other
23 unusually adverse conditions, except as provided
24 in subparagraph (C); or

1 “(C) for leases located in water depths of
2 greater than 1,500 meters, 15 years, and as
3 long thereafter as oil or gas is produced from
4 the area in paying quantities or drilling or well
5 reworking operations approved by the Secretary
6 are conducted thereon.”.

7 (2) EXTENSION OF EXISTING LEASES.—

8 (A) IN GENERAL.—Within 180 days after
9 the date of the enactment of this Act, the Sec-
10 retary of the Interior shall issue regulations
11 under which the Secretary may extend by five
12 years the term of an oil and gas lease under the
13 Outer Continental Shelf Lands Act (43 U.S.C.
14 1344) for a tract located in water deeper than
15 1,500 meters.

16 (B) APPLICATION; PAYMENT.—Regulations
17 issued under this paragraph shall require—

18 (i) submission of an application for
19 such extension; and

20 (ii) payment of a minimum bid
21 amount.

22 (C) LIMITATION.—The Secretary may not
23 extend the term of a lease under this paragraph
24 more than once.

1 (d) REPORT.—The Secretary of the Interior shall
 2 submit a report to the House Committee on Natural Re-
 3 sources and the Senate Committee on Energy and Natural
 4 Resources regarding options for sharing the revenues pro-
 5 duced in the Eastern Gulf of Mexico Planning Area with
 6 the Gulf States consistent with the revenue sharing for-
 7 mulas under the Gulf of Mexico Energy Security Act of
 8 2006 (43 U.S.C. 1331 note) as amended by this Act. The
 9 report shall include analysis of potential economic benefits
 10 to the Gulf States and recommendations for authorizing
 11 the use of these revenues for coastal restoration, recov-
 12 ering endangered species, coral restoration, and mitigation
 13 of harmful algal blooms.

14 **TITLE III—ALTERNATIVE** 15 **ENERGY**

16 **SEC. 301. GEOTHERMAL, SOLAR, AND WIND LEASING PRI-** 17 **ORITY AREAS.**

18 (a) DEFINITIONS.—In this section:

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

21 (A) Federal land; and

22 (B) not excluded from the development of
 23 geothermal energy under—

- 1 (i) a land use plan established under
2 the Federal Land Policy and Management
3 Act of 1976 (43 U.S.C. 1701 et seq.); or
4 (ii) any other Federal law.

5 (2) PRIORITY AREA; DESIGNATED LEASING
6 AREAS.—The terms “priority area” and “Designated
7 Leasing Areas” mean covered land identified by the
8 land use planning process of the Bureau of Land
9 Management as being a preferred location for a re-
10 newable energy project for solar, wind, or geo-
11 thermal energy.

12 (b) DESIGNATION OF GEOTHERMAL, SOLAR, AND
13 WIND LEASING PRIORITY AREAS.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Secretary of Energy, shall establish
16 priority areas on covered land for geothermal, solar,
17 and wind energy projects.

18 (2) DEADLINE.—

19 (A) GEOTHERMAL AND WIND ENERGY.—
20 With respect to geothermal and wind energy,
21 the Secretary shall establish priority areas as
22 soon as practicable, but not later than 5 years
23 after the date of the enactment of this Act.

24 (B) SOLAR ENERGY.—For solar energy,
25 solar Designated Leasing Areas, including the

1 solar energy zones established by the 2012
2 western solar plan of the Bureau of Land Man-
3 agement and any subsequent land use plan
4 amendments, shall be considered to be priority
5 areas for solar energy projects. The Secretary
6 shall establish additional solar priority areas as
7 soon as practicable, but not later than 3 years
8 after the date of the enactment of this Act.

9 (c) CRITERIA FOR SELECTION.—In determining
10 which covered lands to designate as geothermal, solar, and
11 wind leasing priority areas under subsection (b), the Sec-
12 retary, in consultation with the Secretary of Energy, shall
13 consider if—

14 (1) the covered land is preferable for geo-
15 thermal, solar, and wind leasing;

16 (2) production of geothermal, solar, and wind
17 energy on such land is economically viable, including
18 if such land has access to methods of energy trans-
19 mission; and

20 (3) the designation would be in compliance with
21 section 202 of the Federal Land Policy and Manage-
22 ment Act of 1976 (43 U.S.C. 1712), including sub-
23 section (c)(9) of that section.

24 (d) REVIEW AND MODIFICATION.—Not less fre-
25 quently than once every 5 years, the Secretary shall—

1 (1) review covered land and, if appropriate,
2 make additional designations of geothermal, solar,
3 and wind leasing priority areas; and

4 (2) review each area designated as a geo-
5 thermal, solar, or wind energy leasing priority area
6 under this section, and, if appropriate, remove such
7 designation.

8 (e) COMPLIANCE WITH THE NATIONAL ENVIRON-
9 MENTAL POLICY ACT.—For the purposes of this section,
10 compliance with the National Environmental Policy Act
11 of 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

12 (1) with respect to geothermal energy, by sup-
13 plementing the October 2008 final programmatic en-
14 vironmental impact statement for geothermal leasing
15 in the Western United States and incorporating any
16 additional regional analyses that have been com-
17 pleted by Federal agencies since such programmatic
18 environmental impact statement was finalized;

19 (2) with respect to solar energy, by supplement-
20 ing the July 2012 final programmatic environmental
21 impact statement for solar energy development and
22 incorporating any additional regional analyses that
23 have been completed by Federal agencies since such
24 programmatic environmental impact statement was
25 finalized; and

1 (3) with respect to wind energy, by supplement-
2 ing the July 2005 final programmatic environmental
3 impact statement for wind energy development and
4 incorporating any additional regional analyses that
5 have been completed by Federal agencies since such
6 programmatic environmental impact statement was
7 finalized.

8 (f) **ADDITIONAL ENVIRONMENTAL REVIEW.**—If the
9 Secretary determines that additional environmental review
10 under the National Environmental Policy Act of 1969 (42
11 U.S.C. 4321 et seq.) is necessary for a proposed renewable
12 energy project, the Secretary shall—

13 (1) rely on the analysis in the programmatic en-
14 vironmental impact statement conducted under sub-
15 section (e), to the maximum extent practicable when
16 analyzing the potential impacts of the project;

17 (2) complete any environmental review docu-
18 ment in not more than 364 days; and

19 (3) limit any review documents to 150 pages in
20 length.

21 **SEC. 302. GEOTHERMAL PRODUCTION ON FEDERAL LANDS.**

22 The Geothermal Steam Act of 1970 (30 U.S.C. 1001
23 et seq.) is amended by adding at the end the following:

1 **“SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.**

2 “(a) DEFINITION OF GEOTHERMAL EXPLORATION
3 TEST PROJECT.—In this section, the term ‘geothermal ex-
4 ploration test project’ means the drilling of a well to test
5 or explore for geothermal resources on lands for which the
6 Secretary has issued a lease under this Act, that—

7 “(1) is carried out by the holder of the lease;

8 “(2) causes—

9 “(A) less than 5 acres of soil or vegetation
10 disruption at the location of each geothermal
11 exploration well; and

12 “(B) not more than an additional 5 acres
13 of soil or vegetation disruption during access or
14 egress to the test site;

15 “(3) is developed—

16 “(A) less than 9 inches in diameter;

17 “(B) in a manner that does not require
18 off-road motorized access other than to and
19 from the well site along an identified off-road
20 route;

21 “(C) without construction of new roads
22 other than upgrading of existing drainage cross-
23 ings for safety purposes;

24 “(D) with the use of rubber-tired digging
25 or drilling equipment vehicles; and

1 “(E) without the use of high-pressure well
2 stimulation;

3 “(4) is completed in less than 90 days, includ-
4 ing the removal of any surface infrastructure from
5 the site; and

6 “(5) requires the restoration of the project site
7 within 3 years of the date of first exploration drilling
8 to approximately the condition that existed at the
9 time the project began, unless the site is subse-
10 quently used as part of energy development under
11 the lease.

12 “(b) CATEGORICAL EXCLUSION.—

13 “(1) IN GENERAL.—Unless extraordinary cir-
14 cumstances exist, a project that the Secretary deter-
15 mines under subsection (c) is a geothermal explo-
16 ration test project shall be categorically excluded
17 from the requirements for an environmental assess-
18 ment or an environmental impact statement under
19 the National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.) or section 1508.4 of title 40,
21 Code of Federal Regulations (or a successor regula-
22 tion).

23 “(2) EXTRAORDINARY CIRCUMSTANCES DEFINI-
24 TION.—In this subsection, the term ‘extraordinary
25 circumstances’ has the same meaning given such

1 term in the Department of the Interior Depart-
2 mental Manual, 516 DM 2.3A(3) and 516 DM 2,
3 Appendix 2 (or successor provisions).

4 “(c) PROCESS.—

5 “(1) REQUIREMENT TO PROVIDE NOTICE.—A
6 leaseholder shall provide notice to the Secretary of
7 the leaseholder’s intent to carry out a geothermal ex-
8 ploration test project at least 30 days before the
9 date on which drilling under the project will begin.

10 “(2) REVIEW AND DETERMINATION.—Not later
11 than 10 days after receipt of a notice of intent
12 under paragraph (1), the Secretary shall, with re-
13 spect to the project described in the notice of in-
14 tent—

15 “(A) determine if the project qualifies for
16 a categorical exclusion under subsection (b);
17 and

18 “(B) notify the leaseholder of such deter-
19 mination.

20 “(3) OPPORTUNITY TO REMEDY.—If the Sec-
21 retary determines under paragraph (2)(A) that the
22 project does not qualify for a categorical exclusion
23 under subsection (b), the Secretary shall—

1 “(A) include in such notice clear and de-
 2 tailed findings on any deficiencies in the project
 3 that resulted in such determination; and

4 “(B) allow the leaseholder to remedy any
 5 such deficiencies and resubmit the notice of in-
 6 tent under paragraph (1).”.

7 **SEC. 303. FACILITATION OF COPRODUCTION OF GEO-**
 8 **THERMAL ENERGY ON OIL AND GAS LEASES.**

9 Section 4(b) of the Geothermal Steam Act of 1970
 10 (30 U.S.C. 1003(b)) is amended by adding at the end the
 11 following:

12 “(4) LAND SUBJECT TO OIL AND GAS LEASE.—
 13 Land under an oil and gas lease issued pursuant to
 14 the Mineral Leasing Act (30 U.S.C. 181 et seq.) or
 15 the Mineral Leasing Act for Acquired Lands (30
 16 U.S.C. 351 et seq.) that is subject to an approved
 17 application for permit to drill and from which oil
 18 and gas production is occurring may be available for
 19 noncompetitive leasing under subsection (c) by the
 20 holder of the oil and gas lease—

21 “(A) on a determination that geothermal
 22 energy will be produced from a well producing
 23 or capable of producing oil and gas; and

24 “(B) in order to provide for the coproduc-
 25 tion of geothermal energy with oil and gas.”.

1 **SEC. 304. NONCOMPETITIVE LEASING OF ADJOINING**
2 **AREAS FOR DEVELOPMENT OF GEOTHERMAL**
3 **RESOURCES.**

4 Section 4(b) of the Geothermal Steam Act of 1970
5 (30 U.S.C. 1003(b)) is further amended by adding at the
6 end the following:

7 “(5) ADJOINING LAND.—

8 “(A) DEFINITIONS.—In this paragraph:

9 “(i) FAIR MARKET VALUE PER
10 ACRE.—The term ‘fair market value per
11 acre’ means a dollar amount per acre
12 that—

13 “(I) except as provided in this
14 clause, shall be equal to the market
15 value per acre (taking into account
16 the determination under subparagraph
17 (B)(iii) regarding a valid discovery on
18 the adjoining land) as determined by
19 the Secretary under regulations issued
20 under this paragraph;

21 “(II) shall be determined by the
22 Secretary with respect to a lease
23 under this paragraph, by not later
24 than the end of the 180-day period
25 beginning on the date the Secretary

1 receives an application for the lease;
2 and

3 “(III) shall be not less than the
4 greater of—

5 “(aa) 4 times the median
6 amount paid per acre for all land
7 leased under this Act during the
8 preceding year; or

9 “(bb) \$50.

10 “(ii) INDUSTRY STANDARDS.—The
11 term ‘industry standards’ means the stand-
12 ards by which a qualified geothermal pro-
13 fessional assesses whether downhole or
14 flowing temperature measurements with
15 indications of permeability are sufficient to
16 produce energy from geothermal resources,
17 as determined through flow or injection
18 testing or measurement of lost circulation
19 while drilling.

20 “(iii) QUALIFIED FEDERAL LAND.—
21 The term ‘qualified Federal land’ means
22 land that is otherwise available for leasing
23 under this Act.

24 “(iv) QUALIFIED GEOTHERMAL PRO-
25 FESSIONAL.—The term ‘qualified geo-

1 thermal professional’ means an individual
2 who is an engineer or geoscientist in good
3 professional standing with at least 5 years
4 of experience in geothermal exploration,
5 development, or project assessment.

6 “(v) QUALIFIED LESSEE.—The term
7 ‘qualified lessee’ means a person who may
8 hold a geothermal lease under this Act (in-
9 cluding applicable regulations).

10 “(vi) VALID DISCOVERY.—The term
11 ‘valid discovery’ means a discovery of a
12 geothermal resource by a new or existing
13 slim hole or production well, that exhibits
14 downhole or flowing temperature measure-
15 ments with indications of permeability that
16 are sufficient to meet industry standards.

17 “(B) AUTHORITY.—An area of qualified
18 Federal land that adjoins other land for which
19 a qualified lessee holds a legal right to develop
20 geothermal resources may be available for a
21 noncompetitive lease under this section to the
22 qualified lessee at the fair market value per
23 acre, if—

24 “(i) the area of qualified Federal
25 land—

1 “(I) consists of not less than 1
2 acre and not more than 640 acres;
3 and

4 “(II) is not already leased under
5 this Act or nominated to be leased
6 under subsection (a);

7 “(ii) the qualified lessee has not pre-
8 viously received a noncompetitive lease
9 under this paragraph in connection with
10 the valid discovery for which data has been
11 submitted under clause (iii)(I); and

12 “(iii) sufficient geological and other
13 technical data prepared by a qualified geo-
14 thermal professional has been submitted by
15 the qualified lessee to the applicable Fed-
16 eral land management agency that would
17 lead individuals who are experienced in the
18 subject matter to believe that—

19 “(I) there is a valid discovery of
20 geothermal resources on the land for
21 which the qualified lessee holds the
22 legal right to develop geothermal re-
23 sources; and

24 “(II) that geothermal feature ex-
25 tends into the adjoining areas.

1 “(C) DETERMINATION OF FAIR MARKET
2 VALUE.—

3 “(i) IN GENERAL.—The Secretary
4 shall—

5 “(I) publish a notice of any re-
6 quest to lease land under this para-
7 graph;

8 “(II) determine fair market value
9 for purposes of this paragraph in ac-
10 cordance with procedures for making
11 those determinations that are estab-
12 lished by regulations issued by the
13 Secretary;

14 “(III) provide to a qualified les-
15 see and publish, with an opportunity
16 for public comment for a period of 30
17 days, any proposed determination
18 under this subparagraph of the fair
19 market value of an area that the
20 qualified lessee seeks to lease under
21 this paragraph; and

22 “(IV) provide to the qualified les-
23 see and any adversely affected party
24 the opportunity to appeal the final de-
25 termination of fair market value in an

1 administrative proceeding before the
 2 applicable Federal land management
 3 agency, in accordance with applicable
 4 law (including regulations).

5 “(ii) LIMITATION ON NOMINATION.—
 6 After publication of a notice of request to
 7 lease land under this paragraph, the Sec-
 8 retary may not accept under subsection (a)
 9 any nomination of the land for leasing un-
 10 less the request has been denied or with-
 11 drawn.

12 “(iii) ANNUAL RENTAL.—For pur-
 13 poses of section 5(a)(3), a lease awarded
 14 under this paragraph shall be considered a
 15 lease awarded in a competitive lease sale.

16 “(D) REGULATIONS.—Not later than 270
 17 days after the date of enactment of this para-
 18 graph, the Secretary shall issue regulations to
 19 carry out this paragraph.”.

20 **SEC. 305. APPLICATION OF OUTER CONTINENTAL SHELF**
 21 **LANDS ACT WITH RESPECT TO TERRITORIES**
 22 **OF THE UNITED STATES.**

23 (a) IN GENERAL.—Section 2 of the Outer Conti-
 24 nental Shelf Lands Act (43 U.S.C. 1331) is amended—

25 (1) in paragraph (a)—

1 (A) by inserting after “control” the fol-
2 lowing: “or lying within the exclusive economic
3 zone of the United States and the outer Conti-
4 nental Shelf adjacent to any territory or posses-
5 sion of the United States”; and

6 (B) by adding at the end before the semi-
7 colon the following: “, except that such term
8 shall not include any area conveyed by Congress
9 to a territorial government for administration”;

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

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

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

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

17 (b) EXCLUSIONS.—Section 18 of the Outer Conti-
18 nental Shelf Lands Act (43 U.S.C. 1344) is amended by
19 adding at the end the following:

20 “(i) This section shall not apply to the scheduling of
21 lease sales in the outer Continental Shelf adjacent to the
22 territories and possessions of the United States.”.

1 **SEC. 306. DISPOSITION OF REVENUES WITH RESPECT TO**
2 **TERRITORIES OF THE UNITED STATES.**

3 Section 9 of the Outer Continental Shelf Lands Act
4 (43 U.S.C. 1338) is amended—

5 (1) by striking “All rentals” and inserting the
6 following:

7 “(a) IN GENERAL.—Except as otherwise provided in
8 law, all rentals”; and

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

10 “(b) DISPOSITION OF REVENUES TO TERRITORIES
11 OF THE UNITED STATES.—Of the rentals, royalties, and
12 other sums paid to the Secretary under this Act from a
13 lease for an area of land on the outer Continental Shelf
14 adjacent to a territory and lying within the exclusive eco-
15 nomic zone of the United States pertaining to such terri-
16 tory, and not otherwise obligated or appropriated—

17 “(1) 50 percent shall be deposited in the Treas-
18 ury and credited to miscellaneous receipts;

19 “(2) 12.5 percent shall be deposited in the
20 Coral Reef Conservation Fund established under
21 section 211 of the Coral Reef Conservation Act of
22 2000; and

23 “(3) 37.5 percent shall be disbursed to terri-
24 tories of the United States in an amount for each
25 territory (based on a formula established by the Sec-
26 retary by regulation) that is inversely proportional to

1 the respective distance between the point on the
 2 coastline of the territory that is closest to the geo-
 3 graphic center of the applicable leased tract and the
 4 geographic center of the leased tract.”.

5 **SEC. 307. WIND LEASE SALES FOR AREAS OF OUTER CONTI-**
 6 **NENTAL SHELF.**

7 (a) **CONDITIONAL WIND LEASE SALES IN TERRI-**
 8 **TORIES OF THE UNITED STATES.**—The Outer Continental
 9 Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by
 10 adding at the end the following:

11 **“SEC. 33. WIND LEASE SALES FOR AREAS OF OUTER CONTI-**
 12 **NENTAL SHELF.**

13 “(a) **AUTHORIZATION.**—The Secretary may conduct
 14 wind lease sales on the outer Continental Shelf.

15 “(b) **WIND LEASE SALE PROCEDURE.**—Any wind
 16 lease sale conducted under this section shall be considered
 17 a lease under section 8(p).

18 “(c) **WIND LEASE SALES OFF COASTS OF TERRI-**
 19 **TORIES OF THE UNITED STATES.**—

20 “(1) **STUDY ON FEASIBILITY OF CONDUCTING**
 21 **WIND LEASE SALES.**—

22 “(A) **IN GENERAL.**—The Secretary shall
 23 conduct a study on the feasibility, including the
 24 technological and long-term economic feasibility,
 25 of conducting wind lease sales on an area of the

1 outer Continental Shelf within the territorial ju-
2 risdiction of American Samoa, Guam, the
3 Northern Mariana Islands, Puerto Rico, and
4 the Virgin Islands of the United States.

5 “(B) CONSULTATION.—In conducting the
6 study required in paragraph (A), the Secretary
7 shall consult—

8 “(i) the National Renewable Energy
9 Laboratory of the Department of Energy;
10 and

11 “(ii) the Governor of each of Amer-
12 ican Samoa, Guam, the Northern Mariana
13 Islands, Puerto Rico, and the Virgin Is-
14 lands of the United States.

15 “(C) PUBLICATION.—The study required
16 in paragraph (A) shall be published in the Fed-
17 eral Register for public comment for not fewer
18 than 60 days.

19 “(D) SUBMISSION OF RESULTS.—Not later
20 than 18 months after the date of the enactment
21 of this section, the Secretary shall submit the
22 results of the study conducted under subpara-
23 graph (A) to:

24 “(i) the Committee on Energy and
25 Natural Resources of the Senate;

1 “(ii) the Committee on Natural Re-
2 sources of the House of Representatives;
3 and

4 “(iii) each of the delegates or resident
5 commissioner to the House of Representa-
6 tives from American Samoa, Guam, the
7 Northern Mariana Islands, Puerto Rico,
8 and the Virgin Islands of the United
9 States, respectively.

10 “(E) PUBLIC AVAILABILITY.—The study
11 required under subparagraph (A) and results
12 submitted under subparagraph (C) shall be
13 made readily available on a public Government
14 internet website.

15 “(2) CALL FOR INFORMATION AND NOMINA-
16 TIONS.—The Secretary shall issue a call for informa-
17 tion and nominations for proposed wind lease sales
18 for areas determined to be feasible under the study
19 conducted under paragraph (1).

20 “(3) CONDITIONAL WIND LEASE SALES.—

21 “(A) IN GENERAL.—For each territory,
22 the Secretary shall conduct not less than 1 wind
23 lease sale on an area of the outer Continental
24 Shelf within the territorial jurisdiction of such

1 territory that meets each of the following cri-
2 teria:

3 “(i) The study required under para-
4 graph (1)(A) concluded that a wind lease
5 sale on the area is feasible.

6 “(ii) The Secretary has determined
7 that the call for information has generated
8 sufficient interest for the area.

9 “(iii) The Secretary has consulted
10 with the Secretary of Defense regarding
11 such a sale.

12 “(iv) The Secretary has consulted
13 with the Governor of the territory regard-
14 ing the suitability of the area for wind en-
15 ergy development.

16 “(B) EXCEPTION.—If no area of the outer
17 Continental Shelf within the territorial jurisdic-
18 tion of a territory meets each of the criteria in
19 clauses (i) through (iii) of subparagraph (A),
20 the requirement under subparagraph (A) shall
21 not apply to such territory.”.

1 **SEC. 308. ESTABLISHMENT OF CORAL REEF CONSERVA-**
2 **TION FUND.**

3 (a) IN GENERAL.—The Coral Reef Conservation Act
4 of 2000 (16 U.S.C. 6401 et seq.) is amended by adding
5 at the end the following:

6 **“SEC. 211. CORAL REEF CONSERVATION FUND.**

7 “(a) ESTABLISHMENT.—There is established in the
8 Treasury the Coral Reef Conservation Fund, hereafter re-
9 ferred to as the Fund.

10 “(b) DEPOSITS.—For each fiscal year, there shall be
11 deposited in the Fund the portion of such revenues due
12 and payable to the United States under subsection (b)(2)
13 of section 9 of the Outer Continental Shelf Lands Act (43
14 U.S.C. 1338).

15 “(c) USES.—Amounts deposited in the Fund under
16 this section and appropriated to the Secretary of Com-
17 merce under subsection (f) shall be used by the Secretary
18 of Commerce to carry out the Coral Reef Conservation Act
19 of 2000 (16 U.S.C. 6401 et seq.), with priority given to
20 carrying out sections 204 and 206 of such Act (16 U.S.C.
21 6403 and 6405).

22 “(d) AVAILABILITY.—Amounts deposited in the Fund
23 shall remain in the Fund until appropriated by Congress.

24 “(e) REPORTING.—The President shall include with
25 the proposed budget for the United States Government
26 submitted to Congress for a fiscal year a comprehensive

1 statement of deposits into the Fund during the previous
 2 fiscal year and estimated requirements during the fol-
 3 lowing fiscal year for appropriations from the Fund.

4 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated from the Fund to the
 6 Secretary of Commerce, an amount equal to the amount
 7 deposited in the Fund in the previous fiscal year.

8 “(g) NO LIMITATION.—Appropriations from the
 9 Fund pursuant to this section may be made without fiscal
 10 year limitation.”.

11 (b) RENAMING OF EXISTING FUND.—Section 205 of
 12 the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404)
 13 is amended—

14 (1) in the heading, by striking “**CORAL REEF**
 15 **CONSERVATION FUND**” and inserting “**CORAL**
 16 **REEF PUBLIC-PRIVATE PARTNERSHIP**”;

17 (2) in subsection (a)—

18 (A) in the subsection heading, by striking
 19 “FUND” and inserting “PUBLIC-PRIVATE
 20 PARTNERSHIP”; and

21 (B) by striking “, hereafter referred to as
 22 the Fund,”; and

23 (3) in subsection (b), by striking “Fund” and
 24 inserting “separate interest bearing account”.

1 **TITLE IV—LIMITATIONS ON**
2 **LEASING MORATORIUMS**

3 **SEC. 401. COAL LEASES.**

4 Section 2(a)(1) of the Mineral Leasing Act (30
5 U.S.C. 202a(a)(1)) is amended by striking “in his discre-
6 tion, upon the request of any qualified applicant or on his
7 own motion from time to time” and inserting “at the Sec-
8 retary’s discretion or upon the request of any qualified ap-
9 plicant”.

10 **SEC. 402. CONGRESSIONAL AUTHORITY REQUIREMENT.**

11 Notwithstanding any other provision of law, the Sec-
12 retary of the Interior may not declare a moratorium on
13 the leasing of Federal lands, including on the Outer Conti-
14 nental Shelf, for the drilling, mining, or collection of oil,
15 gas, or coal, or related activities unless such moratorium
16 is authorized by an Act of Congress.

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