

Union Calendar No. 186

110TH CONGRESS
1ST SESSION

H. R. 2337

[Report No. 110–296, Part I]

To promote energy policy reforms and public accountability, alternative energy and efficiency, and carbon capture and climate change mitigation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2007

Mr. RAHALL introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture 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

AUGUST 3, 2007

Additional sponsors: Mr. GRIJALVA, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, Mr. HINCHEY, Ms. BORDALLO, Mr. INSLEE, and Mr. BACA

AUGUST 3, 2007

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

AUGUST 3, 2007

Committees on Agriculture and Science and Technology discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 16, 2007]

A BILL

To promote energy policy reforms and public accountability,

alternative energy and efficiency, and carbon capture and climate change mitigation, 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.**

4 *This Act may be cited as the “Energy Policy Reform*
 5 *and Revitalization Act of 2007”.*

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

7 *The table of contents of this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ENERGY POLICY ACT OF 2005 REFORMS

Sec. 101. Fiscally responsible energy amendments.

Sec. 102. Extension of deadline for consideration of applications for permits.

Sec. 103. Energy rights-of-way corridors on Federal land.

Sec. 104. Oil shale and tar sands leasing.

Sec. 105. Limitation of rebuttable presumption regarding application of categor-
ical exclusion under NEPA for oil and gas exploration and de-
velopment activities.

Sec. 106. Best management practices.

Sec. 107. Federal consistency appeals.

**TITLE II—FEDERAL ENERGY PUBLIC ACCOUNTABILITY, INTEGRITY,
 AND PUBLIC INTEREST**

Subtitle A—Accountability and Integrity in the Federal Energy Program

Sec. 201. Limitations on royalty in-kind.

Sec. 202. Audits.

Sec. 203. Fines and penalties.

Subtitle B—Amendments to Federal Oil and Gas Royalty Management Act of
 1982

Sec. 211. Amendments to definitions.

Sec. 212. Interest.

Sec. 213. Obligation period.

Sec. 214. Tolling agreements and subpoenas.

Sec. 215. Liability for royalty payments.

Subtitle C—Public Interest in the Federal Energy Program

Sec. 221. Surface owner protection.

Sec. 222. Onshore oil and gas reclamation and bonding.

Sec. 223. Protection of water resources.

Sec. 224. Due diligence fee.

Subtitle D—Wind Energy

Sec. 231. Wind Turbine Guidelines Advisory Committee.

Sec. 232. Authorization of appropriations for research to study wind energy impacts on wildlife.

Sec. 233. Enforcement.

Sec. 234. Savings clause.

Subtitle E—Enhancing Energy Transmission

Sec. 241. Power Marketing Administrations report.

TITLE III—ALTERNATIVE ENERGY AND EFFICIENCY

Sec. 301. State ocean and coastal alternative energy planning.

Sec. 302. Canal-side power production at Bureau of Reclamation projects.

Sec. 303. Increasing energy efficiencies for water desalination.

Sec. 304. Establishing a pilot program for the development of strategic solar reserves on Federal lands.

Sec. 305. OTEC regulations.

Sec. 306. Biomass utilization pilot program.

Sec. 307. Programmatic environmental impact statement.

TITLE IV—CARBON CAPTURE AND CLIMATE CHANGE MITIGATION

Subtitle A—Geological Sequestration Assessment

Sec. 401. Short title.

Sec. 402. National assessment.

Subtitle B—Terrestrial Sequestration Assessment

Sec. 421. Requirement to conduct an assessment.

Sec. 422. Methodology.

Sec. 423. Completion of assessment and report.

Sec. 424. Authorization of appropriations.

Subtitle C—Sequestration Activities

Sec. 431. Carbon dioxide storage inventory.

Sec. 432. Framework for geological carbon sequestration on Federal lands.

Subtitle D—Natural Resources and Wildlife Programs

CHAPTER 1—NATURAL RESOURCES MANAGEMENT AND CLIMATE CHANGE

Sec. 441. Interagency Council on Climate Change.

CHAPTER 2—NATIONAL POLICY AND STRATEGY FOR WILDLIFE

Sec. 451. Short title.

Sec. 452. National policy on wildlife and global warming.

Sec. 453. Definitions.

Sec. 454. National strategy.

Sec. 455. Advisory board.

Sec. 456. Authorization of appropriations.

CHAPTER 3—STATE AND TRIBAL WILDLIFE GRANTS PROGRAM

Sec. 461. *State and Tribal Wildlife Grants Program.*

Subtitle E—Ocean Programs

Sec. 471. *Ocean Policy, Global Warming, and Acidification Program.*

Sec. 472. *Planning for climate change in the coastal zone.*

Sec. 473. *Enhancing climate change predictions.*

TITLE V—ADDITIONAL PROVISIONS

Sec. 501. *Sharing of penalties.*

Sec. 502. *Sharing of fees.*

Sec. 503. *Oil shale community impact assistance.*

Sec. 504. *Additional notice requirements.*

1 **TITLE I—ENERGY POLICY ACT**
 2 **OF 2005 REFORMS**

3 **SEC. 101. FISCALLY RESPONSIBLE ENERGY AMENDMENTS.**

4 (a) *REQUIREMENT TO ESTABLISH COST RECOVERY*
 5 *FEE.*—*Section 365(i) of the Energy Policy Act of 2005*
 6 *(Public Law 109–58; 42 U.S.C. 15924(i)) is amended to*
 7 *read as follows:*

8 “(i) *FEE FOR APPLICATIONS FOR PERMITS TO*
 9 *DRILL.*—

10 “(1) *REQUIREMENT TO ESTABLISH COST RECOV-*
 11 *ERY FEE.*—*The Secretary of the Interior shall pro-*
 12 *mulgate regulations to establish a cost recovery fee for*
 13 *applications for a permit to drill for oil and gas on*
 14 *Federal lands administered by the Secretary.*

15 “(2) *TEMPORARY FEE.*—*Until such time as a fee*
 16 *is established by such regulations, the Secretary shall*
 17 *charge a cost recovery fee of \$1,700 for each such ap-*
 18 *plication received on or after October 1, 2007.”.*

1 (b) *REPEAL OF BLM PERMIT PROCESSING IMPROVE-*
2 *MENT FUND.*—

3 (1) *REPEAL.*—*Section 35 of the Mineral Leasing*
4 *Act (30 U.S.C. 191) is amended by striking subsection*
5 *(c).*

6 (2) *TREATMENT OF BALANCE.*—*Any balances re-*
7 *maining in the BLM Permit Processing Improvement*
8 *Fund on the effective date of this subsection shall be*
9 *transferred to the general fund of the Treasury of the*
10 *United States.*

11 (3) *EFFECTIVE DATE.*—*This subsection shall take*
12 *effect on October 1, 2007.*

13 **SEC. 102. EXTENSION OF DEADLINE FOR CONSIDERATION**
14 **OF APPLICATIONS FOR PERMITS.**

15 Subsection (p)(2) of section 17 of the Mineral Leasing
16 Act (30 U.S.C. 226) is amended by striking “30” and in-
17 serting “90”.

18 **SEC. 103. ENERGY RIGHTS-OF-WAY CORRIDORS ON FED-**
19 **ERAL LAND.**

20 (a) *REPEAL OF REQUIREMENTS TO DESIGNATE EN-*
21 *ERGY RIGHTS-OF-WAY CORRIDORS ON FEDERAL LAND.*—
22 *Section 368 of the Energy Policy Act of 2005 (Public Law*
23 *109–58; 42 U.S.C.15926) is amended—*

1 (1) *in subsection (a), by striking “Not later than*
2 *2 years after the date of enactment of this Act, the”*
3 *and inserting “The”; and*

4 (2) *in subsection (b), by striking “Not later than*
5 *4 years after the date of enactment of this Act, the”*
6 *and inserting “The”.*

7 (b) *STUDY.—*

8 (1) *STUDY.—Not later than 6 months after the*
9 *date of enactment of this Act, the Secretary of Agri-*
10 *culture, the Secretary of Commerce, the Secretary of*
11 *Defense, the Secretary of Energy, and the Secretary*
12 *of the Interior (in this subsection referred to collec-*
13 *tively as “the Secretaries”) shall, in consultation with*
14 *affected States, complete a study of—*

15 (A) *congestion and constraints in trans-*
16 *mission of electricity, carbon dioxide captured*
17 *from coal-fired powerplants and coal-to-liquids*
18 *plants, liquid fuels derived from coal, oil, gas,*
19 *and hydrogen;*

20 (B) *barriers to access for transmission from*
21 *renewable energy sources, such as large and*
22 *small conventional hydropower, wind energy,*
23 *and solar energy; and*

1 (C) *the need for energy corridors on public*
2 *lands to address identified congestion or con-*
3 *straints.*

4 (2) *CONSIDERATIONS.—In performing the study,*
5 *the Secretaries—*

6 (A) *shall take into account the studies of*
7 *electrical transmission congestion completed*
8 *under section 216(a)(1) of the Federal Power Act*
9 *(16 U.S.C. 824(p)(a)(1)), other projects author-*
10 *ized or under consideration on public lands and*
11 *such projects outside public lands, and alter-*
12 *natives, individually and in concert, that could*
13 *be implemented to address the needs identified,*
14 *including an analysis of demand reduction,*
15 *available new technology, and distributed gen-*
16 *eration measures that could be taken;*

17 (B) *shall not consider as available for des-*
18 *ignation as a corridor, any area that is—*

19 (i) *within one mile of any place des-*
20 *ignated or otherwise identified by State or*
21 *Federal law or any applicable Federal or*
22 *State land use plan for recognition or pro-*
23 *tection of scenic, natural, cultural, or his-*
24 *toric resources; or*

- 1 (ii) *in a sensitive ecological area, in-*
2 *cluding any area that is designated as crit-*
3 *ical habitat under the Endangered Species*
4 *Act of 1973 or otherwise identified as sen-*
5 *sitive or crucial habitat, including seasonal*
6 *habitat, by the United States Fish and*
7 *Wildlife Service, by a State agency respon-*
8 *sible for managing wildlife or wildlife habi-*
9 *tat, or in a Federal or State land use plan;*
- 10 (C) *identify opportunities to mitigate to the*
11 *maximum extent practicable the potential im-*
12 *pect of designating energy corridors, and of the*
13 *reasonably foreseeable uses of those corridors for*
14 *power lines, pipelines, and other transmission*
15 *facilities, on natural, scenic, cultural, and his-*
16 *toric values and areas referred to in subpara-*
17 *graph (B), the protection of which is in the na-*
18 *tional interest, including opportunities to mini-*
19 *mize the width of corridors, limiting the types*
20 *and numbers of uses of corridors, and placement*
21 *of facilities underground; and*
- 22 (D) *identify opportunities to improve access*
23 *to the national electric power grid for generators*
24 *of renewable energy, such as wind, hydropower,*
25 *biomass, hydrogen, geothermal, and solar.*

1 (3) *UPDATES.*—*The Secretaries shall periodically*
2 *update the results of the study as they consider*
3 *appropriate.*

4 (4) *REPORTS.*—*After considering recommendations*
5 *from interested persons (including an opportunity*
6 *for comment from the public and affected*
7 *States), the Secretaries shall issue—*

8 (A) *a report presenting the results of the*
9 *study; and*

10 (B) *a report on each update of the study*
11 *under paragraph (3).*

12 (c) *DEFERRAL OF DESIGNATION OF ENERGY COR-*
13 *RIDORS PENDING COMPLETION OF STUDY.*—

14 (1) *LIMITATION ON ACTIONS PENDING COMPLE-*
15 *TION OF STUDY.*—*The Secretaries shall not designate*
16 *energy corridors on public lands, including those cor-*
17 *ridors under consideration based on section 368 of the*
18 *Energy Policy Act of 2005 (Public Law 109–58) as*
19 *in effect prior to the enactment of this Act, and shall*
20 *not authorize specific rights-of-way or projects in such*
21 *corridors, until the study under subsection (b) is com-*
22 *pleted.*

23 (2) *USE OF STUDY RESULTS FOR ACTIONS AFTER*
24 *COMPLETION OF STUDY.*—

1 (A) *IN GENERAL.*—Subject to subparagraph
2 (B), after completion of the study under sub-
3 section (b), the Secretaries shall use the results of
4 the study to inform subsequent decisions to grant
5 rights-of-way, including under title V of the Fed-
6 eral Land Policy and Management Act of 1976
7 (43 U.S.C. 1761 et seq.), and to amend land use
8 plans to designate energy corridors or authorize
9 rights-of-way, in any area for which no such des-
10 ignation or authorization currently exists.

11 (B) *LIMITATION ON USE.*—The results of the
12 study shall not affect the Secretaries' obligations
13 to analyze the environmental consequences of a
14 designation or authorization referred to in sub-
15 paragraph (A), or to otherwise comply with ap-
16 plicable laws.

17 (d) *AUTHORITY TO AUTHORIZE RIGHTS-OF-WAY.*—
18 Nothing in this section shall limit the ability of the Secre-
19 taries to authorize rights-of-way for energy transmission
20 projects that are consistent with the governing land use
21 plan, after completion of environmental analysis and com-
22 pliance with applicable laws.

23 **SEC. 104. OIL SHALE AND TAR SANDS LEASING.**

24 Section 369 of the Energy Policy Act of 2005 (42
25 U.S.C. 15927) is amended—

1 (1) *in subsection (c), by striking “not later than*
2 *180 days after the date of enactment of this Act,”;*

3 (2) *in subsection (c), by striking “shall make”*
4 *and inserting “may make”;*

5 (3) *in subsection (d)(1), by striking “Not later*
6 *than 18 months after the date of enactment of this*
7 *Act, in” and inserting “In”;*

8 (4) *in subsection (d)(2)—*

9 (A) *in the heading by striking “FINAL” and*
10 *inserting “PROPOSED”; and*

11 (B) *in the text by striking “final” and in-*
12 *serting “proposed”;*

13 (5) *in subsection (d)(2), by striking “6” and in-*
14 *serting “12”;*

15 (6) *in subsection (d)(2) by inserting after the pe-*
16 *riod “The proposed regulations developed under this*
17 *paragraph are to be open for public comment for no*
18 *less than 180 days.”;*

19 (7) *by redesignating subsections (e) through (s)*
20 *as subsections (g) through (u), and by inserting after*
21 *subsection (d) the following:*

22 “*(e) OIL SHALE AND TAR SANDS LEASING AND DE-*
23 *VELOPMENT STRATEGY.—*

24 “*(1) GENERAL.—Not later than 6 months after*
25 *the completion of the programmatic environmental*

1 *impact statement under subsection (d), the Secretary*
2 *shall prepare an oil shale and tar sands leasing and*
3 *development strategy, in cooperation with the Sec-*
4 *retary of Energy and the Administrator of the Envi-*
5 *ronmental Protection Agency.*

6 “(2) *PURPOSE.*—*The purpose of the strategy de-*
7 *veloped under this subsection is to allow for the sus-*
8 *tainable and publicly acceptable large-scale develop-*
9 *ment of oil shale within the Green River Formation.*

10 “(3) *CONTENTS.*—*The strategy shall include*
11 *plans and programs for obtaining information re-*
12 *quired for determining the optimal methods, loca-*
13 *tions, amount, and timeframe for potential develop-*
14 *ment on federal lands within the Green River Forma-*
15 *tion. The strategy shall also include plans for con-*
16 *ducting critical environmental and ecological re-*
17 *search, high-payoff process improvement research, an*
18 *assessment of carbon management options, and a*
19 *large-scale demonstration of carbon dioxide sequestra-*
20 *tion in the general vicinity of the Piceance Basin.*

21 “(f) *ALTERNATIVE APPROACHES.*—*Not later than nine*
22 *months after the completion of the programmatic environ-*
23 *mental impact statement under subsection (d), the Sec-*
24 *retary shall, in cooperation with the Secretary of Energy*
25 *and the Administrator of the Environmental Protection*

1 *Agency, prepare and publish a report on alternative ap-*
 2 *proaches to providing access to Federal lands for early first-*
 3 *of-a-kind commercial facilities for extracting and proc-*
 4 *essing oil shale and tar sands.”;*

5 *(8) in subsection (g), as so redesignated, by strik-*
 6 *ing “of the final regulation required by subsection*
 7 *(d)” and inserting “of final regulations issued under*
 8 *this section”;*

9 *(9) in subsection (g), as so redesignated, by add-*
 10 *ing at the end the following: “Compliance with the*
 11 *National Environmental Policy Act of 1969 is re-*
 12 *quired on a site-by-site basis for all lands proposed to*
 13 *be leased under the commercial leasing program es-*
 14 *tablished in this subsection.”; and*

15 *(10) in subsection (i)(1)(B), as so redesignated,*
 16 *by striking “subsection (e)” and inserting “subsection*
 17 *(g)”.*

18 **SEC. 105. LIMITATION OF REBUTTABLE PRESUMPTION RE-**
 19 **GARDING APPLICATION OF CATEGORICAL EX-**
 20 **CLUSION UNDER NEPA FOR OIL AND GAS EX-**
 21 **PLORATION AND DEVELOPMENT ACTIVITIES.**

22 *Section 390 of the Energy Policy Act of 2005 (Public*
 23 *Law 109–58; 42 U.S.C. 15942) is amended—*

24 *(1) in subsection (b)(3), by inserting “, other*
 25 *than at such a location or site in an area that is cru-*

1 *cial wildlife habitat or a significant wildlife corridor”*
2 *after “activity” ; and*

3 *(2) by adding at the end the following:*

4 *“(c) ADHERENCE TO CEQ REGULATIONS.—In admin-*
5 *istering this section, the Secretary of the Interior in man-*
6 *aging the public lands, and the Secretary of Agriculture in*
7 *managing National Forest System lands, shall adhere to the*
8 *regulations issued by the Council on Environmental Qual-*
9 *ity relating to categorical exclusions (40 C.F.R. 1507.3 and*
10 *1508.4), as in effect on the date of enactment of this Act.”.*

11 **SEC. 106. BEST MANAGEMENT PRACTICES.**

12 *Not later than 180 days after the date of enactment*
13 *of this Act, the Secretary of the Interior, through the Bureau*
14 *of Land Management, shall amend the best management*
15 *practices guidelines for oil and gas development on Federal*
16 *lands, to—*

17 *(1) require public review and comment prior to*
18 *waiving any stipulation of an oil and gas lease for*
19 *such lands, except in the case of an emergency; and*

20 *(2) create an incentive for oil and gas operators*
21 *to adopt best management practices that minimize*
22 *adverse impacts to wildlife habitat, by providing ex-*
23 *pedited permit review for any operator that commits*
24 *to adhering to those practices without seeking waiver*
25 *of such stipulations.*

1 **SEC. 107. FEDERAL CONSISTENCY APPEALS.**

2 (a) *SHORT TITLE.*—*This section may be cited as the*
3 *“Federal Consistency Appeals Decision Refinement Act”.*

4 (b) *CLARIFICATION OF APPEAL DECISION TIME PERI-*
5 *ODS AND INFORMATION REQUIREMENTS.*—*Section 319(b) of*
6 *the Coastal Zone Management Act of 1972 (16 U.S.C.*
7 *1465(b)) is amended—*

8 (1) *in paragraph (1), by striking “160-day” and*
9 *inserting “320-day”;*

10 (2) *in paragraph (3)(A)—*

11 (A) *by striking “160-day” and inserting*
12 *“320-day”; and*

13 (B) *by amending clause (ii) to read as fol-*
14 *lows:*

15 “(ii) *as the Secretary determines nec-*
16 *essary to receive, on an expedited basis, any*
17 *supplemental or clarifying information rel-*
18 *evant to the consolidated record compiled by*
19 *the lead Federal permitting agency to com-*
20 *plete a consistency review under this title.”;*
21 *and*

22 (3) *in paragraph (3)(B)—*

23 (A) *by striking “160-day” and inserting*
24 *“320-day”; and*

25 (B) *by striking “for a period not to exceed*
26 *60 days.” and inserting “once.”.*

1 **TITLE II—FEDERAL ENERGY**
2 **PUBLIC ACCOUNTABILITY, IN-**
3 **TEGRITY, AND PUBLIC INTER-**
4 **EST**

5 **Subtitle A—Accountability and In-**
6 **tegrity in the Federal Energy**
7 **Program**

8 **SEC. 201. LIMITATIONS ON ROYALTY IN-KIND.**

9 *Section 342 of the Energy Policy Act of 2005 (42*
10 *U.S.C. 15902(d)) is amended—*

11 *(1) in subsection (d)—*

12 *(A) in the heading by striking “BENEFIT”*
13 *and inserting “FILLING OF STRATEGIC PETRO-*
14 *LEUM RESERVE AND BENEFIT”; and*

15 *(B) by striking “only if” and inserting*
16 *“only if receiving such royalties in-kind is for*
17 *the purpose of filling the Strategic Petroleum Re-*
18 *serve and”; and*

19 *(2) by adding at the end:*

20 *“(k) LIMITATION.—*

21 *“(1) IN GENERAL.—No amount of the total*
22 *amount of royalties collected by the Secretary in a fis-*
23 *cal year may be collected as royalties in-kind.*

24 *“(2) EXCEPTION.—Paragraph (1) shall not*
25 *apply with respect to royalties in-kind collected for*

1 “(A) after due notice of violation or after such
2 violation has been reported under paragraph (3)(A),
3 fail or refuse to comply with any requirement of any
4 mineral leasing law or any regulation, order, lease, or
5 permit under such a law;

6 “(B) fail or refuse to make any royalty payment
7 in the amount or value required by any mineral leas-
8 ing law or any regulation, order, or lease under such
9 a law;

10 “(C) fail or refuse to make any royalty payment
11 by the date required by any mineral leasing law or
12 any regulation, order, or lease under such a law; or

13 “(D) prepare, maintain, or submit any false, in-
14 accurate, or misleading report, notice, affidavit,
15 record, data, or other written information or filing
16 related to royalty payments that is required under
17 any mineral leasing law or regulation issued under
18 any mineral leasing law.

19 “(2) A person who violates paragraph (1) shall be lia-
20 ble—

21 “(A) in the case of a violation of subparagraph
22 (B) or (C) of paragraph (1) for an amount equal to
23 3 times the royalty the person fails or refuses to pay,
24 plus interest on that trebled amount measured from
25 the first date the royalty payment was due; and

1 “(B) in the case of any violation, for a civil pen-
2 alty of up to \$25,000 per violation for each day the
3 violation continues.

4 “(3) Paragraph (2) shall not apply to a violation of
5 paragraph (1) if the person who commits the violation,
6 within 30 days of the violation—

7 “(A) reports the violation to the Secretary or a
8 representative designated by the Secretary; and

9 “(B) corrects the violation.

10 “(b) LEASE ADMINISTRATION VIOLATIONS.—Any per-
11 son who—

12 “(1) fails to notify the Secretary of—

13 “(A) any designation by the person under
14 section 102(a); or

15 “(B) any other assignment of obligations or
16 responsibilities of the person under a lease;

17 “(2) fails or refuses to permit—

18 “(A) lawful entry;

19 “(B) inspection, including any inspection
20 authorized by section 108; or

21 “(C) audit, including any failure or refusal
22 to promptly tender requested documents;

23 “(3) fails or refuses to comply with subsection
24 102(b)(3) (relating to notification regarding begin-
25 ning or resumption of production); or

1 “(4) fails to correctly report and timely provide
2 operations or financial records necessary for the Sec-
3 retary or any authorized designee of the Secretary to
4 accomplish lease management responsibilities,
5 shall be liable for a penalty of up to \$10,000 per violation
6 for each day such violation continues.

7 “(c) *THEFT*.—Any person who—

8 “(1) knowingly or willfully takes or removes,
9 transports, uses or diverts any oil or gas from any
10 lease site without having valid legal authority to do
11 so; or

12 “(2) purchases, accepts, sells, transports, or con-
13 veys to another, any oil or gas knowing or having
14 reason to know that such oil or gas was stolen or un-
15 lawfully removed or diverted,

16 shall be liable for a penalty of up to \$25,000 per violation
17 for each day such violation continues without correction.

18 “(d) *REPEATED VIOLATIONS*.—(1)(A) If the Secretary
19 or an authorized designee of the Secretary determines that
20 any person has repeatedly violated subsection (a), (b), or
21 (c), the Secretary or designee shall notify the person of the
22 violation and demand compliance.

23 “(B) A person notified pursuant to subparagraph (A)
24 shall correct the violations by not later than 30 calendar
25 days after the date of the notification.

1 “(C) Any person who fails to comply with a demand
2 under subparagraph (A) shall be liable to the United States
3 for a civil penalty equal to 3 times the amount of any civil
4 penalty that otherwise applies under subsection (a), (b), or
5 (c) to the violations to which the demand relates.

6 “(2) In addition to the penalty provided in paragraph
7 (1)(C), if the Secretary determines that any person has re-
8 peatedly violated subsection (a), (b), or (c) or any lease
9 management order, the Secretary may—

10 “(A) shut in and cease production of any oil or
11 gas lease held by the person;

12 “(B) prohibit the person—

13 “(i) from acquiring any additional oil or
14 gas lease, including by transfer or assignment;
15 and

16 “(ii) from being designated under section
17 102(a) to make payments due under any lease;

18 “(C) cancel or transfer any interest in an oil or
19 gas lease held by the person; and

20 “(D) collect from the person reimbursement, in-
21 cluding interest, of all costs of release, transfer, or rec-
22 lamation of lease sites canceled or transferred, includ-
23 ing costs of disposing of lease property, facilities, and
24 equipment.

1 “(e) *ADMINISTRATIVE APPEAL.*—(1) *Any determina-*
2 *tion by the Secretary or a designee of the Secretary of the*
3 *amount of any royalties or civil penalties owed under sub-*
4 *section (a), (b), (c), or (d) shall be final, unless within 15*
5 *days after notification by the Secretary or designee the per-*
6 *son liable for such amount files an administrative appeal*
7 *in accordance with regulations issued by the Secretary.*

8 “(2) *If a person files an administrative appeal pursu-*
9 *ant to paragraph (1), the Secretary or designee shall make*
10 *a final determination in accordance with the regulations*
11 *referred to in paragraph (1).*

12 “(f) *DEDUCTION.*—*The amount of any penalty under*
13 *this section, as finally determined may be deducted from*
14 *any sums owing by the United States to the person charged.*

15 “(g) *COMPROMISE AND REDUCTION.*—*On a case-by-*
16 *case basis the Secretary may compromise or reduce civil*
17 *penalties under this section.*

18 “(h) *NOTICE.*—*Notice under this subsection (a) shall*
19 *be by personal service by an authorized representative of*
20 *the Secretary or by registered mail. Any person may, in*
21 *the manner prescribed by the Secretary, designate a rep-*
22 *resentative to receive any notice under this subsection.*

23 “(i) *RECORD OF DETERMINATION.*—*In determining*
24 *the amount of such penalty, or whether it should be remitted*

1 *or reduced, and in what amount, the Secretary shall state*
2 *on the record the reasons for his determinations.*

3 “(j) *JUDICIAL REVIEW.*—*Any person who has re-*
4 *quested a hearing in accordance with subsection (e) within*
5 *the time the Secretary has prescribed for such a hearing*
6 *and who is aggrieved by a final order of the Secretary under*
7 *this section may seek review of such order in the United*
8 *States district court for the judicial district in which the*
9 *violation allegedly took place. Review by the district court*
10 *shall be only on the administrative record and not de novo.*
11 *Such an action shall be barred unless filed within 90 days*
12 *after the Secretary’s final order.*

13 “(k) *FAILURE TO PAY.*—*If any person fails to pay an*
14 *assessment of a civil penalty under this Act—*

15 “(1) *after the order making the assessment has*
16 *become a final order and if such person does not file*
17 *a petition for judicial review of the order in accord-*
18 *ance with subsection (j), or*

19 “(2) *after a court in an action brought under*
20 *subsection (j) has entered a final judgment in favor*
21 *of the Secretary,*

22 *the court shall have jurisdiction to award the amount as-*
23 *essed plus interest from the date of the expiration of the*
24 *90-day period referred to in subsection (j). Judgment by*
25 *the court shall include an order to pay.*

1 “(l) *RELATIONSHIP TO MINERAL LEASING ACT.*—No
2 *person shall be liable for a civil penalty under subsection*
3 *(a) or (b) for failure to pay any rental for any lease auto-*
4 *matically terminated pursuant to section 31 of the Mineral*
5 *Leasing Act.*

6 “(m) *TOLLING OF STATUTES OF LIMITATION.*—(1)
7 *Any determination by the Secretary or a designee of the*
8 *Secretary that a person has violated subsection (a), (b)(2),*
9 *or (b)(4) shall toll any applicable statute of limitations for*
10 *all oil and gas leases held or operated by such person, until*
11 *the later of—*

12 “(A) *the date on which the person corrects the*
13 *violation and certifies that all violations of a like na-*
14 *ture have been corrected for all of the oil and gas*
15 *leases held or operated by such person; or*

16 “(B) *the date a final, nonappealable order has*
17 *been issued by the Secretary or a court of competent*
18 *jurisdiction.*

19 “(2) *A person determined by the Secretary or a des-*
20 *ignee of the Secretary to have violated subsection (a), (b)(2),*
21 *or (b)(4) shall maintain all records with respect to the per-*
22 *son’s oil and gas leases until the later of—*

23 “(A) *the date the Secretary releases the person*
24 *from the obligation to maintain such records; and*

1 “(B) the expiration of the period during which
2 the records must be maintained under section 103(b).

3 “(n) *STATE SHARING OF PENALTIES.*—Amounts re-
4 ceived by the United States in an action brought under sec-
5 tion 3730 of title 31, United States Code, that arises from
6 any underpayment of royalties owed to the United States
7 under any lease shall be treated as royalties paid to the
8 United States under that lease for purposes of the mineral
9 leasing laws and the Land and Water Conservation Fund
10 Act of 1965 (16 U.S.C. 460l–4 et seq.).”

11 (b) *SHARED CIVIL PENALTIES.*—Section 206 of the
12 Federal Oil and Gas Royalty Management Act of 1982 (30
13 U.S.C. 1736) is amended—

14 (1) by inserting “trebled royalties or” after “50
15 per centum of any”; and

16 (2) by striking the second sentence.

17 ***Subtitle B—Amendments to Federal***
18 ***Oil and Gas Royalty Manage-***
19 ***ment Act of 1982***

20 ***SEC. 211. AMENDMENTS TO DEFINITIONS.***

21 Section 3 of the Federal Oil and Gas Royalty Manage-
22 ment Act of 1982 (30 U.S.C. 1702) is amended—

23 (1) in paragraph (20)(A), by striking “: Pro-
24 vided, That” and all that follows through “subject of
25 the judicial proceeding”;

1 (2) in paragraph (20)(B), by striking “(with
2 written notice to the lessee who designated the des-
3 ignee)”;

4 (3) in paragraph (23)(A), by striking “(with
5 written notice to the lessee who designated the des-
6 ignee)”;

7 (4) by amending paragraph (24) to read as fol-
8 lows:

9 “(24) ‘designee’ means any person who pays, off-
10 sets, or credits monies, makes adjustments, requests
11 and receives refunds, or submits reports with respect
12 to payments a lessee must make pursuant to section
13 102(a);”;

14 (5) in paragraph (25)(B), by striking “(subject
15 to the provisions of section 102(a) of this Act)”; and

16 (6) in paragraph (26), by striking “(with notice
17 to the lessee who designated the designee)”.

18 **SEC. 212. INTEREST.**

19 (a) *ESTIMATED PAYMENTS; INTEREST ON AMOUNT OF*
20 *UNDERPAYMENT.*—Section 111(j) of the Federal Oil and
21 *Gas Royalty Management Act of 1982 (30 U.S.C. 1721(j))*
22 *is amended by striking “If the estimated payment exceeds*
23 *the actual royalties due, interest is owed on the overpay-*
24 *ment.”.*

1 (b) *OVERPAYMENTS.*—Section 111 of the Federal Oil
2 and Gas Royalty Management Act of 1982 (30 U.S.C. 1721)
3 is amended by striking subsections (h) and (i).

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall be effective one year after the date of enactment
6 of this Act.

7 **SEC. 213. OBLIGATION PERIOD.**

8 Section 115(c) of the Federal Oil and Gas Royalty
9 Management Act of 1982 (30 U.S.C. 1724(c)) is amended
10 by adding at the end the following:

11 “(3) *ADJUSTMENTS.*—In the case of an adjust-
12 ment under section 111A(a) (30 U.S.C. 1721a(a)) in
13 which a recoupment by the lessee results in an under-
14 payment of an obligation, for purposes of this Act the
15 obligation becomes due on the date the lessee or its
16 designee makes the adjustment.”.

17 **SEC. 214. TOLLING AGREEMENTS AND SUBPOENAS.**

18 (a) *TOLLING AGREEMENTS.*—Section 115(d)(1) of the
19 Federal Oil and Gas Royalty Management Act of 1982 (30
20 U.S.C. 1724(d)(1)) is amended by striking “(with notice to
21 the lessee who designated the designee)”.

22 (b) *SUBPOENAS.*—Section 115(d)(2)(A) of the Federal
23 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
24 1724(d)(2)(A)) is amended by striking “(with notice to the

1 lessee who designated the designee, which notice shall not
2 constitute a subpoena to the lessee”.

3 **SEC. 215. LIABILITY FOR ROYALTY PAYMENTS.**

4 Section 102(a) of the Federal Oil and Gas Royalty
5 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
6 to read as follows:

7 “(a) In order to increase receipts and achieve effective
8 collections of royalty and other payments, a lessee who is
9 required to make any royalty or other payment under a
10 lease or under the mineral leasing laws, shall make such
11 payments in the time and manner as may be specified by
12 the Secretary or the applicable delegated State. Any person
13 who pays, offsets or credits monies, makes adjustments, re-
14 quests and receives refunds, or submits reports with respect
15 to payments the lessee must make is the lessee’s designee
16 under this Act. Notwithstanding any other provision of this
17 Act to the contrary, a designee shall be liable for any pay-
18 ment obligation of any lessee on whose behalf the designee
19 pays royalty under the lease. The person owning operating
20 rights in a lease and a person owning legal record title in
21 a lease shall be liable for that person’s pro rata share of
22 payment obligations under the lease.”.

1 ***Subtitle C—Public Interest in the***
2 ***Federal Energy Program***

3 **SEC. 221. SURFACE OWNER PROTECTION.**

4 (a) *DEFINITIONS.—As used in this section—*

5 (1) *the term “Secretary” means the Secretary of*
6 *the Interior;*

7 (2) *the term “lease” means a lease issued by the*
8 *Secretary under the Mineral Leasing Act (30 U.S.C.*
9 *181 et seq.);*

10 (3) *the term “lessee” means the holder of a lease;*
11 *and*

12 (4) *the term “operator” means any person that*
13 *is responsible under the terms and conditions of a*
14 *lease for the operations conducted on leased lands or*
15 *any portion thereof.*

16 (b) *POST-LEASE SURFACE USE AGREEMENT.—*

17 (1) *IN GENERAL.—Except as provided in sub-*
18 *section (c), the Secretary may not authorize any oper-*
19 *ator to conduct exploration and drilling operations on*
20 *lands with respect to which title to oil and gas re-*
21 *sources is held by the United States but title to the*
22 *surface estate is not held by the United States, until*
23 *the operator has filed with the Secretary a document,*
24 *signed by the operator and the surface owner or own-*
25 *ers, showing that the operator has secured a written*

1 *surface use agreement between the operator and the*
2 *surface owner or owners that meets the requirements*
3 *of paragraph (2).*

4 (2) *CONTENTS.—The surface use agreement shall*
5 *provide for—*

6 (A) *the use of only such portion of the sur-*
7 *face estate as is reasonably necessary for explo-*
8 *ration and drilling operations based on site-spe-*
9 *cific conditions;*

10 (B) *the accommodation of the surface estate*
11 *owner to the maximum extent practicable, in-*
12 *cluding the location, use, timing, and type of ex-*
13 *ploration and drilling operations, consistent*
14 *with the operator's right to develop the oil and*
15 *gas estate;*

16 (C) *the reclamation of the site to a condi-*
17 *tion capable of supporting the uses which such*
18 *lands were capable of supporting prior to explo-*
19 *ration and drilling operations or other uses as*
20 *agreed to by the operator and the surface owner;*
21 *and*

22 (D) *compensation for damages as a result of*
23 *exploration and drilling operations, including*
24 *but not limited to—*

1 (i) *loss of income and increased costs*
2 *incurred;*

3 (ii) *damage to or destruction of per-*
4 *sonal property, including crops, forage, and*
5 *livestock; and*

6 (iii) *failure to reclaim the site in ac-*
7 *cordance with this subparagraph (C).*

8 (3) *PROCEDURE.—*

9 (A) *IN GENERAL.—An operator shall notify*
10 *the surface estate owner or owners of the opera-*
11 *tor’s desire to conclude an agreement under this*
12 *section. If the surface estate owner and the oper-*
13 *ator do not reach an agreement within 90 days*
14 *after the operator has provided such notice, the*
15 *matter shall be referred to third party arbitra-*
16 *tion for resolution within a period of 90 days.*
17 *The cost of such arbitration shall be the responsi-*
18 *bility of the operator.*

19 (B) *IDENTIFICATION OF ARBITERS.—The*
20 *Secretary shall identify persons with experience*
21 *in conducting arbitrations and shall make this*
22 *information available to operators and surface*
23 *owners.*

24 (C) *REFERRAL TO IDENTIFIED ARBITER.—*
25 *Referral of a matter for arbitration by a person*

1 *identified by the Secretary pursuant to subpara-*
2 *graph (B) shall be sufficient to constitute compli-*
3 *ance with subparagraph (A).*

4 (4) *ATTORNEYS FEES.*—*If action is taken to en-*
5 *force or interpret any of the terms and conditions*
6 *contained in a surface use agreement, the prevailing*
7 *party shall be reimbursed by the other party for rea-*
8 *sonable attorneys fees and actual costs incurred, in*
9 *addition to any other relief which a court or arbitra-*
10 *tion panel may grant.*

11 (c) *AUTHORIZED EXPLORATION AND DRILLING OPER-*
12 *ATIONS.*—

13 (1) *AUTHORIZATION WITHOUT SURFACE USE*
14 *AGREEMENT.*—*The Secretary may authorize an oper-*
15 *ator to conduct exploration and drilling operations on*
16 *lands covered by subsection (b) in the absence of an*
17 *agreement with the surface estate owner or owners,*
18 *if—*

19 (A) *the Secretary makes a determination in*
20 *writing that the operator made a good faith at-*
21 *tempt to conclude such an agreement, including*
22 *referral of the matter to arbitration pursuant to*
23 *subsection (b)(3), but that no agreement was con-*
24 *cluded within 90 days after the referral to arbi-*
25 *tration;*

1 (B) the operator submits a plan of oper-
2 ations that provides for the matters specified in
3 subsection (b)(2) and for compliance with all
4 other applicable requirements of Federal and
5 State law; and

6 (C) the operator posts a bond or other fi-
7 nancial assurance in an amount the Secretary
8 determines to be adequate to ensure compensa-
9 tion to the surface estate owner for any damages
10 to the site, in the form of a surety bond, trust
11 fund, letter of credit, government security, cer-
12 tificate of deposit, cash, or equivalent.

13 (2) *SURFACE OWNER PARTICIPATION.*—The Sec-
14 retary shall provide surface estate owners with an op-
15 portunity to—

16 (A) comment on plans of operations in ad-
17 vance of a determination of compliance with this
18 section;

19 (B) participate in bond level determinations
20 and bond release proceedings under this sub-
21 section;

22 (C) attend an on-site inspection during
23 such determinations and proceedings;

24 (D) file written objections to a proposed
25 bond release; and

1 (E) request and participate in an on-site
2 inspection when they have reason to believe there
3 is a violation of the terms and conditions of a
4 plan of operations.

5 (3) *PAYMENT OF FINANCIAL GUARANTEE.*—A
6 surface estate owner with respect to any land subject
7 to a lease may petition the Secretary for payment of
8 all or any portion of a bond or other financial assur-
9 ance required under this subsection as compensation
10 for any damages as a result of exploration and drill-
11 ing operations. Pursuant to such a petition, the Sec-
12 retary may use such bond or other guarantee to pro-
13 vide compensation to the surface estate owner for such
14 damages.

15 (4) *BOND RELEASE.*—Upon request and after in-
16 spection and opportunity for surface estate owner re-
17 view, the Secretary may release the financial assur-
18 ance required under this subsection if the Secretary
19 determines that exploration and drilling operations
20 have ended and all damages have been fully com-
21 pensated.

22 (d) *SURFACE OWNER NOTIFICATION.*—The Secretary
23 shall—

24 (1) notify surface estate owners in writing at
25 least 45 days in advance of lease sales;

1 (2) *within ten working days after a lease is*
2 *issued, notify surface estate owners regarding the*
3 *identity of the lessee;*

4 (3) *notify surface estate owners in writing with-*
5 *in 10 working days concerning any subsequent deci-*
6 *sions regarding a lease, such as modifying or waiving*
7 *stipulations and approving rights-of-way; and*

8 (4) *notify surface estate owners within five busi-*
9 *ness days after issuance of a drilling permit under a*
10 *lease.*

11 (e) *REGULATIONS.—The Secretary shall issue regula-*
12 *tions implementing this section by not later than 1 year*
13 *after the date of the enactment of this Act.*

14 **SEC. 222. ONSHORE OIL AND GAS RECLAMATION AND**
15 **BONDING.**

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

18 “(q) *RECLAMATION REQUIREMENTS.—An operator*
19 *producing oil or gas (including coalbed methane) under a*
20 *lease issued pursuant to this Act shall—*

21 “(1) *at a minimum restore the land affected to*
22 *a condition capable of supporting the uses that it was*
23 *capable of supporting prior to any drilling, or higher*
24 *or better uses of which there is reasonable likelihood,*
25 *so long as such use or uses do not present any actual*

1 *or probable hazard to public health or safety or pose*
2 *any actual or probable threat of water diminution or*
3 *pollution, and the permit applicants' declared pro-*
4 *posed land use following reclamation is not imprac-*
5 *tical or unreasonable, inconsistent with applicable*
6 *land use policies and plans, or involve unreasonable*
7 *delay in implementation, or is violative of Federal or*
8 *State law;*

9 *“(2) ensure that all reclamation efforts proceed*
10 *in an environmentally sound manner and as contem-*
11 *poraneously as practicable with the oil and gas drill-*
12 *ing operations; and*

13 *“(3) submit with the plan of operations a rec-*
14 *lamation plan that describes in detail the methods*
15 *and practices that will be used to ensure complete and*
16 *timely restoration of all lands affected by oil and gas*
17 *operations.*

18 *“(r) RECLAMATION BOND OR OTHER FINANCIAL AS-*
19 *SURANCES.—An operator producing oil or gas (including*
20 *coalbed methane) under a lease issued under this Act shall*
21 *post a bond or other financial assurances that cover the rec-*
22 *lamation of that area of land within the permit area upon*
23 *which the operator will initiate and conduct oil and gas*
24 *drilling and reclamation operations within the initial term*
25 *of the permit. As succeeding increments of oil and gas drill-*

1 *ing and reclamation operations are to be initiated and con-*
2 *ducted within the permit area, the lessee shall file with the*
3 *regulatory authority an additional bond or bonds or other*
4 *financial assurances to cover such increments in accordance*
5 *with this section. The amount of the bond or other financial*
6 *assurances required for each bonded area shall depend upon*
7 *the reclamation requirements of the approved permit; shall*
8 *reflect the probable difficulty of reclamation giving consid-*
9 *eration to such factors as topography, geology of the site,*
10 *hydrology, and revegetation potential; and shall be deter-*
11 *mined by the Secretary. The amount of the bond or other*
12 *financial assurances shall be sufficient to assure the comple-*
13 *tion of the reclamation plan if the work had to be performed*
14 *by the Secretary in the event of forfeiture.*

15 “(s) *REGULATIONS.—No later than one year after the*
16 *date of the enactment of this subsection, the Secretary shall*
17 *promulgate regulations to implement the requirements, in-*
18 *cluding for the release of bonds or other financial assur-*
19 *ances, of subsections (q) and (r).”.*

20 **SEC. 223. PROTECTION OF WATER RESOURCES.**

21 (a) *MINERAL LEASING ACT REQUIREMENTS.—Section*
22 *17 of the Mineral Leasing Act (30 U.S.C. 226) is further*
23 *amended by adding at the end the following:*

24 “(t) *WATER REQUIREMENTS.—*

1 “(1) *IN GENERAL.*—*An operator producing oil or*
2 *gas (including coalbed methane) under a lease issued*
3 *under this Act shall—*

4 “(A) *remediate or replace the water supply*
5 *of a water user who obtains all or part of such*
6 *user’s supply of water for domestic, agricultural,*
7 *or other purposes from an underground or sur-*
8 *face source that has been affected by contamina-*
9 *tion, diminution, or interruption proximately*
10 *resulting from drilling operations for such pro-*
11 *duction; and*

12 “(B) *comply with all applicable require-*
13 *ments of Federal and State law for discharge of*
14 *any water produced under the lease.*

15 “(2) *WATER MANAGEMENT PLAN.*—*An applica-*
16 *tion for a permit to drill submitted pursuant to a*
17 *lease issued under this Act shall be accompanied by*
18 *a proposed water management plan including provi-*
19 *sions to—*

20 “(A) *protect the quantity and quality of*
21 *surface and ground water systems, both on-site*
22 *and off-site, from adverse effects of the explo-*
23 *ration, development, and reclamation processes*
24 *or to provide alternative sources of water if such*
25 *protection cannot be assured;*

1 “(B) protect the rights of present users of
2 water that would be affected by operations under
3 the lease, including the discharge of any water
4 produced in connection with such operations that
5 is not reinjected; and

6 “(C) identify any agreements with other
7 parties for the beneficial use of produced waters
8 and the steps that will be taken to comply with
9 State and Federal laws related to such use.”.

10 (b) *RELATION TO STATE LAW.*—Nothing in this sub-
11 title or any amendment made by this subtitle shall—

12 (1) be construed as impairing or in any manner
13 affecting any right or jurisdiction of any State with
14 respect to the waters of such State; or

15 (2) be construed as limiting, altering, modifying,
16 or amending any of the interstate compacts or equi-
17 table apportionment decrees that apportion water
18 among and between States.

19 (c) *REGULATIONS.*—No later than one year after the
20 date of the enactment of this Act, the Secretary of the Inte-
21 rior shall promulgate regulations to implement this section.

22 **SEC. 224. DUE DILIGENCE FEE.**

23 (a) *ESTABLISHMENT.*—The Secretary of the Interior
24 shall, within 180 days after the date of enactment of this
25 Act, issue regulations to establish a fee with respect to Fed-

1 *eral onshore lands that are subject to a lease for production*
2 *of oil, natural gas, or coal under which production is not*
3 *occurring. Such fee shall apply with respect to lands that*
4 *are subject to such a lease that is in effect on the date final*
5 *regulations are promulgated under this subsection or that*
6 *is issued thereafter.*

7 **(b) AMOUNT.**—*The amount of the fee shall be \$1 per*
8 *year for each acre of land that is not in production for*
9 *that year.*

10 **(c) ASSESSMENT AND COLLECTION.**—*The Secretary*
11 *shall assess and collect the fee established under this section.*

12 **(d) DEPOSIT AND USE.**—*Amounts received by the*
13 *United States in the form of the fee established under this*
14 *section shall be available to the Secretary of the Interior*
15 *for use to repair damage to Federal lands and resources*
16 *caused by oil and gas development, in accordance with the*
17 *the documents submitted by the President with the budget*
18 *submission for fiscal year 2008 relating to the Healthy*
19 *Lands Initiative. Amounts received by the United States*
20 *as fees under this section shall be treated as offsetting re-*
21 *ceipts. Amounts received by the United States in the form*
22 *of the fee established under this section from nonproducing*
23 *coal leases shall also be available to the Secretary of the*
24 *Interior for any coal-to-liquids programs or pilot projects*
25 *funded in whole or in part by the Federal Government.*

1 **Subtitle D—Wind Energy**

2 **SEC. 231. WIND TURBINE GUIDELINES ADVISORY COM-**
3 **MITTEE.**

4 (a) *IN GENERAL.*—*The Secretary of the Interior, with-*
5 *in 30 days after the date of enactment of this Act, shall*
6 *convene or utilize an existing Wind Turbine Guidelines Ad-*
7 *visory Committee to study and make recommendations to*
8 *the Secretary on guidance for avoiding or minimizing im-*
9 *pacts to wildlife and their habitats related to land-based*
10 *wind energy facilities. The matters assessed by the Com-*
11 *mittee shall include the following:*

12 (1) *The Service Interim Guidance on Avoiding*
13 *and Minimizing Wildlife Impacts from Wind Tur-*
14 *bines of 2003.*

15 (2) *Balancing potential impacts to wildlife with*
16 *requirements for acquiring the information necessary*
17 *to assess those impacts prior to selecting sites and de-*
18 *signing facilities.*

19 (3) *The scientific tools and procedures best able*
20 *to assess pre-development risk or benefits provided to*
21 *wildlife, measure post-development mortality, assess*
22 *behavioral modification, and provide compensatory*
23 *mitigation for unavoidable impacts.*

24 (4) *A process for coordinating State, tribal,*
25 *local, and national review and evaluation of the im-*

1 *pacts to wildlife from wind energy consistent with*
2 *State and Federal laws and international treaties.*

3 (5) *Determination of project size thresholds or*
4 *impacts below which guidelines may not apply.*

5 (6) *Appropriate timetables for phasing-in guid-*
6 *ance.*

7 (7) *Current State actions to avoid and minimize*
8 *wildlife impacts from wind turbines in consultation*
9 *with State wildlife agencies.*

10 (b) *COMMITTEE OPERATIONS.—The Wind Turbine*
11 *Guidelines Advisory Committee shall conduct its activities*
12 *in accordance with the Federal Advisory Committee Act (5*
13 *U.S.C. App.). The Secretary is authorized to provide such*
14 *technical analyses and support as is requested by such advi-*
15 *sory committee.*

16 (c) *COMMITTEE MEMBERSHIP.—The membership of*
17 *the Wind Turbine Guidelines Advisory Committee shall not*
18 *exceed 20 members, and shall be appointed by the Secretary*
19 *of the Interior to achieve balanced representation of wind*
20 *energy development, wildlife conservation, and government.*
21 *The members shall include representatives from the United*
22 *States Fish and Wildlife Service and other Federal agencies,*
23 *and representatives from other interested persons, including*
24 *States, tribes, wind energy development organizations, non-*

1 governmental conservation organizations, and local regu-
2 latory or licensing commissions.

3 (d) *REPORT.*—The Wind Turbine Advisory Committee
4 shall, within 18 months after the date of enactment of this
5 Act, submit a report to Congress and the Secretary pro-
6 viding recommended guidance for developing effective meas-
7 ures to protect wildlife resources and enhance potential ben-
8 efits to wildlife that may be identified.

9 (e) *ISSUANCE OF GUIDANCE.*—Not later than 6 months
10 after receiving the report of the Wind Turbine Guidelines
11 Advisory Committee under subsection (d), the Secretary
12 shall following public notice and comment issue final guid-
13 ance to avoid and minimize impacts to wildlife and their
14 habitats related to land-based wind energy facilities. Such
15 guidance shall be based upon the findings and recommenda-
16 tions made in the report.

17 **SEC. 232. AUTHORIZATION OF APPROPRIATIONS FOR RE-**
18 **SEARCH TO STUDY WIND ENERGY IMPACTS**
19 **ON WILDLIFE.**

20 *There is authorized to be appropriated to the Secretary*
21 *of the Interior \$2,000,000 for each of fiscal years 2008*
22 *through 2015 for new and ongoing research efforts to evalu-*
23 *ate methods for minimizing wildlife impacts at wind en-*
24 *ergy projects and to explore effective mitigation methods*
25 *that may be utilized for that purpose.*

1 **SEC. 233. ENFORCEMENT.**

2 *The Secretary shall enforce the Endangered Species*
3 *Act of 1973, the Migratory Bird Treaty Act, the Bald Eagle*
4 *Protection Act, the Golden Eagle Protection Act, the Marine*
5 *Mammal Protection Act of 1973, the National Environ-*
6 *mental Policy Act of 1969, and any other relevant Federal*
7 *law to address adverse wildlife impacts related to wind*
8 *projects. Nothing in this section preempts State enforcement*
9 *of applicable State laws.*

10 **SEC. 234. SAVINGS CLAUSE.**

11 *Nothing in this subtitle preempts any provision of*
12 *State law or regulation relating to the siting of wind*
13 *projects or to consideration or review of any environmental*
14 *impacts of wind projects.*

15 ***Subtitle E—Enhancing Energy***
16 ***Transmission***

17 **SEC. 241. POWER MARKETING ADMINISTRATIONS REPORT.**

18 *(a) ANALYSIS.—The Secretary of Energy, acting*
19 *through the Administrators of the Bonneville and Western*
20 *Area Power Marketing Administrations and in coordina-*
21 *tion with regional transmission entities, shall conduct, or*
22 *participate with such regional transmission entities to con-*
23 *duct, an analysis of the existing capacity of transmission*
24 *systems serving the States of California, Oregon, and Wash-*
25 *ington to determine whether the existing capacity is ade-*
26 *quate to accommodate and integrate development and com-*

1 *mercial operation of ocean wave, tidal, and current energy*
2 *projects in State and Federal marine waters adjacent to*
3 *those States.*

4 *(b) REPORT.—Based on the analysis conducted under*
5 *subsection (a), the Secretary of Energy shall prepare and*
6 *provide to the Natural Resources Committee of the House*
7 *of Representatives and the Energy and Natural Resources*
8 *Committee of the Senate, not later than one year after the*
9 *date of enactment of this Act, a report identifying changes*
10 *required, if any, in the capacity of existing transmission*
11 *systems serving the States referred to in subsection (a) in*
12 *order to reliably and efficiently accommodate and integrate*
13 *generation from commercial ocean wave, tidal, and current*
14 *energy projects in aggregate, escalating amounts equal to*
15 *2.5, 5, and 10 percent of the current electrical energy con-*
16 *sumption in those States.*

17 *(c) LIMITATION ON IMPLEMENTATION OF CHANGES.—*
18 *The Secretary of Energy shall not implement any changes*
19 *identified in the report under subsection (b) until the Sec-*
20 *retary determines that transmission capacity backlogs asso-*
21 *ciated with other renewable energies and existing at the*
22 *time the report is issued have been accommodated and inte-*
23 *grated within transmission systems serving the States of*
24 *California, Oregon, and Washington.*

1 (d) *ACTIVITIES NONREIMBURSABLE.*—Activities car-
 2 ried out under subsection (a) or (b) shall be nonreimburs-
 3 able.

4 (e) *EXISTING PROCEDURES AND QUEUING NOT AF-*
 5 *FECTED.*—Nothing in this section supercedes existing proce-
 6 dures and queuing pursuant to the appropriate Open Access
 7 Transmission Tariffs filed by the Administrators of the
 8 Bonneville and Western Area Power Administrations.

9 **TITLE III—ALTERNATIVE**
 10 **ENERGY AND EFFICIENCY**

11 **SEC. 301. STATE OCEAN AND COASTAL ALTERNATIVE EN-**
 12 **ERGY PLANNING.**

13 (a) *IN GENERAL.*—The Coastal Zone Management Act
 14 of 1972 (16 U.S.C. 1451 et seq.) is amended by inserting
 15 after section 306A the following:

16 “OCEAN AND COASTAL ALTERNATIVE ENERGY STATE SUR-
 17 VEYS; ALTERNATIVE ENERGY SITE IDENTIFICATION
 18 AND PLANNING

19 “SEC. 306B. (a) *GRANTS TO STATES.*—The Secretary
 20 may make grants to eligible coastal States to support vol-
 21 untary State efforts to initiate and complete surveys of por-
 22 tions of coastal State waters and Federal waters adjacent
 23 to a State’s coastal zone, in consultation with the Minerals
 24 Management Service, to identify potential areas suitable or
 25 unsuitable for the exploration, development, and production
 26 of alternative energy that are consistent with the enforceable

1 *policies of coastal management plans approved pursuant to*
2 *section 306A.*

3 “(b) *SURVEY ELEMENTS.—Surveys developed with*
4 *grants under this section may include, but not be limited*
5 *to—*

6 “(1) *hydrographic and bathymetric surveys;*

7 “(2) *oceanographic observations and measure-*
8 *ments of the physical ocean environment, especially*
9 *seismically active areas;*

10 “(3) *identification and characterization of sig-*
11 *nificant or sensitive marine ecosystems or other areas*
12 *possessing important conservation, recreational, eco-*
13 *logical, historic, or aesthetic values;*

14 “(4) *surveys of existing marine uses in the outer*
15 *Continental Shelf and identification of potential con-*
16 *flicts;*

17 “(5) *inventories and surveys of shore locations*
18 *and infrastructure capable of supporting alternative*
19 *energy development;*

20 “(6) *inventories and surveys of offshore locations*
21 *and infrastructure capable of supporting alternative*
22 *energy development; and*

23 “(7) *other actions as may be necessary.*

24 “(c) *PARTICIPATION AND COOPERATION.—To the ex-*
25 *tent practicable, coastal States shall provide opportunity*

1 *for the participation in surveys under this section by rel-*
2 *evant Federal agencies, State agencies, local governments,*
3 *regional organizations, port authorities, and other inter-*
4 *ested parties and stakeholders, public and private, that is*
5 *adequate to develop a comprehensive survey.*

6 “(d) *GUIDELINES.—The Secretary shall, within 180*
7 *days after the date of enactment of this section and after*
8 *consultation with the coastal States, publish guidelines for*
9 *the application for and use of grants under this section.*

10 “(e) *ANNUAL GRANTS.—For each of fiscal years 2008*
11 *through 2011, the Secretary may make a grant to a coastal*
12 *State under this section if the coastal State demonstrates*
13 *to the satisfaction of the Secretary that the grant will be*
14 *used to develop an alternative energy survey consistent with*
15 *the requirements set forth in section 306A and this section.*

16 “(f) *GRANT AMOUNTS.—The amount of any grant*
17 *under this section shall not exceed \$750,000 for any fiscal*
18 *year.*

19 “(g) *STATE MATCH.—*

20 “(1) *BEFORE FISCAL YEAR 2010.—The Secretary*
21 *shall not require any State matching fund contribu-*
22 *tion for grants awarded under this section for any*
23 *fiscal year before fiscal year 2010.*

24 “(2) *AFTER FISCAL YEAR 2010.—The Secretary*
25 *shall require a coastal State to provide a matching*

1 *fund contribution for a grant under this section for*
2 *surveys of a State’s coastal waters, according to—*

3 “(A) a 2-to-1 ratio of Federal-to-State con-
4 tributions for fiscal year 2010; and

5 “(B) a 1-to-1 ratio of Federal-to-State con-
6 tributions for fiscal year 2011.

7 “(3) *LIMITATION.*—*The Secretary shall not re-*
8 *quire any matching funds for surveys of Federal wa-*
9 *ters adjacent to a State’s coastal zone.*

10 “(h) *SECRETARIAL REVIEW.*—*After an initial grant is*
11 *made to a coastal State under this section, no subsequent*
12 *grant may be made to that coastal State under this section*
13 *unless the Secretary finds that the coastal State is satisfac-*
14 *torily developing its survey.*

15 “(i) *LIMITATION ON ELIGIBILITY.*—*No coastal State is*
16 *eligible to receive grants under this section for more than*
17 *4 fiscal years.*

18 “(j) *APPLICABILITY.*—*This section and the surveys*
19 *conducted with assistance under this section shall not be*
20 *construed to convey any new authority to any coastal State,*
21 *or repeal or supersede any existing authority of any Federal*
22 *agency, to regulate the siting, licensing, leasing, or permit-*
23 *ting of alternative energy facilities in areas of the outer*
24 *Continental Shelf under the administration of the Federal*
25 *Government. Nothing in this section repeals or supersedes*

1 *any existing coastal State authority pursuant to State or*
2 *Federal law.*

3 “(k) *PRIORITY.—Any area that is identified as suit-*
4 *able for potential alternative energy development under sur-*
5 *veys developed with assistance under this section shall be*
6 *given priority consideration by Federal agencies for the*
7 *siting, licensing, leasing, or permitting of alternative en-*
8 *ergy facilities. Any area that is identified as unsuitable*
9 *under surveys developed with assistance under this section*
10 *shall be avoided by Federal agencies to the maximum extent*
11 *practicable.*

12 “(l) *ASSISTANCE BY THE SECRETARY.—The Secretary*
13 *shall—*

14 “(1) *under section 307(a) and to the extent prac-*
15 *ticable, make available to coastal States the resources*
16 *and capabilities of the National Oceanic and Atmos-*
17 *pheric Administration to provide technical assistance*
18 *to the coastal States to develop surveys under this sec-*
19 *tion; and*

20 “(2) *encourage other Federal agencies with rel-*
21 *evant expertise to participate in providing technical*
22 *assistance under this subsection.”.*

23 “(b) *AUTHORIZATION OF APPROPRIATIONS.—Section*
24 *318(a) of the Coastal Zone Management Act of 1972 (16*
25 *U.S.C. 1464) is amended—*

1 (1) *in paragraph (1)(C) by striking “and” after*
2 *the semicolon;*

3 (2) *in paragraph (2), by striking the period at*
4 *the end and inserting a semicolon; and*

5 (3) *by adding at the end the following:*

6 “*(3) for grants under section 306B such sums as*
7 *are necessary; and”.*

8 **SEC. 302. CANAL-SIDE POWER PRODUCTION AT BUREAU OF**
9 **RECLAMATION PROJECTS.**

10 (a) *EVALUATION AND REPORT.*—*Not later than one*
11 *year after the date of the enactment of this Act, the Sec-*
12 *retary of the Interior shall complete an evaluation and re-*
13 *port to Congress on the potential for developing rights-of-*
14 *way along Bureau of Reclamation canals and infrastruc-*
15 *ture for solar or wind energy production through leasing*
16 *of lands or other means. The report to Congress shall speci-*
17 *fy—*

18 (1) *location of potential rights-of-way for energy*
19 *production;*

20 (2) *total acreage available for energy production;*

21 (3) *existing transmission infrastructure at sites;*

22 (4) *estimates of fair market leasing value of po-*
23 *tential energy sites; and*

24 (5) *estimate energy development potential at*
25 *sites.*

1 (b) *CONSULTATION.*—*In carrying out this section the*
2 *Secretary of the Interior shall consult with persons that*
3 *would be affected by development of rights-of-ways referred*
4 *to in subsection (a), including the beneficiaries of the canal*
5 *and infrastructure evaluated under that subsection.*

6 (c) *LIMITATIONS.*—*Nothing in this section—*

7 (1) *shall be construed to authorize the Bureau of*
8 *Reclamation or any contractor hired by the Bureau*
9 *of Reclamation to inventory or access rights-of-way*
10 *owned or operated and maintained by non-Federal*
11 *interests, unless such interests provide written permis-*
12 *sion for such inventory or an agreement or contract*
13 *governing Federal access is in effect;*

14 (2) *shall be construed to impede accessibility,*
15 *impair project operations and maintenance, or create*
16 *additional costs for entities managing the rights-of-*
17 *way; or*

18 (3) *shall be used as the basis of an increase in*
19 *project-use power or preference power costs that will*
20 *be borne by the consumer.*

21 **SEC. 303. INCREASING ENERGY EFFICIENCIES FOR WATER**

22 **DESALINATION.**

23 *The Water Desalination Act of 1996 (42 U.S.C. 10301*
24 *note; Public Law 104–298) is amended by adding at the*
25 *end the following new section:*

1 **“SEC. 10. RESEARCH ON REVERSE OSMOSIS TECHNOLOGY**
2 **FOR WATER DESALINATION AND WATER RE-**
3 **CYCLING.**

4 *“(a) RESEARCH PROGRAM.—The Secretary of the Inte-*
5 *rior, in consultation with the Secretary of Energy, shall*
6 *implement a program to research methods for improving*
7 *the energy efficiency of reverse osmosis technology for water*
8 *desalination, water contamination, and water recycling.*

9 *“(b) REPORT.—Not later than one year after the date*
10 *of the enactment of this Act, the Secretary of the Interior*
11 *shall submit to Congress a report which shall include—*

12 *“(1) a review of existing and emerging tech-*
13 *nologies, both domestic and international, that are*
14 *likely to improve energy efficiency or utilize renew-*
15 *able energy sources at existing and future desalina-*
16 *tion and recycling facilities; and*

17 *“(2) an analysis of the economic viability of en-*
18 *ergy efficiency technologies.”.*

19 **SEC. 304. ESTABLISHING A PILOT PROGRAM FOR THE DE-**
20 **VELOPMENT OF STRATEGIC SOLAR RESERVES**
21 **ON FEDERAL LANDS.**

22 *(a) PURPOSE.—The purpose of this section is to estab-*
23 *lish a pilot program for the development of strategic solar*
24 *reserve on Federal lands for the advancement, development,*
25 *assessment, and installation of commercial concentrating*
26 *solar power energy systems.*

1 **(b) STRATEGIC SOLAR RESERVE PROGRAM.—**

2 **(1) SITE SELECTION.—***The Secretary of the Inte-*
3 *rior, in consultation with the Secretary of Energy, the*
4 *Secretary of Defense, and the Federal Energy Regu-*
5 *latory Commission, States, tribal, or local units of*
6 *governments, as appropriate, affected utility indus-*
7 *tries, and other interested persons, shall complete the*
8 *following:*

9 **(A)** *Identify Federal lands under the juris-*
10 *isdiction of the Bureau of Land Management, sub-*
11 *ject to valid existing rights, that are suitable and*
12 *feasible for the installation of concentrating solar*
13 *power energy systems sufficient to create a solar*
14 *energy reserve of no less than 4 GW and no more*
15 *than 25 GW.*

16 **(B)** *Perform any environmental reviews*
17 *that may be required to complete the designation*
18 *of such solar reserves.*

19 **(C)** *Incorporate the designated solar reserves*
20 *into the relevant agency land use and resource*
21 *management plans or equivalent plans.*

22 **(D)** *Identify the needed transmission up-*
23 *grades to the solar reserves.*

24 **(2) MINIMUM POWER OF SITES.—***Each site iden-*
25 *tified as suitable and feasible for the installation of*

1 *concentrating solar power systems shall be sufficient*
2 *for the installation of at least 1 GW.*

3 (3) *LANDS NOT INCLUDED.—The following Fed-*
4 *eral lands shall not be included within a strategic*
5 *solar reserve site:*

6 (A) *Components of the National Landscape*
7 *Conservation System.*

8 (B) *Areas of Critical Environmental Con-*
9 *cern.*

10 (4) *IMPLEMENTATION OF THE STRATEGIC SOLAR*
11 *RESERVE LEASING PROGRAM.—*

12 (A) *IN GENERAL.—The Secretary of the In-*
13 *terior, in consultation with the Secretary of En-*
14 *ergy and following the completion of the require-*
15 *ments under paragraph (1)(B), shall expedi-*
16 *tiously implement a strategic solar reserve leas-*
17 *ing program in order to lease lands identified*
18 *under paragraph (1)(A) to produce no less than*
19 *4 GW and no more than 25 GW of concentrating*
20 *solar power from those lands.*

21 (B) *CRITERIA FOR APPLICATIONS.—The*
22 *Secretary of the Interior, in consultation with*
23 *the Secretary of Energy, shall establish criteria*
24 *for approving applications to lease lands under*
25 *this paragraph based, in part, on the proposed*

1 *concentrating solar power technologies proposed*
2 *to be used under such leases.*

3 (C) *VARIETY OF TECHNOLOGIES.*—*The Sec-*
4 *retary of the Interior, in consultation with the*
5 *Secretary of Energy, shall provide for a variety*
6 *of concentrating solar power technologies to be*
7 *used under leases under this paragraph.*

8 (D) *MILESTONES.*—*The Secretary of the In-*
9 *terior, in consultation with the Secretary of En-*
10 *ergy, shall develop milestones for activities under*
11 *leases under this subsection to ensure due dili-*
12 *gence in the development of lands under such*
13 *leases.*

14 (5) *ENVIRONMENTAL COMPLIANCE.*—*The Sec-*
15 *retary of the Interior shall complete all necessary en-*
16 *vironmental surveys, compliance and permitting for*
17 *rights-of-way pursuant to title V of the Federal Land*
18 *Policy and Management Act of 1976 for each strategic*
19 *solar reserve, as expeditiously as possible. The appli-*
20 *cant shall pay all costs of environmental compliance,*
21 *including when a determination is made that the*
22 *land is not suitable and feasible for such installation*
23 *or the bid is withdrawn following the initiation of*
24 *such environmental compliance.*

1 (6) *PERMITS.*—*The Secretary of the Interior*
2 *shall ensure that all strategic solar reserve installa-*
3 *tion pursuant to this section is permitted using an*
4 *expedited permitting process. The Secretary shall, in*
5 *consultation with the Secretary of Energy, complete*
6 *the preparation of a Programmatic Environmental*
7 *Impact Statement by the Departments of Energy and*
8 *the Interior for concentrating solar power on Federal*
9 *lands.*

10 (7) *RENTAL FEES; LEASE TERM.*—*The rental fee*
11 *for each strategic solar reserve right-of-way authoriza-*
12 *tion under this subsection shall be established at \$300*
13 *per acre during the 10-year period beginning on the*
14 *date of the enactment of this Act. Rental fees after*
15 *such period shall be established by regulations pro-*
16 *mulgated by the Secretary of the Interior and shall be*
17 *adjusted by the Secretary each 5 years thereafter. The*
18 *rental fee shall be paid in annual payments com-*
19 *mencing on the day of operation. During the develop-*
20 *ment and construction phase of a project, the rental*
21 *fee shall be waived. The leases shall be for a term of*
22 *30 years. The rental fees established in this section*
23 *shall apply to all concentrating solar power projects*
24 *that have pending applications with the Bureau of*
25 *Land Management as of June 1, 2007.*

1 (8) *REPORT TO CONGRESS.*—*The Secretary of*
2 *the Interior, in consultation with the Secretary of En-*
3 *ergy, shall submit a report to Congress on the find-*
4 *ings of the pilot project—*

5 *(A) not later than 3 years after the installa-*
6 *tion of the first facility pursuant to this section;*
7 *and*

8 *(B) 10 years after the installation of the*
9 *first facility pursuant to this section.*

10 *(c) BUY AMERICAN ACT.*—*Beginning 3 years after the*
11 *date of enactment of this Act, any equipment used on lands*
12 *included within a strategic solar reserve site must be Amer-*
13 *ican-made, as that term is used in the Buy American Act*
14 *(41 U.S.C. 10a et seq.).*

15 *(d) DAVIS-BACON ACT.*—*Notwithstanding any other*
16 *provision of law, the prevailing wage requirements of sub-*
17 *chapter IV of chapter 31 of title 40, United State Code,*
18 *shall apply to any labor funded under this Act.*

19 *(e) SUNSET.*—*Except as provided in subsection (b)(7),*
20 *the authorities contained in this section shall expire 10*
21 *years after the date of the enactment of this Act.*

22 **SEC. 305. OTEC REGULATIONS.**

23 *The Administrator of the National Oceanic and At-*
24 *mospheric Administration shall, within two years after the*
25 *date of enactment of this Act, issue regulations necessary*

1 *to implement the Administrator’s authority to license off-*
2 *shore thermal energy conversion facilities under the Ocean*
3 *Thermal Energy Conversion Research, Development, and*
4 *Demonstration Act (42 U.S.C. 9001 et seq.).*

5 **SEC. 306. BIOMASS UTILIZATION PILOT PROGRAM.**

6 *(a) REPLACEMENT OF CURRENT GRANT PROGRAM.—*
7 *Section 210 of the Energy Policy Act of 2005 (42 U.S.C.*
8 *15855) is amended to read as follows:*

9 **“SEC. 210. BIOMASS UTILIZATION PILOT PROGRAM.**

10 *“(a) FINDINGS.—Congress finds the following:*

11 *“(1) The supply of woody biomass for energy*
12 *production is directly linked to forest management*
13 *planning to a degree far greater than in the case of*
14 *other types of energy development.*

15 *“(2) As a consequence of this linkage, the process*
16 *of developing and evaluating appropriate technologies*
17 *and facilities for woody biomass energy and utiliza-*
18 *tion must be integrated with long-term forest manage-*
19 *ment planning processes, particularly in situations*
20 *where Federal lands dominate the forested landscape.*

21 *“(b) BIOMASS DEFINITION FOR FEDERAL FOREST*
22 *LANDS.—In this section, with respect to organic material*
23 *removed from National Forest System lands or from public*
24 *lands administered by the Secretary of the Interior, the*
25 *term ‘biomass’ covers only organic material from—*

1 “(1) *ecological forest restoration;*

2 “(2) *small-diameter byproducts of hazardous*
3 *fuels treatments;*

4 “(3) *pre-commercial thinnings;*

5 “(4) *brush;*

6 “(5) *mill residues; and*

7 “(6) *slash.*

8 “(c) *PILOT PROGRAM.—The Secretary of Agriculture*
9 *and the Secretary of the Interior shall establish a pilot pro-*
10 *gram, to be known as the ‘Biomass Utilization Pilot Pro-*
11 *gram’, involving 10 different forest types on Federal lands,*
12 *under which the Secretary concerned will provide technical*
13 *assistance and grants to persons to support the following*
14 *biomass-related activities:*

15 “(1) *The development of biomass utilization in-*
16 *frastructure to support hazardous fuel reduction and*
17 *ecological forest restoration.*

18 “(2) *The research and implementation of inte-*
19 *grated facilities that seek to utilize woody biomass for*
20 *its highest and best uses, with particular emphasis on*
21 *projects that are linked to implementing community*
22 *wildfire protection plans, ecological forest restoration,*
23 *and economic development in rural communities.*

24 “(3) *The testing of multiple technologies and ap-*
25 *proaches to biomass utilization for energy, with em-*

1 *phasis on improving energy efficiency, developing*
2 *thermal applications and distributed heat, biofuels,*
3 *and achieving cleaner emissions including through*
4 *combustion with other fuels, as well as other value-*
5 *added uses.*

6 “(d) *BIOMASS SUPPLY STUDY.*—*Prior to the develop-*
7 *ment of any biomass utilization pilot projects, the Secretary*
8 *concerned shall develop a study to determine the long-term,*
9 *ecologically sustainable, biomass supply available in the*
10 *pilot program area. The study shall incorporate results*
11 *from coordinated resource offering protocol (CROP) studies.*
12 *The study shall also analyze the long-term availability of*
13 *biomass materials within a reasonable transportation dis-*
14 *tance. The biomass supply studies shall be developed*
15 *through a collaborative approach, as evidenced by the broad*
16 *involvement, analysis, and agreement of interested persons,*
17 *including local governments, energy developers, conserva-*
18 *tionists, and land management agencies. The results of the*
19 *biomass supply study shall be a basis for determining the*
20 *project scale, as outlined in subsection (g).*

21 “(e) *EXCLUSION OF CERTAIN FEDERAL LAND.*—*The*
22 *following Federal lands may not be included within a pilot*
23 *project site:*

24 “(1) *Federal land containing old-growth forest or*
25 *late-successional forest, unless the Secretary concerned*

1 *determines that the pilot project on such land is ap-*
2 *propriate for the applicable forest type and maxi-*
3 *mizes and enhances the retention of late-successional*
4 *and large- and old-growth trees, late-successional and*
5 *old-growth forest structure, and late-successional and*
6 *old-growth forest composition.*

7 *“(2) Federal land on which the removal of vege-*
8 *tation is prohibited, including components of the Na-*
9 *tional Wilderness Preservation System.*

10 *“(3) Wilderness Study Areas.*

11 *“(4) Inventoried roadless areas.*

12 *“(5) Components of the National Landscape*
13 *Conservation System.*

14 *“(6) National Monuments.*

15 *“(f) MULTIPLE PROJECTS.—In conducting the pilot*
16 *program, the Secretary concerned shall include a variety*
17 *of projects involving—*

18 *“(1) innovations in facilities of various sizes and*
19 *processing techniques; and*

20 *“(2) the full spectrum of woody biomass pro-*
21 *ducing regions of the United States.*

22 *“(g) SELECTION CRITERIA AND PROJECT SCALE.—In*
23 *selecting the projects to be conducted under the pilot pro-*
24 *gram, and the appropriate scale of projects, the Secretary*
25 *concerned shall consider criteria that evaluate existing eco-*

1 *conomic, ecological, and social conditions, focusing on oppor-*
2 *tunities such as workforce training, job creation, ecosystem*
3 *health, reducing energy costs, and facilitating the produc-*
4 *tion of alternative energy fuels. The agreement on the scale*
5 *of a project shall be reached through a collaborative ap-*
6 *proach, as evidenced by the broad involvement, analysis,*
7 *and agreement of interested persons, including local govern-*
8 *ments, energy developers, conservationists, and land man-*
9 *agement agencies. In selecting the appropriate scale of*
10 *projects to be conducted under the pilot program, the Sec-*
11 *retary concerned shall also consider the results of the supply*
12 *study as outlined in subsection (d).*

13 “(h) *MONITORING AND REPORTING REQUIREMENTS.—*
14 *As part of the pilot program, the Secretary concerned shall*
15 *impose monitoring and reporting requirements to ensure*
16 *that the ecological, social, and economic effects of the*
17 *projects conducted under the pilot program are being mon-*
18 *itored and that the accomplishments, challenges, and lessons*
19 *of each project are recorded and reported.*

20 “(i) *OTHER DEFINITIONS.—In this section:*

21 “(1) *HIGHEST AND BEST USE.—The term ‘high-*
22 *est and best use’, with regard to biomass, means—*

23 “(A) *creating from raw materials those*
24 *products and those biomass uses that will achieve*
25 *the highest market value; and*

1 “(B) yielding a wide range of existing and
2 innovative products and biomass uses that create
3 new markets, stimulate existing ones, and im-
4 prove rural economies, maintains or improves
5 ecosystem integrity, while also supporting tradi-
6 tional biomass energy generation.

7 “(2) PILOT PROGRAM.—The term ‘pilot program’
8 means the Biomass Utilization Pilot Program estab-
9 lished pursuant to this section.

10 “(3) SECRETARY CONCERNED.—The term ‘Sec-
11 retary concerned’ means the Secretary of Agriculture,
12 with respect to National Forest System lands, and the
13 Secretary of the Interior, with respect to public lands
14 administered by the Secretary of the Interior.

15 “(4) COMMUNITY WILDFIRE PROTECTION PLAN.—
16 The term ‘community wildfire protection plan’ has
17 the meaning given that term in section 101(3) of the
18 Healthy Forest Restoration Act of 2003 (16 U.S.C.
19 6511(3)), which is further described by the Western
20 Governors Association in the document entitled ‘Pre-
21 paring a Community Wildfire Protection Plan: A
22 Handbook for Wildland-Interface Communities’ and
23 dated March 2004.

24 “(5) FEDERAL LAND.—The term ‘Federal land’
25 means—

1 “(A) *land of the National Forest System (as*
2 *defined in section 11(a) of the Forest and Range-*
3 *land Renewable Resources Planning Act of 1974*
4 *(16 U.S.C. 1609(a)) administered by the Sec-*
5 *retary of Agriculture, acting through the Chief of*
6 *the Forest Service; and*

7 “(B) *public lands (as defined in section 103*
8 *of the Federal Land Policy and Management Act*
9 *of 1976 (43 U.S.C. 1702)), the surface of which*
10 *is administered by the Secretary of the Interior,*
11 *acting through the Director of the Bureau of*
12 *Land Management.*

13 “(6) *INVENTORIED ROADLESS AREA.—The term*
14 *‘Inventoried roadless area’ means one of the areas*
15 *identified in the set of inventoried roadless areas*
16 *maps contained in the Forest Service Roadless Areas*
17 *Conservation, Final Environmental Impact State-*
18 *ment, Volume 2, dated November 2000.*

19 “(j) *AUTHORIZATION OF APPROPRIATIONS.—There is*
20 *authorized to be appropriated such sums as may be nec-*
21 *essary to carry out the pilot program.”.*

22 “(b) *CLERICAL AMENDMENT.—The table of contents in*
23 *section 1(b) of such Act is amended by striking the item*
24 *relating to section 210 and inserting the following new*
25 *item:*

“*Sec. 210. Biomass utilization pilot program.*”.

1 **SEC. 307. PROGRAMMATIC ENVIRONMENTAL IMPACT**
2 **STATEMENT.**

3 *The Secretary of Commerce and the Secretary of the*
4 *Interior shall, in cooperation with the Federal Energy Reg-*
5 *ulatory Commission and the Secretary of Energy, and in*
6 *consultation with appropriate State agencies, jointly pre-*
7 *pare programmatic environmental impact statements*
8 *which contain all the elements of an environmental impact*
9 *statement under section 102 of the National Environmental*
10 *Policy Act of 1969 (42 U.S.C. 4332), regarding the impacts*
11 *of the deployment of marine and hydrokinetic renewable en-*
12 *ergy technologies in the navigable waters of the United*
13 *States. One programmatic environmental impact statement*
14 *shall be prepared under this section for each of the Environ-*
15 *mental Protection Agency regions of the United States. The*
16 *agencies shall issue the programmatic environmental im-*
17 *port statements under this section not later than 18 months*
18 *after the date of enactment of this Act. The programmatic*
19 *environmental impact statements shall evaluate among*
20 *other things the potential impacts of site selection on fish*
21 *and wildlife and related habitat. Nothing in this section*
22 *shall operate to delay consideration of any application for*
23 *a license or permit for a marine and hydrokinetic renewable*
24 *energy technology project.*

1 **TITLE IV—CARBON CAPTURE**
2 **AND CLIMATE CHANGE MITI-**
3 **GATION**

4 **Subtitle A—Geological**
5 **Sequestration Assessment**

6 **SEC. 401. SHORT TITLE.**

7 *This subtitle may be cited as the “National Carbon*
8 *Dioxide Storage Capacity Assessment Act of 2007”.*

9 **SEC. 402. NATIONAL ASSESSMENT.**

10 *(a) DEFINITIONS.—In this section:*

11 *(1) ASSESSMENT.—The term “assessment”*
12 *means the national assessment of capacity for carbon*
13 *dioxide completed under subsection (f).*

14 *(2) CAPACITY.—The term “capacity” means the*
15 *portion of a storage formation that can retain carbon*
16 *dioxide in accordance with the requirements (includ-*
17 *ing physical, geological, and economic requirements)*
18 *established under the methodology developed under*
19 *subsection (b).*

20 *(3) ENGINEERED HAZARD.—The term “engi-*
21 *neered hazard” includes the location and completion*
22 *history of any well that could affect potential storage.*

23 *(4) RISK.—The term “risk” includes any risk*
24 *posed by geomechanical, geochemical, hydrogeological,*
25 *structural, and engineered hazards.*

1 (5) *SECRETARY*.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of the United States Geological Survey.

4 (6) *STORAGE FORMATION*.—The term “storage
5 formation” means a deep saline formation,
6 unmineable coal seam, or oil or gas reservoir that is
7 capable of accommodating a volume of industrial car-
8 bon dioxide.

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

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

15 (2) the capacity of the potential storage forma-
16 tions;

17 (3) the injectivity of the potential storage forma-
18 tions;

19 (4) an estimate of potential volumes of oil and
20 gas recoverable by injection and storage of industrial
21 carbon dioxide in potential storage formations;

22 (5) the risk associated with the potential storage
23 formations; and

1 (6) *the Carbon Sequestration Atlas of the United*
2 *States and Canada that was completed by the De-*
3 *partment of Energy in April 2006.*

4 (c) *COORDINATION.—*

5 (1) *FEDERAL COORDINATION.—*

6 (A) *CONSULTATION.—The Secretary shall*
7 *consult with the Secretary of Energy and the Ad-*
8 *ministrator of the Environmental Protection*
9 *Agency on issues of data sharing, format, devel-*
10 *opment of the methodology, and content of the*
11 *assessment required under this section to ensure*
12 *the maximum usefulness and success of the as-*
13 *essment.*

14 (B) *COOPERATION.—The Secretary of En-*
15 *ergy and the Administrator shall cooperate with*
16 *the Secretary to ensure, to the maximum extent*
17 *practicable, the usefulness and success of the as-*
18 *essment.*

19 (2) *STATE COORDINATION.—The Secretary shall*
20 *consult with State geological surveys and other rel-*
21 *evant entities to ensure, to the maximum extent prac-*
22 *ticable, the usefulness and success of the assessment.*

23 (d) *EXTERNAL REVIEW AND PUBLICATION.—On com-*
24 *pletion of the methodology under subsection (b), the Sec-*
25 *retary shall—*

1 (1) *publish the methodology and solicit comments*
2 *from the public and the heads of affected Federal and*
3 *State agencies;*

4 (2) *establish a panel of individuals with exper-*
5 *tise in the matters described in paragraphs (1)*
6 *through (5) of subsection (b) composed, as appro-*
7 *priate, of representatives of Federal agencies, institu-*
8 *tions of higher education, nongovernmental organiza-*
9 *tions, State organizations, industry, and inter-*
10 *national geoscience organizations to review the meth-*
11 *odology and comments received under paragraph (1);*
12 *and*

13 (3) *on completion of the review under paragraph*
14 *(2), publish in the Federal Register the revised final*
15 *methodology.*

16 (e) *PERIODIC UPDATES.—The methodology developed*
17 *under this section shall be updated periodically (including*
18 *at least once every 5 years) to incorporate new data as the*
19 *data becomes available.*

20 (f) *NATIONAL ASSESSMENT.—*

21 (1) *IN GENERAL.—Not later than 2 years after*
22 *the date of publication of the methodology under sub-*
23 *section (d)(1), the Secretary, in consultation with the*
24 *Secretary of Energy and State geological surveys,*

1 *shall complete a national assessment of capacity for*
2 *carbon dioxide in accordance with the methodology.*

3 (2) *GEOLOGICAL VERIFICATION.*—*As part of the*
4 *assessment under this subsection, the Secretary shall*
5 *carry out a drilling program to supplement the geo-*
6 *logical data relevant to determining storage capacity*
7 *of carbon dioxide in geological storage formations, in-*
8 *cluding—*

9 (A) *well log data;*

10 (B) *core data; and*

11 (C) *fluid sample data.*

12 (3) *PARTNERSHIP WITH OTHER DRILLING PRO-*
13 *GRAMS.*—*As part of the drilling program under para-*
14 *graph (2), the Secretary shall enter, as appropriate,*
15 *into partnerships with other entities to collect and in-*
16 *tegrate data from other drilling programs relevant to*
17 *the storage of carbon dioxide in geologic formations.*

18 (4) *INCORPORATION INTO NATCARB.*—

19 (A) *IN GENERAL.*—*On completion of the as-*
20 *essment, the Secretary of Energy shall incor-*
21 *porate the results of the assessment using the*
22 *NatCarb database, to the maximum extent prac-*
23 *ticable.*

24 (B) *RANKING.*—*The database shall include*
25 *the data necessary to rank potential storage sites*

1 *for capacity and risk, across the United States,*
2 *within each State, by formation, and within*
3 *each basin.*

4 (5) *REPORT.*—*Not later than 180 days after the*
5 *date on which the assessment is completed, the Sec-*
6 *retary shall submit to the Committee on Natural Re-*
7 *sources of the House of Representatives and the Com-*
8 *mittee on Energy and Natural Resources of the Sen-*
9 *ate a report describing the findings under the assess-*
10 *ment.*

11 (6) *PERIODIC UPDATES.*—*The national assess-*
12 *ment developed under this section shall be updated pe-*
13 *riodically (including at least once every 5 years) to*
14 *support public and private sector decisionmaking.*

15 (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
16 *authorized to be appropriated to carry out this section*
17 *\$30,000,000 for the period of fiscal years 2008 through*
18 *2012.*

19 ***Subtitle B—Terrestrial***
20 ***Sequestration Assessment***

21 ***SEC. 421. REQUIREMENT TO CONDUCT AN ASSESSMENT.***

22 (a) *IN GENERAL.*—*The Secretary of the Interior, act-*
23 *ing through the United States Geological Survey, shall—*

1 (1) *conduct an assessment of the amount of car-*
2 *bon stored in terrestrial, aquatic, and coastal eco-*
3 *systems (including estuaries);*

4 (2) *determine the processes that control the flux*
5 *of carbon in and out of each ecosystem;*

6 (3) *estimate the potential for increasing carbon*
7 *sequestration in natural systems through management*
8 *measures or restoration activities in each ecosystem;*
9 *and*

10 (4) *develop near-term and long-term adaptation*
11 *strategies that can be employed to enhance the seques-*
12 *tration of carbon in each ecosystem.*

13 (b) *USE OF NATIVE PLANT SPECIES.*—*In developing*
14 *management measures, restoration activities, or adaptation*
15 *strategies, the Secretary shall emphasize the use of native*
16 *plant species for each ecosystem.*

17 (c) *CONSULTATION.*—*The Secretary shall develop the*
18 *methodology and conduct the assessment in consultation*
19 *with the Secretary of Energy, the Administrator of the Na-*
20 *tional Oceanic and Atmospheric Administration, and the*
21 *heads of other relevant agencies.*

22 **SEC. 422. METHODOLOGY.**

23 (a) *IN GENERAL.*—*Within 270 days after the date of*
24 *enactment of this Act, the Secretary shall develop a method-*
25 *ology for conducting the assessment.*

1 **(b) PUBLICATION OF PROPOSED METHODOLOGY; COM-**
2 *MENT.*—*Upon completion of a proposed methodology, the*
3 *Secretary shall publish the proposed methodology and so-*
4 *licit comments from the public and heads of affected Federal*
5 *and State agencies for 60 days before publishing a final*
6 *methodology.*

7 **SEC. 423. COMPLETION OF ASSESSMENT AND REPORT.**

8 *The Secretary shall—*

9 (1) *complete the national assessment within 2*
10 *years after publication of the final methodology under*
11 *section 422; and*

12 (2) *submit a report describing the results of the*
13 *assessment to the House Committee on Natural Re-*
14 *sources and the Senate Committee on Energy and*
15 *Natural Resources within 180 days after the assess-*
16 *ment is completed.*

17 **SEC. 424. AUTHORIZATION OF APPROPRIATIONS.**

18 *There is authorized to be appropriated to carry out*
19 *this subtitle \$15,000,000 for the period of fiscal years 2008*
20 *through 2012.*

21 ***Subtitle C—Sequestration Activities***

22 **SEC. 431. CARBON DIOXIDE STORAGE INVENTORY.**

23 *Section 354 of the Energy Policy Act of 2005 (42*
24 *U.S.C. 15910) is amended by redesignating subsection (d)*

1 ***Subtitle D—Natural Resources and***
2 ***Wildlife Programs***

3 ***CHAPTER 1—NATURAL RESOURCES***
4 ***MANAGEMENT AND CLIMATE CHANGE***

5 ***SEC. 441. INTERAGENCY COUNCIL ON CLIMATE CHANGE.***

6 (a) *ESTABLISHMENT.*—*The Secretary of the Interior*
7 *shall establish an Interagency Council on Climate Change*
8 *to address the impacts of climate change on Federal lands,*
9 *the ocean environment, and the Federal water infrastruc-*
10 *ture. The panel shall include the head of each of the fol-*
11 *lowing agencies:*

12 (1) *The Bureau of Land Management.*

13 (2) *The National Park Service.*

14 (3) *United States Geological Survey.*

15 (4) *The United States Fish and Wildlife Service.*

16 (5) *The Forest Service.*

17 (6) *The National Oceanic and Atmospheric Ad-*
18 *ministration.*

19 (7) *The Bureau of Reclamation.*

20 (8) *The Council on Environmental Quality.*

21 (9) *The Minerals Management Service.*

22 (10) *The Office of Surface Mining Reclamation*
23 *and Enforcement.*

24 (b) *PLAN.*—*Not later than one year after the date of*
25 *the enactment of this Act, the Secretary of the Interior shall*

1 *submit a plan to Congress describing what the agencies list-*
2 *ed in subsection (a) shall do both individually and coopera-*
3 *tively to accomplish the following:*

4 (1) *Working in cooperation with the United*
5 *States Geological Survey, develop an interagency in-*
6 *ventory and Geographic Information System database*
7 *of United States ecosystems, water supplies, and*
8 *water infrastructure vulnerable to climate change.*

9 (2) *Manage land, water, and ocean resources in*
10 *a manner that takes into account projected climate*
11 *change impacts, including but not limited to, pro-*
12 *longed periods of drought, changing hydrology, and in*
13 *the case of oceans, increasing ocean acidification.*

14 (3) *Develop consistent protocols to incorporate*
15 *climate change impacts in land and water manage-*
16 *ment decisions across land and water resources under*
17 *the jurisdiction of those agencies listed in subsection*
18 *(a).*

19 (4) *Incorporate the most current, peer-reviewed*
20 *science on climate change and the economic, social,*
21 *and ecological impacts of climate change into the de-*
22 *cision making process of those agencies listed in sub-*
23 *section (a).*

1 **CHAPTER 2—NATIONAL POLICY AND**
2 **STRATEGY FOR WILDLIFE**

3 **SEC. 451. SHORT TITLE.**

4 *This chapter may be cited as the “Global Warming*
5 *Wildlife Survival Act”.*

6 **SEC. 452. NATIONAL POLICY ON WILDLIFE AND GLOBAL**
7 **WARMING.**

8 *It is the policy of the Federal Government, in coopera-*
9 *tion with State, tribal, and affected local governments, other*
10 *concerned public and private organizations, landowners,*
11 *and citizens to use all practicable means and measures—*

12 (1) *to assist wildlife populations and their habi-*
13 *tats in adapting to and surviving the effects of global*
14 *warming; and*

15 (2) *to ensure the persistence and resilience of the*
16 *wildlife of the United States, together with its habitat,*
17 *as an essential part of our Nation’s culture, land-*
18 *scape, and natural resources.*

19 **SEC. 453. DEFINITIONS.**

20 *In this chapter:*

21 (1) **ECOLOGICAL PROCESSES.**—*The term “eco-*
22 *logical processes” means the biological, chemical, and*
23 *physical interactions between the biotic and abiotic*
24 *components of ecosystems, including nutrient cycling,*
25 *pollination, predator-prey relationships, soil forma-*

1 *tion, gene flow, hydrologic cycling, decomposition,*
2 *and disturbance regimes such as fire and flooding.*

3 (2) *HABITAT LINKAGES.*—*The term “habitat*
4 *linkages” means areas that connect wildlife habitat or*
5 *potential wildlife habitat, and that facilitate the abil-*
6 *ity of wildlife to move within a landscape in response*
7 *to the effects of global warming.*

8 (3) *SECRETARY.*—*The term “Secretary” means*
9 *the Secretary of the Interior.*

10 (4) *WILDLIFE.*—*The term “wildlife” means—*

11 (A) *any species of wild, free-ranging fauna,*
12 *including fish and other aquatic species; and*

13 (B) *any fauna in a captive breeding pro-*
14 *gram the object of which is to reintroduce indi-*
15 *viduals of a depleted indigenous species into pre-*
16 *viously occupied range.*

17 (5) *HABITAT.*—*The term “habitat” means the*
18 *physical, chemical, and biological properties that are*
19 *used by wildlife for growth, reproduction, and sur-*
20 *vival, including aquatic and terrestrial plant commu-*
21 *nities, food, water, cover, and space, on a tract of*
22 *land, in a body of water, or in an area or region.*

23 **SEC. 454. NATIONAL STRATEGY.**

24 (a) *REQUIREMENT.*—

1 (1) *IN GENERAL.*—*The Secretary shall, within*
2 *two years after the date of the enactment of this Act,*
3 *on the basis of the best available science as provided*
4 *by the science advisory board under section 455, pro-*
5 *mulgate a national strategy for assisting wildlife pop-*
6 *ulations and their habitats in adapting to the im-*
7 *pacts of global warming.*

8 (2) *CONSULTATION AND COMMENT.*—*In devel-*
9 *oping the national strategy, the Secretary shall—*

10 (A) *consult with the Secretary of Agri-*
11 *culture, the Secretary of Commerce, the Adminis-*
12 *trator of the Environmental Protection Agency,*
13 *State fish and wildlife agencies, Indian tribes,*
14 *local governments, conservation organizations,*
15 *scientists, and other interested stakeholders; and*

16 (B) *provide opportunity for public com-*
17 *ment.*

18 (b) *CONTENTS.*—

19 (1) *IN GENERAL.*—*The Secretary shall include in*
20 *the national strategy prioritized goals and measures*
21 *to—*

22 (A) *identify and monitor wildlife popu-*
23 *lations, including game species, likely to be ad-*
24 *versely affected by global warming, with par-*

1 *particular emphasis on wildlife populations at*
2 *greatest need for conservation;*

3 *(B) identify and monitor coastal, marine,*
4 *terrestrial, and freshwater habitat at greatest*
5 *risk of being damaged by global warming;*

6 *(C) assist species in adapting to the im-*
7 *pacts of global warming;*

8 *(D) protect, acquire, and restore wildlife*
9 *habitat to build resilience to global warming;*

10 *(E) provide habitat linkages and corridors*
11 *to facilitate wildlife movements in response to*
12 *global warming;*

13 *(F) restore and protect ecological processes*
14 *that sustain wildlife populations vulnerable to*
15 *global warming; and*

16 *(G) incorporate consideration of climate*
17 *change in, and integrate climate change adapta-*
18 *tion strategies for wildlife and its habitat into,*
19 *the planning and management of Federal lands*
20 *administered by the Department of the Interior*
21 *and lands administered by the Forest Service.*

22 *(2) COORDINATION WITH OTHER PLANS.—In de-*
23 *veloping the national strategy, the Secretary shall to*
24 *the maximum extent practicable—*

1 (A) take into consideration research and in-
2 formation in State comprehensive wildlife con-
3 servation plans, the North American Waterfowl
4 Management Plan, the National Fish Habitat
5 Action Plan, and other relevant wildlife con-
6 servation plans; and

7 (B) coordinate and integrate, to the extent
8 consistent with the policy set forth in section
9 452, the goals and measures identified in the na-
10 tional strategy with goals and measures identi-
11 fied in such plans.

12 (c) *REVISION.*—The Secretary shall revise the national
13 strategy not later than five years after its initial promulga-
14 tion, and not later than every ten years thereafter, to reflect
15 new information on the impacts of global warming on wild-
16 life and its habitat and advances in the development of
17 strategies for adapting to or mitigating for such impacts.

18 (d) *IMPLEMENTATION.*—

19 (1) *IMPLEMENTATION ON FEDERAL LAND SYS-*
20 *TEMS.*—To achieve the goals of the national strategy
21 and to implement measures for the conservation of
22 wildlife and its habitat identified in the national
23 strategy—

24 (A) the Secretary of the Interior shall exer-
25 cise the authority of such Secretary under this

1 *Act and other laws within the Secretary's juris-*
2 *isdiction pertaining to the administration of*
3 *lands; and*

4 *(B) the Secretary of Agriculture shall exer-*
5 *cise the authority of such Secretary under this*
6 *Act and other laws within the Secretary's juris-*
7 *isdiction pertaining to the administration of*
8 *lands.*

9 *(2) WILDLIFE CONSERVATION PROGRAMS.—Con-*
10 *sistent with their authorities under other laws, the*
11 *Secretary, the Secretary of Agriculture, and the Sec-*
12 *retary of Commerce shall administer wildlife con-*
13 *servations programs authorized under other laws to*
14 *achieve the goals of the national strategy and to im-*
15 *plement measures for the conservation of wildlife and*
16 *its habitat identified in the national strategy.*

17 **SEC. 455. ADVISORY BOARD.**

18 *(a) SCIENCE ADVISORY BOARD.—*

19 *(1) IN GENERAL.—The Secretary shall establish*
20 *and appoint the members of a science advisory board*
21 *comprised of not less than 10 and not more than 20*
22 *members recommended by the President of the Na-*
23 *tional Academy of Sciences with expertise in wildlife*
24 *biology, ecology, climate change and other relevant*
25 *disciplines. The director of the National Global*

1 *Warming and Wildlife Science Center established*
2 *under subsection (b) shall be an ex officio member of*
3 *the science advisory board.*

4 (2) *FUNCTIONS.—The science advisory board*
5 *shall—*

6 (A) *provide scientific and technical advice*
7 *and recommendations to the Secretary on the*
8 *impacts of global warming on wildlife and its*
9 *habitat, areas of habitat of particular impor-*
10 *tance for the conservation of wildlife populations*
11 *affected by global warming, and strategies and*
12 *mechanisms to assist wildlife populations and*
13 *their habitats in adapting to the impacts of glob-*
14 *al warming in the management of Federal lands*
15 *and in other Federal programs for wildlife con-*
16 *servation;*

17 (B) *advise the National Global Warming*
18 *and Wildlife Science Center established under*
19 *subsection (b) and review the quality of the re-*
20 *search programs of the Center; and*

21 (C) *advise the Secretary regarding the best*
22 *science available for purposes of section*
23 *454(a)(1).*

1 (3) *PUBLIC AVAILABILITY.*—*The advice and rec-*
2 *ommendations of the science advisory board shall be*
3 *available to the public.*

4 (b) *NATIONAL GLOBAL WARMING AND WILDLIFE*
5 *SCIENCE CENTER.*—

6 (1) *IN GENERAL.*—*The Secretary shall establish*
7 *the National Global Warming and Wildlife Science*
8 *Center within the United States Geological Survey.*

9 (2) *FUNCTIONS.*—*The National Global Warming*
10 *and Wildlife Science Center shall—*

11 (A) *conduct scientific research on national*
12 *issues related to the impacts of global warming*
13 *on wildlife and its habitat and mechanisms for*
14 *adaptation to, mitigation of, or prevention of*
15 *such impacts;*

16 (B) *consult with and advise Federal land*
17 *management agencies and Federal wildlife agen-*
18 *cies regarding the impacts of global warming on*
19 *wildlife and its habitat and mechanisms for ad-*
20 *aptation to or mitigation of such impacts, and*
21 *the incorporation of information regarding such*
22 *impacts and the adoption of mechanisms for ad-*
23 *aptation or mitigation of such impacts in the*
24 *management and planning for Federal lands*

1 *and in the administration of Federal wildlife*
2 *programs; and*

3 *(C) consult with State and local agencies,*
4 *universities, and other public and private enti-*
5 *ties regarding their research, monitoring, and*
6 *other efforts to address the impacts of global*
7 *warming on wildlife and its habitat.*

8 *(3) INTEGRATION WITH OTHER FEDERAL ACTIVI-*
9 *TIES.—The Secretary, the Secretary of Agriculture,*
10 *and the Secretary of Commerce shall ensure that ac-*
11 *tivities carried out pursuant to this section are inte-*
12 *grated with climate change program activities carried*
13 *out pursuant to other Federal law.*

14 *(c) DETECTION OF CHANGES.—The Secretary, the Sec-*
15 *retary of Agriculture, and the Secretary of Commerce shall*
16 *each exercise authorities under other laws to carry out pro-*
17 *grams to detect changes in wildlife abundance, distribution,*
18 *and behavior related to global warming, including—*

19 *(1) conducting species inventories on Federal*
20 *lands and in marine areas within the exclusive eco-*
21 *nomie zone of the United States; and*

22 *(2) establishing and implementing robust, co-*
23 *ordinated monitoring programs.*

1 **SEC. 456. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) *IMPLEMENTATION OF NATIONAL STRATEGY.*—Of
3 *the amounts appropriated to carry out this chapter for each*
4 *fiscal year—*

5 (1) *45 percent are authorized to be made avail-*
6 *able to Federal agencies to develop and implement the*
7 *national strategy promulgated under section 454 in*
8 *the administration of the Federal land systems, of*
9 *which—*

10 (A) *35 percent shall be allocated to the De-*
11 *partment of the Interior to—*

12 (i) *operate the National Global Warm-*
13 *ing and Wildlife Science Center established*
14 *under section 455; and*

15 (ii) *carry out the policy set forth in*
16 *section 452 and implement the national*
17 *strategy in the administration of the Na-*
18 *tional Park System the National Wildlife*
19 *Refuge System, and on the Bureau of Land*
20 *Management’s public lands; and*

21 (B) *10 percent shall be allocated to the De-*
22 *partment of Agriculture to carry out the policy*
23 *set forth in section 452 and implement the na-*
24 *tional strategy in the administration of the Na-*
25 *tional Forest System;*

1 (2) 25 percent are authorized to be made avail-
2 able to Federal agencies to carry out the policy set
3 forth in section 452 and to implement the national
4 strategy through fish and wildlife programs, other
5 than for the operation and maintenance of Federal
6 lands, of which—

7 (A) 10 percent shall be allocated to the De-
8 partment of the Interior to fund endangered spe-
9 cies, migratory bird, and other fish and wildlife
10 programs administered by the United States
11 Fish and Wildlife Service, other than operations
12 and maintenance of the national wildlife refuges;
13 and

14 (B) 15 percent shall be allocated to the De-
15 partment of the Interior for implementation of
16 cooperative grant programs benefitting wildlife
17 including the Cooperative Endangered Species
18 Fund, Private Stewardship Grants, the North
19 American Wetlands Conservation Act, the
20 Neotropical Migratory Bird Conservation Fund,
21 and the National Fish Habitat Action Plan, and
22 used for activities that assist wildlife and its
23 habitat in adapting to the impacts of global
24 warming; and

1 (3) 30 percent are authorized to be made avail-
2 able for grants to States and Indian tribes through
3 the State and tribal wildlife grants program author-
4 ized under section 461, to—

5 (A) carry out activities that assist wildlife
6 and its habitat in adapting to the impacts of
7 global warming in accordance with State com-
8 prehensive wildlife conservation plans developed
9 and approved under that program; and

10 (B) revise or supplement existing State
11 comprehensive wildlife conservation plans as nec-
12 essary to include specific strategies for assisting
13 wildlife and its habitat in adapting to the im-
14 pacts of global warming.

15 (b) AVAILABILITY.—

16 (1) IN GENERAL.—Funding is authorized to be
17 made available to States and Indian tribes pursuant
18 to this section subject to paragraphs (2) and (3).

19 (2) INITIAL 5-YEAR PERIOD.—During the 5-year
20 period beginning on the effective date of this Act, a
21 State shall not be eligible to receive such funding un-
22 less the head of the State’s wildlife agency has—

23 (A) approved, and provided to the Sec-
24 retary, an explicit strategy to assist wildlife pop-

1 *ulations in adapting to the impacts of global*
2 *warming; and*

3 *(B) incorporated such strategy as a supple-*
4 *ment to the State’s comprehensive wildlife con-*
5 *servation plan.*

6 *(3) SUBSEQUENT PERIOD.—After such 5-year pe-*
7 *riod, a State shall not be eligible to receive such fund-*
8 *ing unless the State has submitted to the Secretary,*
9 *and the Secretary has approved, a revision to its com-*
10 *prehensive wildlife conservation plan that—*

11 *(A) describes the impacts of global warming*
12 *on the diversity and health of the State’s wildlife*
13 *populations and their habitat;*

14 *(B) describes and prioritizes proposed con-*
15 *servation actions to assist wildlife populations in*
16 *adapting to such impacts;*

17 *(C) establishes programs for monitoring the*
18 *impacts of global warming on wildlife popu-*
19 *lations and their habitats; and*

20 *(D) establishes methods for assessing the ef-*
21 *fectiveness of conservation actions taken to assist*
22 *wildlife populations in adapting to such impacts*
23 *and for adapting such actions to respond appro-*
24 *priately to new information or changing condi-*
25 *tions.*

1 (c) *INTENT OF CONGRESS.*—*It is the intent of Congress*
2 *that funding provided to Federal agencies and States pur-*
3 *suant to this chapter supplement, and not replace, existing*
4 *sources of funding for wildlife conservation.*

5 **CHAPTER 3—STATE AND TRIBAL WILDLIFE**
6 **GRANTS PROGRAM**

7 **SEC. 461. STATE AND TRIBAL WILDLIFE GRANTS PROGRAM.**

8 (a) *AUTHORIZATION OF PROGRAM.*—*There is author-*
9 *ized to be established a State and Tribal Wildlife Grants*
10 *Program to be administered by the Secretary of the Interior*
11 *and to provide wildlife conservation grants to States and*
12 *to the District of Columbia, Puerto Rico, Guam, the United*
13 *States Virgin Islands, the Northern Mariana Islands, Amer-*
14 *ican Samoa, and federally recognized Indian tribes for the*
15 *planning, development, and implementation of programs*
16 *for the benefit of wildlife and their habitat, including spe-*
17 *cies that are not hunted or fished.*

18 (b) *ALLOCATION OF FUNDS.*—

19 (1) *IN GENERAL.*—*Of the amounts made avail-*
20 *able to carry out this section for each fiscal year—*

21 (A) *10 percent shall be for a competitive*
22 *grant program for Indian tribes that are not*
23 *subject to the remaining provisions of this sec-*
24 *tion;*

1 (B) of the amounts remaining after the ap-
2 plication of subparagraph (A), and after the de-
3 duction of the Secretary's administrative ex-
4 penses to carry out this section—

5 (i) not more than one-half of 1 percent
6 shall be allocated to each of the District of
7 Columbia and to the Commonwealth of
8 Puerto Rico; and

9 (ii) not more than one-fourth of 1 per-
10 cent shall be allocated to each of Guam,
11 American Samoa, the United States Virgin
12 Islands, and the Commonwealth of the
13 Northern Mariana Islands; and

14 (C) of the amount remaining after the ap-
15 plication of subparagraphs (B) and (C), the sec-
16 retary shall apportion among the States—

17 (i) one-third based on the ratio that the
18 land area of each State bears to the total
19 land area of all States; and

20 (ii) two-thirds based on the ratio that
21 the population of each State bears to the
22 total population of all States.

23 (2) ADJUSTMENTS.—The amounts apportioned
24 under subparagraph (C) of paragraph (1) for a fiscal
25 year shall be adjusted equitably so that no State is

1 *apportioned under such subparagraph a sum that*
2 *is—*

3 *(A) less than 1 percent of the amount avail-*
4 *able for apportionment under that subparagraph*
5 *that fiscal year; or*

6 *(B) more than 5 percent of such amount.*

7 *(c) COST SHARING.—*

8 *(1) PLAN DEVELOPMENT GRANTS.—The Federal*
9 *share of the costs of developing or revising a com-*
10 *prehensive wildlife conservation plan shall not exceed*
11 *75 percent of the total costs of developing or revising*
12 *such plan.*

13 *(2) PLAN IMPLEMENTATION GRANTS.—The Fed-*
14 *eral share of the costs of implementing an activity in*
15 *an approved comprehensive wildlife conservation plan*
16 *carried out with a grant under this section shall not*
17 *exceed 50 percent of the total costs of such activities.*

18 *(3) PROHIBITION ON USE OF FEDERAL FUNDS.—*
19 *The non-Federal share of costs of an activity carried*
20 *out under this section shall not be paid with amounts*
21 *derived from any Federal grant program.*

22 *(d) REQUIREMENT FOR PLAN.—*

23 *(1) IN GENERAL.—No State, territory, or other*
24 *jurisdiction shall be eligible for a grant under this*

1 *section unless it submits to the Secretary a com-*
2 *prehensive wildlife conservation plan that—*

3 *(A) complies with paragraph (2); and*

4 *(B) considers the broad range of the State,*
5 *territory, or other jurisdiction’s wildlife and as-*
6 *sociated habitats, with appropriate priority*
7 *placed on those species with the greatest con-*
8 *servation need and taking into consideration the*
9 *relative level of funding available for the con-*
10 *servation of those species.*

11 *(2) CONTENTS.—The comprehensive wildlife con-*
12 *servation plan must contain—*

13 *(A) information on the distribution and*
14 *abundance of species of wildlife, including low*
15 *and declining populations as the State, territory,*
16 *or other jurisdiction’s fish and wildlife agency*
17 *considers appropriate, that are indicative of the*
18 *diversity and health of the jurisdiction’s wildlife;*

19 *(B) the location and relative condition of*
20 *key habitats and community types essential to*
21 *conservation of species identified in subpara-*
22 *graph (A);*

23 *(C) descriptions of problems which may ad-*
24 *versely affect species identified in subparagraph*
25 *(A) or their habitats, and priority research and*

1 *survey efforts needed to identify factors that may*
2 *assist in restoration and improved conservation*
3 *of these species and habitats;*

4 *(D) descriptions of conservation actions*
5 *proposed to conserve the identified species and*
6 *habitats and priorities for implementing such*
7 *actions;*

8 *(E) proposed plans for monitoring species*
9 *identified in subparagraph (A) and their habi-*
10 *tats, for monitoring the effectiveness of the con-*
11 *servation actions proposed in subparagraph (D),*
12 *and for adapting these conservation actions to*
13 *respond appropriately to new information or*
14 *changing conditions;*

15 *(F) descriptions of procedures to review the*
16 *comprehensive wildlife conservation plan at in-*
17 *tervals not to exceed ten years;*

18 *(G) plans for coordinating the development,*
19 *implementation, review, and revision of the com-*
20 *prehensive wildlife conservation plan with Fed-*
21 *eral, State, and local agencies and Indian tribes*
22 *that manage significant land and water areas*
23 *within the jurisdiction or administer programs*
24 *that significantly affect the conservation of iden-*
25 *tified species and habitats; and*

1 (H) provisions for broad public participa-
2 tion as an essential element of the development,
3 revision, and implementation of the comprehen-
4 sive wildlife conservation plan.

5 (e) SAVINGS CLAUSE.—State comprehensive wildlife
6 strategies approved by the Secretary pursuant to previous
7 congressional authorizations and appropriations Acts shall
8 remain in effect until such strategies expire or are revised
9 in accordance with their terms. Except as specified in sec-
10 tion 456(b) with respect to funds made available under such
11 section, conservation and education activities conducted or
12 proposed to be conducted pursuant to such previously ap-
13 proved strategies shall remain authorized.

14 (f) AUTHORIZATION OF APPROPRIATIONS.—There are
15 authorized to be appropriated such sums as are necessary
16 to carry out this section.

17 **Subtitle E—Ocean Programs**

18 **SEC. 471. OCEAN POLICY, GLOBAL WARMING, AND ACIDIFI-** 19 **CATION PROGRAM.**

20 (a) DEVELOPMENT AND IMPLEMENTATION.—

21 (1) IN GENERAL.—The Secretary of Commerce,
22 shall, within two years after the date of enactment of
23 this Act, and on the basis of the best available science,
24 develop and implement a national strategy using ex-
25 isting authorities and the authority provided in this

1 *section to support coastal State and Federal agency*
2 *efforts to—*

3 *(A) predict, plan for, and mitigate the im-*
4 *pacts on ocean and coastal ecosystems from glob-*
5 *al warming, relative sea level rise and ocean*
6 *acidification; and*

7 *(B) ensure the recovery, resiliency, and*
8 *health of ocean and coastal ecosystems.*

9 *(2) CONSULTATION AND COMMENT.—Before and*
10 *during the development of the national strategy, the*
11 *Secretary shall—*

12 *(A) consult with the Secretary of the Inte-*
13 *rior, the Administrator of the Environmental*
14 *Protection Agency, the Regional Fishery Man-*
15 *agement Councils, coastal States, Indian tribes,*
16 *local governments, conservation organizations,*
17 *scientists, and other interested stakeholders; and*

18 *(B) provide opportunities for public notice*
19 *and comment.*

20 *(b) CONTENTS.—*

21 *(1) IN GENERAL.—The Secretary shall include in*
22 *the national strategy prioritized goals and measures*
23 *to—*

24 *(A) incorporate climate change adaptation*
25 *strategies into the planning and management of*

1 *ocean and coastal programs and resources ad-*
2 *ministered by the Department of Commerce;*

3 *(B) support restoration, protection, and en-*
4 *hancement of natural processes that minimize*
5 *the impacts of relative sea level rise, global*
6 *warming, and ocean acidification;*

7 *(C) minimize the impacts of global warm-*
8 *ing and ocean acidification on marine species*
9 *and their habitats;*

10 *(D) identify, protect, and restore ocean and*
11 *coastal habitats needed to build healthy and re-*
12 *silient ecosystems;*

13 *(E) support the development of climate*
14 *change resiliency plans under the Coastal Zone*
15 *Management Act of 1972 (16 U.S.C. 1451 et*
16 *seq.);*

17 *(F) provide technical assistance and train-*
18 *ing to other Federal agencies, States, local com-*
19 *munities, universities, and other stakeholders;*
20 *and*

21 *(G) identify additional research that is*
22 *needed to better anticipate and plan for the im-*
23 *pacts of global warming and ocean acidification*
24 *on ocean and coastal resources.*

1 (2) *COORDINATION WITH OTHER PLANS.*—*In de-*
2 *veloping the national strategy, the Secretary shall—*

3 (A) *take into consideration research and in-*
4 *formation available in Federal, regional, and*
5 *State management and restoration plans and*
6 *any other relevant reports and information; and*

7 (B) *encourage and take into account State*
8 *and regional plans for protecting and restoring*
9 *the health and resilience of ocean and coastal*
10 *ecosystems.*

11 (c) *REVISION.*—*The Secretary shall revise the national*
12 *strategy not later than 5 years after its promulgation, and*
13 *not later than every 10 years thereafter, to reflect new infor-*
14 *mation on the impacts of global warming, relative sea level*
15 *rise, and acidification on ocean and coastal ecosystems and*
16 *their resources and advances in the development of strate-*
17 *gies for adapting to or mitigating for such impacts.*

18 (d) *SCIENCE ADVISORY BOARD.*—

19 (1) *CONSULTATION.*—*The Secretary shall consult*
20 *with the National Oceanic and Atmospheric Adminis-*
21 *tration’s Science Advisory Board in the development*
22 *and implementation of the strategy.*

23 (2) *REVIEW INFORMATION.*—*The Science Advi-*
24 *sory Board shall periodically—*

1 “(1) *provide assistance to coastal states to volun-*
2 *tarily develop coastal climate change resiliency plans*
3 *pursuant to approved management programs ap-*
4 *proved under section 306, to minimize contributions*
5 *to climate change and to prepare for and reduce the*
6 *negative consequences that may result from climate*
7 *change in the coastal zone; and*

8 “(2) *provide financial and technical assistance*
9 *and training to enable coastal states to implement*
10 *plans developed pursuant to this section through*
11 *coastal states’ enforceable policies.*

12 “(b) *GUIDELINES.—Within 180 days after the date of*
13 *enactment of this section, the Secretary, in consultation*
14 *with the coastal states, shall issue guidelines for the imple-*
15 *mentation of the grant program established under sub-*
16 *section (c).*

17 “(c) *CLIMATE CHANGE RESILIENCY PLANNING*
18 *GRANTS.—*

19 “(1) *IN GENERAL.—The Secretary, subject to the*
20 *availability of appropriations, may make a grant to*
21 *any coastal state for the purpose of developing climate*
22 *change resiliency plans pursuant to guidelines issued*
23 *by the Secretary under subsection (b).*

24 “(2) *PLAN CONTENT.—A plan developed with a*
25 *grant under this section shall include the following:*

1 “(A) *Identification of public facilities and*
2 *public services, coastal resources of national sig-*
3 *nificance, coastal waters, energy facilities, or*
4 *other water uses located in the coastal zone that*
5 *are likely to be impacted by climate change.*

6 “(B) *Adaptive management strategies for*
7 *land use to respond or adapt to changing envi-*
8 *ronmental conditions, including strategies to*
9 *protect biodiversity and establish habitat buffer*
10 *zones, migration corridors, and climate refugia.*

11 “(C) *Requirements to initiate and maintain*
12 *long-term monitoring of environmental change to*
13 *assess coastal zone resiliency and to adjust when*
14 *necessary adaptive management strategies and*
15 *new planning guidelines to attain the policies*
16 *under section 303.*

17 “(3) *STATE HAZARD MITIGATION PLANS.—Plans*
18 *developed with a grant under this section shall be*
19 *consistent with State hazard mitigation plans devel-*
20 *oped under State or Federal law.*

21 “(4) *ALLOCATION.—Grants under this section*
22 *shall be available only to coastal states with manage-*
23 *ment programs approved by the Secretary under sec-*
24 *tion 306 and shall be allocated among such coastal*

1 *states in a manner consistent with regulations pro-*
2 *mulgated pursuant to section 306(c).*

3 “(5) *PRIORITY.*—*In the awarding of grants*
4 *under this subsection the Secretary may give priority*
5 *to any coastal state that has received grant funding*
6 *to develop program changes pursuant to paragraphs*
7 *(1), (2), (3), (5), (6), (7), and (8) of section 309(a).*

8 “(6) *TECHNICAL ASSISTANCE.*—*The Secretary*
9 *may provide technical assistance to a coastal state*
10 *consistent with section 310 to ensure the timely devel-*
11 *opment of plans supported by grants awarded under*
12 *this subsection.*

13 “(7) *FEDERAL APPROVAL.*—*In order to be eligi-*
14 *ble for a grant under subsection (d), a coastal state*
15 *must have its plan developed under this section ap-*
16 *proved by the Secretary under regulations adopted*
17 *pursuant to section 306(e).*

18 “(d) *COASTAL RESILIENCY PROJECT GRANTS.*—

19 “(1) *IN GENERAL.*—*The Secretary, subject to the*
20 *availability of appropriations, may make grants to*
21 *any coastal state that has a climate change resiliency*
22 *plan approved under subsection (c)(7), in order to*
23 *support projects that implement strategies contained*
24 *within such plans.*

1 “(2) *PROGRAM REQUIREMENTS.*—*The Secretary*
2 *within 90 days after approval of the first plan ap-*
3 *proved under subsection (c)(7), shall publish in the*
4 *Federal Register requirements regarding applications,*
5 *allocations, eligible activities, and all terms and con-*
6 *ditions for grants awarded under this subsection. No*
7 *less than 30 percent of the funds appropriated in any*
8 *fiscal year for grants under this subsection shall be*
9 *awarded through a merit-based competitive process.*

10 “(3) *ELIGIBLE ACTIVITIES.*—*The Secretary may*
11 *award grants to coastal states to implement projects*
12 *in the coastal zone to address stress factors in order*
13 *to improve coastal climate change resiliency, includ-*
14 *ing the following:*

15 “(A) *Activities to address physical disturb-*
16 *ances within the coastal zone, especially activi-*
17 *ties related to public facilities and public serv-*
18 *ices, tourism, sedimentation, and other factors*
19 *negatively impacting coastal waters, and fish-*
20 *eries-associated habitat destruction or alteration.*

21 “(B) *Monitoring, control, or eradication of*
22 *disease organisms and invasive species.*

23 “(C) *Activities to address the loss, degrada-*
24 *tion or fragmentation of wildlife habitat through*
25 *projects to establish marine and terrestrial habi-*

1 *tat buffers, wildlife refugia or networks thereof,*
2 *and preservation of migratory wildlife corridors*
3 *and other transition zones.*

4 “(D) *Implementation of projects to reduce,*
5 *mitigate, or otherwise address likely impacts*
6 *caused by natural hazards in the coastal zone,*
7 *including sea level rise, coastal inundation,*
8 *coastal erosion and subsidence, severe weather*
9 *events such as cyclonic storms, tsunamis and*
10 *other seismic threats, and fluctuating Great*
11 *Lakes water levels.*

12 “(E) *Provide technical training and assist-*
13 *ance to local coastal policy makers to increase*
14 *awareness of science, management, and tech-*
15 *nology information related to climate change*
16 *and adaptation strategies.”.*

17 (b) *AUTHORIZATION OF APPROPRIATIONS.—Section*
18 *318(a) of the Coastal Zone Management Act of 1972 (16*
19 *U.S.C. 1464) is further amended by adding at the end the*
20 *following:*

21 “(4) *for grants under section 320(c) and (d),*
22 *such sums as are necessary.”.*

1 **SEC. 473. ENHANCING CLIMATE CHANGE PREDICTIONS.**

2 (a) *SHORT TITLE.*—*This section may be cited as the*
3 *“National Integrated Coastal and Ocean Observation Act*
4 *of 2007”.*

5 (b) *PURPOSES.*—*The purposes of this section are the*
6 *following:*

7 (1) *Establish a National Integrated Coastal and*
8 *Ocean Observation System comprised of Federal and*
9 *non-Federal components, coordinated at the regional*
10 *level by a network of Regional Information Coordina-*
11 *tion Entities, that includes in situ, remote, and other*
12 *coastal and ocean observations, technologies, and data*
13 *management and communication systems, to gather*
14 *daily specific coastal and ocean data variables and to*
15 *ensure the timely dissemination and availability of*
16 *usable observation data to support national defense,*
17 *marine commerce, energy production, scientific re-*
18 *search, ecosystem-based marine and coastal resource*
19 *management, and public safety and to promote the*
20 *general public welfare.*

21 (2) *Improve the Nation’s capability to measure,*
22 *track, explain, and predict events related directly and*
23 *indirectly to climate change, natural climate varia-*
24 *bility, and interactions between the oceanic and at-*
25 *mospheric environments, including the Great Lakes.*

1 (3) *Authorize activities to promote basic and ap-*
2 *plied research to develop, test, and deploy innovations*
3 *and improvements in coastal and ocean observation*
4 *technologies, modeling systems, and other scientific*
5 *and technological capabilities to improve our concep-*
6 *tual understanding of global climate change and*
7 *physical, chemical, and biological dynamics of the*
8 *ocean and coastal and Great Lakes environments.*

9 (4) *Institutionalize coordinated programs of pub-*
10 *lic outreach, education, and training—*

11 (A) *to enhance public understanding of the*
12 *ocean, coastal and Great Lakes environment, the*
13 *influence and effects of global climate change on*
14 *the coastal and ocean environment; and*

15 (B) *to promote greater public awareness*
16 *and stewardship of the Nation’s ocean, coastal,*
17 *and Great Lakes resources.*

18 (c) *DEFINITIONS.—In this section:*

19 (1) *COUNCIL.—The term “Council” means the*
20 *National Ocean Research Leadership Council referred*
21 *to in section 7902 of title 10, United States Code.*

22 (2) *ADMINISTRATOR.—The term “Adminis-*
23 *trator” means the Administrator of the National Oce-*
24 *anic and Atmospheric Administration.*

1 (3) *FEDERAL ASSETS*.—*The term “Federal as-*
2 *sets” means all relevant non-classified civilian coastal*
3 *and ocean observations, technologies, and related mod-*
4 *eling, research, data management, basic and applied*
5 *technology research and development, and public edu-*
6 *cation and outreach programs, that are managed by*
7 *member agencies of the Council.*

8 (4) *NON-FEDERAL ASSETS*.—*The term “non-Fed-*
9 *eral assets” means all relevant coastal and ocean ob-*
10 *servations, technologies, related basic and applied*
11 *technology research and development, and public edu-*
12 *cation and outreach programs managed through*
13 *States, regional organizations, universities, non-*
14 *governmental organizations, or the private sector.*

15 (5) *REGIONAL INFORMATION COORDINATION EN-*
16 *TITIES*.—

17 (A) *IN GENERAL*.—*The term “Regional In-*
18 *formation Coordination Entity”, subject to sub-*
19 *paragraphs (B) and (C), means an organiza-*
20 *tional body that is certified or established by the*
21 *lead Federal agency designated in subsection*
22 *(d)(3)(C)(iii) and coordinating State, Federal,*
23 *local, and private interests at a regional level*
24 *with the responsibility of engaging the private*
25 *and public sectors in designing, operating, and*

1 *improving regional coastal and ocean observing*
2 *systems in order to ensure the provision of data*
3 *and information that meet the needs of user*
4 *groups from the respective regions.*

5 *(B) INCLUDED ASSOCIATIONS.—Such term*
6 *includes Regional Associations as described by*
7 *the System Plan.*

8 *(C) LIMITATION.—Nothing in this section*
9 *shall be construed to invalidate existing certifi-*
10 *cations, contracts, or agreements between Re-*
11 *gional Associations and other elements of the*
12 *System.*

13 *(6) SECRETARY.—The term “Secretary” means*
14 *the Secretary of Commerce.*

15 *(7) SYSTEM.—The term “System” means the Na-*
16 *tional Integrated Coastal and Ocean Observation Sys-*
17 *tem established under subsection (d).*

18 *(8) SYSTEM PLAN.—The term “System Plan”*
19 *means the plan contained in the document entitled*
20 *“Ocean.US publication #9, The First Integrated*
21 *Ocean Observing System (IOOS) Development Plan”.*

22 *(9) INTERAGENCY WORKING GROUP.—The term*
23 *“Interagency Working Group” means the Interagency*
24 *Working Group on Ocean Observations as established*
25 *by the U.S. Ocean Policy Committee Subcommittee*

1 *on Ocean Science and Technology pursuant to Execu-*
2 *tive Order 13366 signed December 17, 2004.*

3 *(d) NATIONAL INTEGRATED COASTAL AND OCEAN OB-*
4 *SERVING SYSTEM.—*

5 *(1) ESTABLISHMENT.—The President, acting*
6 *through the Council, shall establish a National Inte-*
7 *grated Coastal and Ocean Observation System to ful-*
8 *fill the purposes set forth in subsection (b) and the*
9 *System plan and to fulfill the Nation’s international*
10 *obligations to contribute to the global earth observa-*
11 *tion system of systems and the global ocean observing*
12 *system.*

13 *(2) SUPPORT OF PURPOSES.—The head of each*
14 *agency that is a member of the Interagency Working*
15 *Group shall support the purposes of this section.*

16 *(3) AVAILABILITY OF DATA.—The head of each*
17 *Federal agency that has administrative jurisdiction*
18 *over a Federal asset shall make available data that*
19 *are produced by that asset and that are not otherwise*
20 *restricted for integration, management, and dissemi-*
21 *nation by the System.*

22 *(4) ENHANCING ADMINISTRATION AND MANAGE-*
23 *MENT.—The head of each Federal agency that has ad-*
24 *ministrative jurisdiction over a Federal asset may*
25 *take appropriate actions to enhance internal agency*

1 *administration and management to better support,*
2 *integrate, finance, and utilize observation data, prod-*
3 *ucts, and services developed under this section to fur-*
4 *ther its own agency mission and responsibilities.*

5 (5) *PARTICIPATION IN REGIONAL INFORMATION*
6 *COORDINATION ENTITY.—The head of each Federal*
7 *agency that has administrative jurisdiction over a*
8 *Federal asset may participate in regional informa-*
9 *tion coordination entity activities.*

10 (6) *NON-FEDERAL ASSETS.—Non-Federal assets*
11 *shall be coordinated by the Interagency Working*
12 *Group or by Regional Information Coordination En-*
13 *tities.*

14 (e) *POLICY OVERSIGHT, ADMINISTRATION, AND RE-*
15 *GIONAL COORDINATION.—*

16 (1) *NATIONAL OCEAN RESEARCH LEADERSHIP*
17 *COUNCIL.—The National Ocean Research Leadership*
18 *Council shall be responsible for establishing broad co-*
19 *ordination and long-term operations plans, policies,*
20 *protocols, and standards for the System consistent*
21 *with the policies, goals, and objectives contained in*
22 *the System Plan, and coordination of the System*
23 *with other earth observing activities.*

1 (2) *INTERAGENCY WORKING GROUP.*—*The Inter-*
2 *agency Working Group shall, with respect to the Sys-*
3 *tem, be responsible for—*

4 (A) *implementation of operations plans and*
5 *policies developed by the Council;*

6 (B) *development of an annual coordinated,*
7 *comprehensive System budget;*

8 (C) *identification of gaps in observation*
9 *coverage or needs for capital improvements of*
10 *both Federal assets and non-Federal assets;*

11 (D) *establishment of data management and*
12 *communication protocols and standards;*

13 (E) *establishment of required observation*
14 *data variables;*

15 (F) *development of certification standards*
16 *for all non-Federal assets or Regional Informa-*
17 *tion Coordination Entities to be eligible for inte-*
18 *gration into the System; and*

19 (G) *periodically review and recommend to*
20 *the Council revisions to the System plan.*

21 (3) *LEAD FEDERAL AGENCY.*—*The Secretary,*
22 *acting through the Administrator, shall function as*
23 *the lead Federal agency for the System. The Sec-*
24 *retary, through the Administrator, may establish an*
25 *Interagency Program Coordinating Office to facilitate*

1 *the Secretary's responsibilities as the lead Federal*
2 *agency for System oversight and management. The*
3 *Administrator shall—*

4 (A) *implement policies, protocols, and*
5 *standards established by the Council and dele-*
6 *gated by the Interagency Working Group;*

7 (B) *promulgate regulations to integrate the*
8 *participation of non-Federal assets into the Sys-*
9 *tem and enter into and oversee contracts and*
10 *agreements with Regional Information Coordina-*
11 *tion Entities to effect this purpose;*

12 (C) *implement a competitive funding proc-*
13 *ess for the purpose of assigning contracts and*
14 *agreements to Regional Information Coordina-*
15 *tion Entities;*

16 (D) *certify or establish Regional Informa-*
17 *tion Coordination Entities to coordinate State,*
18 *Federal, local, and private interests at a regional*
19 *level with the responsibility of engaging private*
20 *and public sectors in designing, operating, and*
21 *improving regional coastal and ocean observing*
22 *systems in order to ensure the provision of data*
23 *and information that meet the needs of user*
24 *groups from the respective regions;*

1 (E) formulate a process by which gaps in
2 observation coverage or needs for capital im-
3 provements of Federal assets and non-Federal as-
4 sets of the System can be identified by the Re-
5 gional Information Coordination Entities, the
6 Administrator, or other members of the System
7 and transmitted to the Interagency Working
8 Group;

9 (F) be responsible for the coordination, stor-
10 age, management, and communication of obser-
11 vation data gathered through the System to all
12 end-user communities;

13 (G) subject to the availability of appropria-
14 tions and pursuant to procedures adopted by the
15 Administrator after consultation with the work-
16 ing group and the system advisory panel, imple-
17 ment a competitive matching grant or other
18 grant program to promote research and develop-
19 ment of innovative and new observation tech-
20 nologies, including testing and field trials;

21 (H) implement a program of public edu-
22 cation and outreach to improve public awareness
23 of global climate change and effects on the ocean,
24 coastal, and Great Lakes environment; and

1 (I) report annually to the Council through
2 the Interagency Working Group on the accom-
3 plishments, operational needs, and performance
4 of the System to achieve the purposes of this Act
5 and the System plan.

6 (4) REGIONAL INFORMATION COORDINATION EN-
7 TITY.—To be certified or established under paragraph
8 (3)(D), a Regional Information Coordination Entity
9 must be certified or established by contract or agree-
10 ment by the Administrator, and must agree to—

11 (A) gather required System observation
12 data and other requirements specified under this
13 section and the System plan;

14 (B) identify gaps in observation coverage or
15 needs for capital improvements of Federal assets
16 and non-Federal assets of the System, and trans-
17 mit such information to the Interagency Working
18 Group via the Administrator;

19 (C) demonstrate an organizational structure
20 and strategic operational plan to ensure the effi-
21 cient and effective administration of programs
22 and assets to support daily data observations for
23 integration into the System;

1 (D) comply with all financial oversight re-
2 quirements established by the Administrator, in-
3 cluding requirements relating to audits; and

4 (E) demonstrate a capability to work with
5 other governmental and nongovernmental entities
6 at all levels to identify and provide information
7 products of the System for multiple users within
8 the service area of the Regional Information Co-
9 ordination Entities and otherwise.

10 (5) *SYSTEM ADVISORY PANEL.*—The Secretary,
11 through the Administrator, may establish and ap-
12 point an advisory panel to advise the Council on the
13 operations, management, and needs of the System.
14 The appointment of this panel shall be done in con-
15 sultation with the Interagency Working Group. Panel
16 membership shall be broadly representative of all
17 stakeholders and the user community of the System,
18 including State and local governments.

19 (6) *CIVIL LIABILITY.*—For purposes of deter-
20 mining liability arising from the dissemination and
21 use of observation data gathered pursuant to this sec-
22 tion, any non-Federal asset or Regional Information
23 Coordination Entity that is certified under para-
24 graph (3)(D) and that is participating in the System
25 shall be considered to be part of the National Oceanic

1 *and Atmospheric Administration. Any employee of*
2 *such a non-Federal asset or Regional Information Co-*
3 *ordination Entity, while operating within the scope*
4 *of his or her employment in carrying out the purposes*
5 *of this section, with respect to tort liability, is deemed*
6 *to be an employee of the Federal Government.*

7 *(f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,*
8 *AND AGREEMENTS.—*

9 *(1) IN GENERAL.—The member departments and*
10 *agencies of the Council, subject to the availability of*
11 *appropriations, may participate in interagency fi-*
12 *nancing and share, transfer, receive, obligate, and ex-*
13 *pend funds appropriated to any member agency for*
14 *the purposes of carrying out any administrative or*
15 *programmatic project or activity to further the pur-*
16 *poses of this section, including support for the Inter-*
17 *agency Working Group, the Interagency Coordinating*
18 *Program Office, a common infrastructure, and inte-*
19 *gration to expand or otherwise enhance the System.*

20 *(2) JOINT CENTERS AND AGREEMENTS.—Member*
21 *Departments and agencies of the Council shall have*
22 *the authority to create, support, and maintain joint*
23 *centers, and to enter into and perform such contracts,*
24 *leases, grants, cooperative agreements, or other trans-*

1 *actions as may be necessary to carry out the purposes*
2 *of this section and fulfillment of the System Plan.*

3 *(g) APPLICATION WITH OTHER LAWS.—Nothing in*
4 *this section supersedes or limits the authority of any agency*
5 *to carry out its responsibilities and missions under other*
6 *laws.*

7 *(h) REPORT TO CONGRESS.—Two years after the date*
8 *of enactment of this Act, and biennially thereafter, the Sec-*
9 *retary through the Council shall submit to the Congress a*
10 *report on the performance of the System, achievement of*
11 *the purposes and objectives of this section and the System*
12 *plan, and recommendations for operational improvements*
13 *to enhance the efficiency, accuracy, and overall capability*
14 *of the System.*

15 **TITLE V—ADDITIONAL** 16 **PROVISIONS**

17 **SEC. 501. SHARING OF PENALTIES.**

18 *Notwithstanding any other provision of this Act, any*
19 *amounts received by the United States in an action brought*
20 *under section 3730 of title 31, United States Code, that*
21 *arise from any underpayment of royalties owed to the*
22 *United States under any lease, and are treated as royalties*
23 *paid to the United States under that lease for the purposes*
24 *of the mineral leasing laws and the Land and Water Con-*
25 *servation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.), and*

1 *that are being made available for any coal-to-liquids pro-*
2 *grams or pilot projects funded in whole or part by the Fed-*
3 *eral Government, shall also be equally available for wind,*
4 *solar, biomass, geothermal, cellulosic ethanol, or other re-*
5 *newable energy program funded in whole or part by the*
6 *Federal Government, subject to appropriations.*

7 **SEC. 502. SHARING OF FEES.**

8 *Notwithstanding any other provision of this Act, of the*
9 *amounts received by the United States pursuant to a fee*
10 *established by this Act with respect to Federal onshore lands*
11 *that are subject to a lease for production of oil, natural gas,*
12 *or coal under which production is not occurring, and that*
13 *are made available under this Act for any coal-to-liquids*
14 *programs or pilot projects funded in whole or part by the*
15 *Federal Government, shall also be made equally available*
16 *for wind, solar, biomass, geothermal, cellulosic ethanol, or*
17 *other renewable energy program funded in whole or part*
18 *by the Federal Government, subject to appropriations.*

19 **SEC. 503. OIL SHALE COMMUNITY IMPACT ASSISTANCE.**

20 *(a) ESTABLISHMENT OF FUND.—There is established*
21 *on the books of the Treasury of the United States a separate*
22 *account to be known as the Oil Shale Community Impact*
23 *Assistance Fund (hereinafter in this section referred to as*
24 *the “Fund”). The Fund shall be administered by the Sec-*

1 *retary of the Interior acting through the Director of the Bu-*
2 *reau of Land Management.*

3 *(b) CONTENTS.—*

4 *(1) IN GENERAL.—There shall be credited to the*
5 *Fund—*

6 *(A) all amounts paid to the United States*
7 *as bonus bids in connection with the award of*
8 *commercial oil shale leases pursuant to section*
9 *369(e) of the Energy Policy Act of 2005 (42*
10 *U.S.C. 15927(e)); and*

11 *(B) an amount equal to 25 percent of the*
12 *portion of the other amounts deposited into the*
13 *Treasury pursuant to section 35(a) of the Min-*
14 *eral Leasing Act (30 U.S.C. 191) with respect to*
15 *such leases, that remains after deduction of all*
16 *payments made pursuant to of such section.*

17 *(2) TERMINATION OF CREDITING OF ROYAL-*
18 *TIES.—Paragraph (1)(B) shall not apply to royalties*
19 *received by the United States under a commercial oil*
20 *shale lease after the end of the 10-year period begin-*
21 *ning on the date on which the first amount of royalty*
22 *under such lease is paid to the United States.*

23 *(c) DISTRIBUTION.—*

24 *(1) IN GENERAL.—The Secretary, subject to the*
25 *availability of appropriations, shall use amounts in*

1 *the Fund to annually pay to each county in which*
2 *is located land subject to a commercial oil shale lease*
3 *referred to in subsection (b)(1) an amount equal to*
4 *the amount credited to the Fund during the preceding*
5 *year pursuant to section (b) with respect to such*
6 *lease. If such land is located in more than one county,*
7 *the Secretary shall allocate such payment among such*
8 *counties on the basis of the relative amount of lands*
9 *subject to the lease within each such county.*

10 (2) *USE OF PAYMENT.—Amounts paid to a coun-*
11 *ty under this subsection shall be used by the county*
12 *for the planning, construction, and maintenance of*
13 *public facilities and the provision of public services.*

14 **SEC. 504. ADDITIONAL NOTICE REQUIREMENTS.**

15 (a) *PERMITTEES.—At least 45 days before offering*
16 *lands for lease pursuant to section 17(f) of the Mineral*
17 *Leasing Act (30 U.S.C. 226(f)), the Secretary of the Interior*
18 *shall provide notice of the proposed leasing activity in writ-*
19 *ing to the holders of special recreation permits for commer-*
20 *cial use, competitive events, and other organized activities*
21 *on the lands being offered for lease.*

22 (b) *CONSERVATION EASEMENT HOLDERS.—*

23 (1) *If the holder of a conservation easement or*
24 *similar property interest in the surface estate of lands*
25 *eligible for leasing under the Mineral Leasing Act has*

1 *informed the Secretary of the Interior of the existence*
2 *of such property interest, the Secretary shall treat*
3 *such holder as a surface estate owner for purposes of*
4 *section 221(d) of this Act.*

5 *(2) As soon as possible after the date of enact-*
6 *ment of this Act, the Secretary of the Interior shall*
7 *establish a means for holders of property interests de-*
8 *scribed in paragraph (1) to provide notice of such in-*
9 *terests, and shall inform the public regarding such*
10 *means.*

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H. R. 2337

[Report No. 110-296, Part I]

A BILL

To promote energy policy reforms and public accountability, alternative energy and efficiency, and carbon capture and climate change mitigation, and for other purposes.

August 3, 2007

Reported from the Committee on Natural Resources with
an amendment

August 3, 2007

Committees on Agriculture and Science and Technology
discharged; committed to the Committee of the Whole
House on the State of the Union and ordered to be
printed