

113TH CONGRESS
1ST SESSION

H. R. 787

To greatly enhance America’s path toward energy independence and economic and national security, to rebuild our Nation’s aging roads, bridges, locks, and dams, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2013

Mr. MURPHY of Pennsylvania introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Energy and Commerce, Rules, the Budget, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To greatly enhance America’s path toward energy independence and economic and national security, to rebuild our Nation’s aging roads, bridges, locks, and dams, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Infrastructure Jobs and Energy Independence Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—OFFSHORE LEASING AND OTHER ENERGY PROVISIONS

Subtitle A—Offshore Leasing

- Sec. 101. Leasing program considered approved.
- Sec. 102. Lease sales.
- Sec. 103. Seaward boundaries of States.
- Sec. 104. Military operations.
- Sec. 105. Coordination with Adjacent States.
- Sec. 106. Gulf of Mexico oil and gas.
- Sec. 107. Sharing of revenues.
- Sec. 108. Inventory of offshore energy resources.
- Sec. 109. Prohibitions on surface occupancy and other appropriate environmental safeguards.

Subtitle B—Expedited Judicial Review

- Sec. 121. Definitions.
- Sec. 122. Exclusive jurisdiction over causes and claims relating to covered oil and natural gas activities.
- Sec. 123. Time for filing petition; standing.
- Sec. 124. Timetable.
- Sec. 125. Limitation on scope of review and relief.
- Sec. 126. Presidential waiver.
- Sec. 127. Legal fees.
- Sec. 128. Exclusion.

Subtitle C—Other Energy Provisions

- Sec. 131. Policies regarding buying and building American.

TITLE II—MODIFYING THE STRATEGIC PETROLEUM RESERVE
 AND FUNDING CONSERVATION AND ENERGY RESEARCH AND
 DEVELOPMENT

- Sec. 201. Findings.
- Sec. 202. Definitions.
- Sec. 203. Objectives.
- Sec. 204. Modification of the Strategic Petroleum Reserve.

1 **TITLE I—OFFSHORE LEASING**
2 **AND OTHER ENERGY PROVI-**
3 **SIONS**

4 **Subtitle A—Offshore Leasing**

5 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

6 (a) IN GENERAL.—The Draft Proposed Outer Conti-
7 nental Shelf Oil and Gas Leasing Program 2010–2015
8 issued by the Secretary of the Interior (referred to in this
9 section as the “Secretary”) under section 18 of the Outer
10 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
11 ered to have been approved by the Secretary as a final
12 oil and gas leasing program under that section, and is con-
13 sidered to be in full compliance with and in accordance
14 with all requirements of the Outer Continental Shelf
15 Lands Act.

16 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
17 The Secretary is considered to have issued a final environ-
18 mental impact statement for the program described in
19 subsection (a) in accordance with all requirements under
20 section 102(2)(C) of the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4332(2)(C)).

22 (c) CORRECTION OF DATES.—The Secretary of the
23 Interior shall update the dates and deadlines proscribed
24 in the program described in subsection (a) to reflect the

1 time that has passed between the date the program was
2 issued and the date of enactment of this Act.

3 **SEC. 102. LEASE SALES.**

4 (a) OUTER CONTINENTAL SHELF.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), not later than 30 days after the date of
7 enactment of this Act and every 270 days thereafter,
8 the Secretary of the Interior (referred to in this sec-
9 tion as the “Secretary”) shall conduct a lease sale
10 in each outer Continental Shelf planning area for
11 which the Secretary determines that there is a com-
12 mercial interest in purchasing Federal oil and gas
13 leases for production on the outer Continental Shelf.

14 (2) SUBSEQUENT DETERMINATIONS AND
15 SALES.—If the Secretary determines that there is
16 not a commercial interest in purchasing Federal oil
17 and gas leases for production on the outer Conti-
18 nental Shelf in a planning area under this sub-
19 section, not later than 2 years after the date of en-
20 actment of the determination and every 2 years
21 thereafter, the Secretary shall—

22 (A) determine whether there is a commer-
23 cial interest in purchasing Federal oil and gas
24 leases for production on the outer Continental
25 Shelf in the planning area; and

1 (B) if the Secretary determines that there
2 is a commercial interest described in subpara-
3 graph (A), conduct a lease sale in the planning
4 area.

5 (b) RENEWABLE ENERGY AND MARICULTURE.—The
6 Secretary may conduct commercial lease sales of resources
7 owned by the United States—

8 (1) to produce renewable energy (as defined in
9 section 203(b) of the Energy Policy Act of 2005 (42
10 U.S.C. 15852(b))); or

11 (2) to cultivate marine organisms in the natural
12 habitat of the organisms.

13 **SEC. 103. SEAWARD BOUNDARIES OF STATES.**

14 (a) SEAWARD BOUNDARIES.—Section 4 of the Sub-
15 merged Lands Act (43 U.S.C. 1312) is amended by strik-
16 ing “three geographical miles” each place it appears and
17 inserting “9 nautical miles”.

18 (b) CONFORMING AMENDMENTS.—Section 2 of the
19 Submerged Lands Act (43 U.S.C. 1301) is amended—

20 (1) in subsection (a)(2), by striking “three geo-
21 graphical miles” and inserting “9 nautical miles”;
22 and

23 (2) in subsection (b)—

24 (A) by striking “three geographical miles”
25 and inserting “9 nautical miles”; and

1 (B) by striking “three marine leagues” and
2 inserting “9 nautical miles”.

3 (c) EFFECT OF AMENDMENTS.—

4 (1) IN GENERAL.—Subject to paragraphs (2)
5 through (4), the amendments made by this section
6 shall not affect Federal oil and gas mineral rights
7 and should not affect the States’ current authority
8 within existing State boundaries.

9 (2) EXISTING LEASES.—The amendments made
10 by this section shall not affect any Federal oil and
11 gas lease in effect on the date of enactment of this
12 Act.

13 (3) TAXATION.—

14 (A) IN GENERAL.—A State may exercise
15 all of the sovereign powers of taxation of the
16 State within the entire extent of the seaward
17 boundaries of the State (as extended by the
18 amendments made by this section).

19 (B) LIMITATION.—Nothing in this para-
20 graph affects the authority of a State to tax
21 any Federal oil and gas lease in effect on the
22 date of enactment of this Act.

23 **SEC. 104. MILITARY OPERATIONS.**

24 The Secretary shall consult with the Secretary of De-
25 fense regarding military operations needs in the Outer

1 Continental Shelf. The Secretary shall work with the Sec-
2 retary of Defense to resolve any conflicts that might arise
3 between such operations and leasing under this section.
4 If the Secretaries are unable to resolve all such conflicts,
5 any unresolved issues shall be referred by the Secretaries
6 to the President in a timely fashion for immediate resolu-
7 tion.

8 **SEC. 105. COORDINATION WITH ADJACENT STATES.**

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

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

14 (2) by adding the following:

15 “(f)(1) Prior to issuing a permit or approval for the
16 construction of a pipeline to transport crude oil, natural
17 gas or associated liquids production withdrawn from oil
18 and gas leases on the outer Continental Shelf, a Federal
19 agency must seek the concurrence of the Adjacent State
20 if the pipeline is to transit the Adjacent State’s Adjacent
21 Zone between the outer Continental Shelf and landfall. No
22 State may prohibit construction of such a pipeline within
23 its Adjacent Zone or its State waters. However, an Adja-
24 cent State may require routing of such a pipeline to one
25 of two alternate landfall locations in the Adjacent State,

1 designated by the Adjacent State, located within 60 miles
2 on either side of a proposed landfall location.

3 “(2) In this subsection:

4 “(A) The term ‘Adjacent State’ means, with re-
5 spect to any program, plan, lease sale, leased tract
6 or other activity, proposed, conducted, or approved
7 pursuant to the provisions of this Act, any State the
8 laws of which are declared, pursuant to section
9 4(a)(2), to be the law of the United States for the
10 portion of the outer Continental Shelf on which such
11 program, plan, lease sale, leased tract, or activity
12 appertains or is, or is proposed to be, conducted.
13 For purposes of this subparagraph, the term ‘State’
14 includes the Commonwealth of Puerto Rico, the
15 Commonwealth of the Northern Mariana Islands,
16 the Virgin Islands, American Samoa, Guam, and the
17 other territories of the United States.

18 “(B) The term ‘Adjacent Zone’ means, with re-
19 spect to any program, plan, lease sale, leased tract,
20 or other activity, proposed, conducted, or approved
21 pursuant to the provisions of this Act, the portion
22 of the outer Continental Shelf for which the laws of
23 a particular Adjacent State are declared, pursuant
24 to section 4(a)(2), to be the law of the United
25 States.”.

1 **SEC. 106. GULF OF MEXICO OIL AND GAS.**

2 (a) REPEAL.—Section 104 of division C of the Tax
3 Relief and Health Care Act of 2006 (Public Law 109–
4 432; 120 Stat. 3003) is repealed.

5 (b) LEASING PLAN FOR THE EASTERN GULF OF
6 MEXICO.—Pursuant to sections 101 and 102 of this Act,
7 the Secretary of the Interior shall issue a final leasing plan
8 for the Eastern Gulf of Mexico within 180 days after the
9 date of enactment of this Act for all areas where there
10 exists commercial interest in purchasing Federal oil and
11 gas leases for production.

12 **SEC. 107. SHARING OF REVENUES.**

13 (a) IN GENERAL.—Section 8(g) of the Outer Conti-
14 nental Shelf Lands Act (43 U.S.C. 1337(g)) is amended—

15 (1) in paragraph (2) by striking “Notwith-
16 standing” and inserting “Except as provided in
17 paragraph (6), and notwithstanding”;

18 (2) by redesignating paragraphs (6) and (7) as
19 paragraphs (8) and (9); and

20 (3) by inserting after paragraph (5) the fol-
21 lowing:

22 “(6) BONUS BIDS AND ROYALTIES UNDER
23 QUALIFIED LEASES.—

24 “(A) NEW LEASES.—Of amounts received
25 by the United States as bonus bids, royalties,
26 rentals, and other sums collected under any new

1 qualified lease on submerged lands made avail-
2 able for leasing under this Act by the enact-
3 ment of the Infrastructure Jobs and Energy
4 Independence Act—

5 “(i) 30 percent shall be paid to the
6 States that are producing States with re-
7 spect to those submerged lands that are lo-
8 cated within the seaward boundaries of
9 such a State established under section
10 4(a)(2)(A);

11 “(ii) 10 percent shall be deposited in
12 the general fund of the Treasury used sole-
13 ly for paying off the national debt; and

14 “(iii) 60 percent shall be deposited in
15 the Infrastructure Renewal Reserve estab-
16 lished by paragraph (7).

17 “(B) LEASED TRACT THAT LIES PAR-
18 Tially WITHIN THE SEAWARD BOUNDARIES OF
19 A STATE.—In the case of a leased tract that lies
20 partially within the seaward boundaries of a
21 State, the amounts of bonus bids and royalties
22 from such tract that are subject to subpara-
23 graph (A)(ii) with respect to such State shall be
24 a percentage of the total amounts of bonus bids
25 and royalties from such tract that is equivalent

1 to the total percentage of surface acreage of the
2 tract that lies within such seaward boundaries.

3 “(C) USE OF PAYMENTS TO STATES.—
4 Amounts paid to a State under subparagraph
5 (A)(ii) shall be used by the State for one or
6 more of the following:

7 “(i) Education.

8 “(ii) Transportation.

9 “(iii) Coastal restoration, environ-
10 mental restoration, and beach replenish-
11 ment.

12 “(iv) Energy infrastructure.

13 “(v) Renewable energy development.

14 “(vi) Energy efficiency and conserva-
15 tion.

16 “(vii) Any other purpose determined
17 by State law.

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

19 “(i) ADJACENT STATE.—The term
20 ‘Adjacent State’ means, with respect to
21 any program, plan, lease sale, leased tract
22 or other activity, proposed, conducted, or
23 approved pursuant to the provisions of this
24 Act, any State the laws of which are de-
25 clared, pursuant to section 4(a)(2), to be

1 the law of the United States for the por-
2 tion of the outer Continental Shelf on
3 which such program, plan, lease sale,
4 leased tract, or activity appertains or is, or
5 is proposed to be, conducted.

6 “(ii) ADJACENT ZONE.—The term
7 ‘Adjacent Zone’ means, with respect to any
8 program, plan, lease sale, leased tract, or
9 other activity, proposed, conducted, or ap-
10 proved pursuant to the provisions of this
11 Act, the portion of the outer Continental
12 Shelf for which the laws of a particular
13 Adjacent State are declared, pursuant to
14 section 4(a)(2), to be the law of the United
15 States.

16 “(iii) PRODUCING STATE.—The term
17 ‘producing State’ means an Adjacent State
18 having an Adjacent Zone containing leased
19 tracts from which are derived bonus bids
20 and royalties under a lease under this Act.

21 “(iv) STATE.—The term ‘State’ in-
22 cludes Puerto Rico and the other terri-
23 tories of the United States.

24 “(v) QUALIFIED LEASE.—The term
25 ‘qualified lease’ means a natural gas or oil

1 lease made available under this Act grant-
2 ed after the date of the enactment of the
3 Infrastructure Jobs and Energy Independ-
4 ence Act, for an area that is available for
5 leasing as a result of enactment of section
6 101 of that Act.

7 “(E) APPLICATION.—This paragraph shall
8 apply to bonus bids and royalties received by
9 the United States under qualified leases after
10 implementation of sections 105 and 106 of the
11 Infrastructure Jobs and Energy Independence
12 Act.

13 “(F) EXISTING REVENUES.—All revenues
14 including revenues, including bonus bids, royal-
15 ties, rentals, and other sums, collected from
16 leases issued under this Act prior to the enact-
17 ment Infrastructure Jobs and Energy Inde-
18 pendence Act, shall not be affected by the provi-
19 sions of that Act.

20 “(7) ESTABLISHMENT OF RESERVE AC-
21 COUNTS.—

22 “(A) IN GENERAL.—For budgetary pur-
23 poses, there is established as a separate account
24 to receive deposits under paragraph (6)(A)—

1 “(i) the Infrastructure Renewal Re-
2 serve which shall be applied to offset the
3 costs of—

4 “(I) Federal-aid highway and
5 highway safety construction programs
6 carried out by the Secretary of Trans-
7 portation;

8 “(II) public transportation pro-
9 grams carried out by the Secretary of
10 Transportation;

11 “(III) water resources develop-
12 ment construction projects carried out
13 by the Secretary of the Army (acting
14 through the Chief of Engineers); and

15 “(IV) legislation enacted after
16 the date of the enactment of the In-
17 frastructure Jobs and Energy Inde-
18 pendence Act for purposes of invest-
19 ment in transportation infrastructure;
20 and

21 “(ii) the Clean Water Reserve, to
22 first, offset the cost of construction pro-
23 grams under the Clean Water Act or the
24 1996 Amendments to the Safe Drinking
25 Water Act that provide assistance, such as

1 grants, matching grants, and no- and low-
2 interest loans, to State, county, and local
3 governments to rebuild and modernize
4 clean water and sewage infrastructure.

5 “(B) DEPOSIT OF BALANCE FROM SPR PE-
6 TROLEUM ACCOUNT.—In addition to deposits
7 under paragraph (6)(A), the Secretary shall
8 transfer to the Infrastructure Renewal Reserve
9 the balance of funds in the SPR Petroleum Ac-
10 count on the date of enactment of this Act in
11 excess of \$10,000,000.

12 “(C) PROCEDURE FOR ADJUSTMENTS.—

13 “(i) BUDGET COMMITTEE CHAIR-
14 MAN.—After the reporting of a bill or joint
15 resolution, or the offering of an amend-
16 ment thereto or the submission of a con-
17 ference report thereon, providing funding
18 for the purposes set forth in clause (i) or
19 (ii) of subparagraph (A) in excess of the
20 sum of amount of the deposits under para-
21 graph (6)(A) for those purposes for fiscal
22 year 2013 and funds deposited under sub-
23 paragraph (B) of this paragraph, the
24 chairman of the Committee on the Budget
25 of the applicable House of Congress shall

1 make the adjustments set forth in clause
2 (ii) for the amount of new budget author-
3 ity and outlays in that measure and the
4 outlays flowing from that budget authority.

5 “(ii) MATTERS TO BE ADJUSTED.—

6 The adjustments referred to in clause (i)
7 are to be made to—

8 “(I) the discretionary spending
9 limits, if any, set forth in the appro-
10 priate concurrent resolution on the
11 budget;

12 “(II) the allocations made pursu-
13 ant to the appropriate concurrent res-
14 olution on the budget pursuant to sec-
15 tion 302(a) of the Congressional
16 Budget Act of 1974; and

17 “(III) the budget aggregates con-
18 tained in the appropriate concurrent
19 resolution on the budget as required
20 by section 301(a) of the Congressional
21 Budget Act of 1974.

22 “(iii) AMOUNTS OF ADJUSTMENTS.—

23 The adjustments referred to in clauses (i)
24 and (ii) shall not exceed the receipts esti-
25 mated by the Congressional Budget Office

1 that are attributable to this Act for the fis-
2 cal year in which the adjustments are
3 made.

4 “(8) MAINTENANCE OF EFFORT BY STATES.—
5 The Secretary of the Interior, the Secretary of
6 Health and Human Services, the Secretary of En-
7 ergy, and any other Federal official with authority
8 to implement legislation referred to in paragraph
9 (6)(A) shall ensure that financial assistance provided
10 to a State under that legislation for any purpose
11 with amounts made available under this subsection
12 or in any legislation with respect to which paragraph
13 (7) applies supplement, and do not replace, the
14 amounts expended by the State for that purpose be-
15 fore the date of the enactment of the Infrastructure
16 Jobs and Energy Independence Act.

17 “(9) DISTRIBUTIONS FOR FEDERAL-AID HIGH-
18 WAY OR HIGHWAY SAFETY CONSTRUCTION PRO-
19 GRAM.—To the extent practicable, amounts made
20 available for a Federal-aid highway or highway safe-
21 ty construction program, the costs of which are off-
22 set by application of the Infrastructure Renewal Re-
23 serve, shall be distributed using the apportionment
24 formula that applies to that program.”.

1 (b) ESTABLISHMENT OF STATE SEAWARD BOUND-
2 ARIES.—Section 4(a)(2)(A) of the Outer Continental Shelf
3 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
4 first sentence by striking “, and the President” and all
5 that follows through the end of the sentence and inserting
6 the following: “. Such extended lines are deemed to be as
7 indicated on the maps for each Outer Continental Shelf
8 region entitled ‘Alaska OCS Region State Adjacent Zone
9 and OCS Planning Areas’, ‘Pacific OCS Region State Ad-
10 jacent Zones and OCS Planning Areas’, ‘Gulf of Mexico
11 OCS Region State Adjacent Zones and OCS Planning
12 Areas’, and ‘Atlantic OCS Region State Adjacent Zones
13 and OCS Planning Areas’, all of which are dated Sep-
14 tember 2005 and on file in the Office of the Director, Min-
15 erals Management Service. The preceding sentence shall
16 not apply with respect to the treatment under section 105
17 of the Gulf of Mexico Energy Security Act of 2006 (title
18 I of division C of Public Law 109–432) of qualified outer
19 Continental Shelf revenues deposited and disbursed under
20 subsection (a)(2) of that section.”.

21 **SEC. 108. INVENTORY OF OFFSHORE ENERGY RESOURCES.**

22 (a) IN GENERAL.—The Secretary of the Interior (in
23 this section referred to as the “Secretary”) shall promptly
24 prepare an inventory of offshore energy resources of the
25 United States, including through conduct of geological and

1 geophysical explorations by private industry in all of the
2 United States outer Continental Shelf areas of the Atlan-
3 tic Ocean and the Pacific Ocean under part 251 of title
4 30, Code of Federal Regulations (or successor regula-
5 tions).

6 (b) ENVIRONMENTAL STUDIES.—Not later than 180
7 days after the date of enactment of this Act, the Secretary
8 shall complete any environmental studies necessary to
9 gather information essential to an accurate inventory, in-
10 cluding geological and geophysical explorations under part
11 251 of title 30, Code of Federal Regulations (or successor
12 regulations).

13 (c) EFFECT ON OIL AND GAS LEASING.—No inven-
14 tory that is conducted under this section or any other Fed-
15 eral law (including regulations) shall restrict, limit, delay,
16 or otherwise adversely affect—

17 (1) the development of any Outer Continental
18 Shelf leasing program under section 18 of the Outer
19 Continental Shelf Lands Act (43 U.S.C. 1344); or

20 (2) any leasing, exploration, development, or
21 production of any Federal offshore oil and gas
22 leases.

23 (d) FUNDING.—

24 (1) IN GENERAL.—The Secretary of the Treas-
25 ury shall make a one-time transfer to the Secretary,

1 without further appropriation and from royalties col-
2 lected by the United States in conjunction with the
3 production of oil and gas, of such sums as are nec-
4 essary for the Secretary to carry out this section.

5 (2) LIMITATION.—The amount transferred
6 under paragraph (1) shall not exceed \$50,000,000.

7 **SEC. 109. PROHIBITIONS ON SURFACE OCCUPANCY AND**
8 **OTHER APPROPRIATE ENVIRONMENTAL**
9 **SAFEGUARDS.**

10 (a) REGULATIONS.—

11 (1) IN GENERAL.—

12 (A) ENVIRONMENTAL SAFEGUARDS.—The
13 Secretary of the Interior shall promulgate regu-
14 lations that establish appropriate environmental
15 safeguards for the exploration and production
16 of oil and natural gas on the outer Continental
17 Shelf.

18 (B) SAFETY PROTOCOLS.—All operations,
19 including under any permit issued pursuant to
20 an application for a permit to drill or an appli-
21 cation for a permit to sidetrack, that has been
22 approved by the Minerals Management Service
23 or the Bureau of Ocean Energy Management,
24 Regulation and Enforcement, for purposes of
25 outer Continental Shelf energy exploration or

1 development and production, shall be carried
2 out in accordance with the safety protocols con-
3 tained in part 250 of title 30, Code of Federal
4 Regulations.

5 (2) REQUIREMENTS.—The regulations shall in-
6 clude provisions ensuring that—

7 (A) no surface facility shall be installed for
8 the purpose of production of oil or gas re-
9 sources in any area that is within 10 miles from
10 the shore of any coastal State, in any area of
11 the outer Continental Shelf that has not pre-
12 viously been made available for oil and gas leas-
13 ing;

14 (B) only temporary surface facilities are
15 installed for areas that are located—

16 (i) beyond 10 miles from the shore
17 from the shore of any coastal State, in any
18 area of the Outer Continental Shelf that
19 has not previously been made available for
20 oil and gas leasing; and

21 (ii) not more than 20 miles from the
22 shore;

23 (C) the impact of offshore production fa-
24 cilities on coastal vistas is otherwise mitigated;
25 and

1 (D) onshore facilities that are able to draw
2 upon the resources of the outer Continental
3 Shelf within 10 miles of shore are allowed.

4 (b) CONFORMING AMENDMENT.—Section 105 of the
5 Department of the Interior, Environment, and Related
6 Agencies Appropriations Act, 2006 (Public Law 109–54;
7 119 Stat. 521) (as amended by section 103(d) of the Gulf
8 of Mexico Energy Security Act of 2006 (43 U.S.C. 1331
9 note; Public Law 109–432)) is amended by inserting “and
10 any other area that the Secretary of the Interior may offer
11 for leasing, preleasing, or any related activity under sec-
12 tion 104 of that Act” after “2006”).

13 **Subtitle B—Expedited Judicial** 14 **Review**

15 **SEC. 121. DEFINITIONS.**

16 In this subtitle:

17 (1) AUTHORIZING LEASING STATUTE.—The
18 term “authorizing leasing statute” means the Outer
19 Continental Shelf Lands Act (43 U.S.C. 1331 et
20 seq.), the Mineral Leasing Act (30 U.S.C. 181 et
21 seq.), the Mineral Leasing Act for Acquired Lands
22 (30 U.S.C. 351 et seq.), and any other law of the
23 United States directing or authorizing the leasing of
24 Federal lands for oil and gas production or trans-
25 mission.

1 (2) COVERED OIL AND NATURAL GAS ACTIV-
2 ITY.—The term “covered oil and natural gas activ-
3 ity” means—

4 (A) the leasing of any lands pursuant to
5 an authorizing leasing statute for the explo-
6 ration, development, production, processing, or
7 transmission of oil, natural gas, or associated
8 hydrocarbons, including actions or decisions re-
9 lating to the selection of which lands may or
10 shall be made available for such leasing; and

11 (B) any activity taken or proposed to be
12 taken pursuant or in relation to such leases, in-
13 cluding their suspension, and any environ-
14 mental analyses relating to such activity.

15 **SEC. 122. EXCLUSIVE JURISDICTION OVER CAUSES AND**
16 **CLAIMS RELATING TO COVERED OIL AND**
17 **NATURAL GAS ACTIVITIES.**

18 Notwithstanding any other provision of law, any Fed-
19 eral action approving any covered oil and natural gas ac-
20 tivity shall be subject to judicial review only—

21 (1) in the United States Court of Appeals for
22 the District of Columbia Circuit; and

23 (2) after the person filing a petition seeking
24 such judicial review has exhausted all available ad-

1 ministrative remedies with respect to such Federal
2 action.

3 **SEC. 123. TIME FOR FILING PETITION; STANDING.**

4 (a) IN GENERAL.—All petitions referred to in section
5 122 must be filed within 30 days after the latter of the
6 challenged Federal action or the exhaustion of all available
7 administrative remedies with respect to such Federal ac-
8 tion. A claim or challenge shall be barred unless it is filed
9 within the time specified.

10 (b) STANDING.—No person whose legal rights will
11 not be directly and adversely affected by the challenged
12 action, and who is not within the zone of interest protected
13 by each Act under which the challenge is brought, shall
14 have standing to file any petition referred to in section
15 122.

16 **SEC. 124. TIMETABLE.**

17 The United States Court of Appeals for the District
18 of Columbia Circuit shall complete all judicial review, in-
19 cluding rendering a judgment, before the end of the 120-
20 day period beginning on the date on which a petition re-
21 ferred to in section 122 is filed, unless all parties to such
22 proceeding agree to an extension of such period.

23 **SEC. 125. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

24 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
25 SIONS.—In any judicial review referred to in section 122,

1 any administrative findings and conclusions relating to the
2 challenged Federal action shall be presumed to be correct
3 unless shown otherwise by clear and convincing evidence
4 contained in the administrative record.

5 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
6 judicial review referred to in section 122, the Court shall
7 not grant or approve any prospective relief unless the
8 court finds that such relief is narrowly drawn, extends no
9 further than necessary to correct the violation of a Federal
10 law requirement, and is the least intrusive means nec-
11 essary to correct the violation concerned.

12 **SEC. 126. PRESIDENTIAL WAIVER.**

13 Notwithstanding any other provision of law, the
14 President may waive any legal requirement relating to the
15 approval of any covered oil and natural gas activity if the
16 President determines in the President's sole discretion
17 that such activity is important to the national interest and
18 outweighs such legal requirement.

19 **SEC. 127. LEGAL FEES.**

20 Any person filing a petition referred to in section 122
21 who is not a prevailing party shall pay to the prevailing
22 parties (including intervening parties), other than the
23 United States, fees and other expenses incurred by that
24 party in connection with the judicial review, unless the
25 Court finds that the position of the person was substan-

1 tially justified or that special circumstances make an
2 award unjust.

3 **SEC. 128. EXCLUSION.**

4 Section 122 shall not apply to disputes between the
5 parties to a lease issued pursuant to an authorizing leas-
6 ing statute regarding the obligations of such lease or the
7 alleged breach thereof.

8 **Subtitle C—Other Energy**
9 **Provisions**

10 **SEC. 131. POLICIES REGARDING BUYING AND BUILDING**
11 **AMERICAN.**

12 (a) INTENT OF CONGRESS.—It is the intent of the
13 Congress that this Act, among other things, result in a
14 healthy and growing American industrial, manufacturing,
15 transportation, and service sector employing the vast tal-
16 ents of America’s workforce to assist in the development
17 of energy from domestic sources. Moreover, the Congress
18 intends to monitor the deployment of personnel and mate-
19 rial onshore and offshore to encourage the development
20 of American technology and manufacturing to enable
21 United States workers to benefit from this Act by good
22 jobs and careers, as well as the establishment of important
23 industrial facilities to support expanded access to Amer-
24 ican resources.

1 (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—
2 Section 30(a) of the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1356(a)) is amended in the matter preceding
4 paragraph (1) by striking “regulations which” and insert-
5 ing “regulations that shall be supplemental and com-
6 plimentary with and under no circumstances a substi-
7 tution for the provisions of the Constitution and laws of
8 the United States extended to the subsoil and seabed of
9 the outer Continental Shelf pursuant to section 4 of this
10 Act, except insofar as such laws would otherwise apply to
11 individuals who have extraordinary ability in the sciences,
12 arts, education, or business, which has been demonstrated
13 by sustained national or international acclaim, and that”.

14 (c) WORK STANDARDS.—All construction, repair, or
15 alteration of public buildings and public works of the Gov-
16 ernment and buildings or works financed or otherwise as-
17 sisted in whole or in part under this Act by a loan, loan
18 guarantee, grant, annual contribution, credit enhance-
19 ment, or any other form of Federal assistance authorized
20 under this Act shall be performed in accordance with the
21 standards applicable to comparable activity under any
22 other provision of law, without regard to the form or type
23 of Federal assistance provided thereunder.

1 **TITLE II—MODIFYING THE STRA-**
2 **TEGIC PETROLEUM RESERVE**
3 **AND FUNDING CONSERVA-**
4 **TION AND ENERGY RE-**
5 **SEARCH AND DEVELOPMENT**

6 **SEC. 201. FINDINGS.**

7 Congress finds the following:

8 (1) The Strategic Petroleum Reserve (SPR)
9 was created by Congress in 1975, to protect the Na-
10 tion from any future oil supply disruptions. When
11 the program was established, United States refiners
12 were capable of handling light crude and medium
13 crude and the makeup of the SPR matched this ca-
14 pacity. This is not the case today.

15 (2) A GAO analysis found that nearly half of
16 the refineries considered vulnerable to supply disrup-
17 tions are not compatible with the types of oil cur-
18 rently stored in the SPR and would be unable to
19 maintain normal refining capacity if forced to rely
20 on SPR oil as currently constituted, thereby reduc-
21 ing the effectiveness of the SPR in the event of a
22 supply disruption. GAO concluded that the SPR
23 should be comprised of at least 10 percent heavy
24 crude.

1 (3) This Act implements the GAO recommenda-
2 tion and dedicates funds received from the trans-
3 actions to existing energy conservation, research,
4 and assistance programs.

5 **SEC. 202. DEFINITIONS.**

6 In this title—

7 (1) the term “light grade petroleum” means
8 crude oil with an API gravity of 35 degrees or high-
9 er;

10 (2) the term “heavy grade petroleum” means
11 crude oil with an API gravity of 26 degrees or lower;
12 and

13 (3) the term “Secretary” means the Secretary
14 of Energy.

15 **SEC. 203. OBJECTIVES.**

16 The objectives of this title are as follows:

17 (1) To modernize the composition of the Stra-
18 tegic Petroleum Reserve to reflect the current proc-
19 essing capabilities of refineries in the United States.

20 (2) To provide increased funding to accelerate
21 conservation, energy research and development, and
22 assistance through existing programs.

1 **SEC. 204. MODIFICATION OF THE STRATEGIC PETROLEUM**
2 **RESERVE.**

3 Notwithstanding section 161 of the Energy Policy
4 and Conservation Act (42 U.S.C. 6241), the Secretary
5 shall publish a plan not later than 30 days after the date
6 of enactment of this Act to—

7 (1) exchange as soon as possible light grade pe-
8 troleum from the Strategic Petroleum Reserve, in an
9 amount equal to 10 percent of the total number of
10 barrels of crude oil in the Reserve as of the date of
11 enactment of this Act, for an equivalent volume of
12 heavy grade petroleum plus any additional cash
13 bonus bids received that reflect the difference in the
14 market value between light grade petroleum and
15 heavy grade petroleum and the timing of deliveries
16 of the heavy grade petroleum;

17 (2) from the gross proceeds of the cash bonus
18 bids, deposit the amount necessary to pay for the di-
19 rect administrative and operational costs of the ex-
20 change into the SPR Petroleum Account established
21 under section 167 of the Energy Policy and Con-
22 servation Act (42 U.S.C. 6247); and

23 (3) deposit 90 percent of the remaining net pro-
24 ceeds from the exchange into the Infrastructure Re-
25 newal Reserve established in section 107.

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