A Bill

To contribute to the growth of the American economy and the strength of American national security by streamlining regulatory permitting procedures and increasing domestic production from all energy sources.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Energy Act of 2011."

SECTION 2. DEFINITIONS.

(a) DEFINITIONS.—For purposes of this Act—

(1) PRIORITY ENERGY PROJECT.—The term "Priority Energy Project" means a project or facility in the United States or territorial waters whose operation results in the production of a domestic supply of energy or the generation of electricity.

(2) PRIORITY ENERGY PROJECT DEVELOPER.—The term "Priority Energy Project Developer" means a person, organization, or other entity that owns or operates a Priority Energy Project.

SECTION 3. APPLICABILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, immediately upon enactment of this Act, the provisions of this Act shall apply to any action by any agency arising from any Federal law or any regulation promulgated thereto that affects or potentially affects a Priority Energy Project.

SECTION 4. ADMINISTRATIVE RECORD.

(a) IN GENERAL.—The administrative record compiled by an agency regarding an application for a permit, authorization, or other agency action involving a Priority Energy Project shall be the sole and exclusive record for any appeal or review of the permit action or other activity by that agency or other agency, as applicable. Upon final agency action, such record shall be closed and shall not be subject to any further evidentiary proceedings or requirements unless requested by the applicant.

SECTION 5. REGULATORY CERTAINTY.

(a) IN GENERAL.—The relevant regulations, guidance, guidelines, and any other agency interpretations and rules that are in effect on the day on which a Priority Energy Project Developer submits an application for a permit, authorization, or other agency action regarding a Priority Energy Project shall remain in effect for purposes of the agency's evaluation, review, or action on such application. In no event shall any regulations, guidance, guidelines, or any other agency interpretations and rules that become effective after such day be considered applicable to or otherwise controlling with regard to an agency's evaluation, review, or action on such application.

(b) WAIVER.—Upon providing written notice to an agency, a Priority Energy Project Developer may waive the provisions of subsection (a) with respect to a specific permit application. In no event shall such waiver be construed as waiving the provisions of subsection (a) regarding any other permit application or any other agency action for that same Priority Energy Project.

SECTION 6. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

(a) DEADLINES.—

(1) IN GENERAL.—Not later than 10 business days after the date on which an agency receives an application for any permit, authorization, or other agency action, the agency shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit, authorization, or other agency action has submitted a complete application, the agency shall—

(A) issue the permit; or

(B) (i) defer the decision on the permit; and

(ii) provide to the applicant a notice that specifies any steps that the applicant could take for the permit to be issued.

(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

(A) IN GENERAL.—If the agency provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the agency, including providing information needed for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the agency shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A).

(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A) the agency shall deny the permit.

(b) AGENCY REQUIREMENTS.—In any application for a permit, authorization, or other agency action, the agency shall be prohibited from requiring the applicant to perform any

analyses, studies, or other activities that are novel, unprecedented, or otherwise inconsistent with past requirements for permit applicants in the same or similar situations.

(c) FAILURE TO ACT.—In the event the agency fails to meet any deadline set forth in this section, the agency shall immediately grant the requested permit, authorization, or other approval.

SECTION 7. DEADLINE FOR DECISION ON AGENCY APPEALS.

(a) DEADLINE FOR DECISION.—

(1) IN GENERAL.—Not later than 120 days after the date of the filing of an appeal by a Priority Energy Project Developer, the agency shall issue a final decision.

(2) FAILURE TO ACT.—In the event the agency fails to meet any of the deadlines of this section, the appeal shall be decided in favor of the Priority Energy Project Developer.

SECTION 8. JUDICIAL REVIEW.

(a) IN GENERAL.—

(1) The United States Court of Appeals for the circuit in which a Priority Energy Project is proposed to be constructed, expanded, or operated shall have original and exclusive jurisdiction over the review of an order or action of a Federal agency or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit, license, concurrence, or approval (hereinafter collectively referred to as 'permit') required under Federal law.

(2) AGENCY DELAY.—The United States Court of Appeals for the District of Columbia shall have original and exclusive jurisdiction over the review of an alleged failure to act by a Federal agency or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit required under Federal law for a Priority Energy Project.

(3) COURT ACTION.—

(A) IN GENERAL.—The Court shall act as expeditiously as possible for all appeals under this section.

(B) REMAND.—If a Court finds that such order or action is inconsistent with the Federal law governing such permit and would prevent the construction, expansion, or operation of the Priority Energy Project, the Court shall remand the proceeding to the agency to take appropriate action consistent with the order of the Court. If the Court remands the order or action to a Federal or State agency, the Court shall set as expeditious a schedule and deadline as possible for the agency to act on remand, and in any event shall allow not more than 120 days for agency action on remand.

(C) ATTORNEY'S FEES AND OTHER EXPENSES.—Attorney's fees and other expenses of litigation shall be awarded to the prevailing party in actions challenging an agency action granting a permit for or otherwise authorizing a Priority Energy Project, but in no event shall a Priority Energy Project Developer be required to pay attorney's fees and other expenses of litigation to a prevailing party

(4) APPEALS.—Appeals brought pursuant to this section may only be filed within 30 days of a final agency action regarding a permit.

(b) CITIZEN SUITS.—

(1) STANDING.—In any suit involving a Priority Energy Project brought under a citizen suit provision under a Federal law, any fact material to the standing of the party bringing the suit that is in dispute shall be adjudicated by the Court prior to the adjudication of any other issue relating to the merits of the suit.

(2) PRESERVATION OF AGENCY DISCRETION.—

(A) A party seeking to file a citizen suit pursuant to a Federal law involving a Priority Energy Project shall first notify in writing the relevant agency and the

Priority Energy Project Developer of its intent to file a citizen suit, the claims it intends to bring, and all relevant statutory and regulatory provisions.

(B) Not later than 60 days following receipt of such notice, the agency shall exercise discretion in determining whether enforcement of the claims described in such notice are an appropriate use of agency resources.

(i) If the agency determines such claims are not an appropriate use of agency resources, the citizen suit shall be not be considered authorized under relevant Federal law and if filed shall be immediately dismissed by the Court.

(ii) If the agency determines such claims are an appropriate use of agency resources, the agency shall have a period of 24 months to act in response to such claims, including by bringing an enforcement action or by consulting with the Priority Energy Project Developer, before the citizen suit shall be considered authorized under relevant Federal law. Upon the request of the Priority Energy Project Developer, the agency must allow for an additional 24 months to act in response to such claims.

(C) After the 24 month period, or 48 month period, as applicable, described in subparagraph (B)(ii) has expired, if the agency publishes a notice in the Federal Register expressly stating that it declines to address the claims described by the party seeking to file a citizen suit as described pursuant to subparagraph (A), then such party is authorized to file a citizen suit under relevant Federal law. The agency is prohibited from publishing such notice if the Priority Energy Project Developer has consulted with the agency and taken remedial action regarding the claims contained in the notice described in paragraph (A).

(D) In a citizen suit filed pursuant a Federal law that involves a Priority Energy Project, a Priority Energy Project Developer shall not be required to pay attorneys fees and expenses to a prevailing party.

(3) SETTLEMENTS.—Notwithstanding any other provision of law, no Federal agency shall enter into a settlement agreement arising from a citizen suit subject to this

subsection that would require the reallocation of agency resources that had been previously allocated by law or regulation.

SECTION 9. STATE CONSULTATION.

(a) COORDINATION.—To the maximum extent practicable, a Federal agency with jurisdiction over a Priority Energy Project shall coordinate any permit or authorization or other agency actions with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the Priority Energy Project, to ensure timely and efficient review and granting of any permits or authorizations or other agency actions.

(b) DELEGATION OF AGENCY RESPONSIBILITIES.—A Federal agency with jurisdiction over a Priority Energy Project is authorized to delegate to the State in which the Priority Energy Project is located the Federal agency's responsibilities for environmental reviews, consultations, or decisions or other actions required under any Federal law regarding the Priority Energy Project. Once authority is delegated to a State it shall be revoked only by an act of Congress. The Federal agency is authorized to provide financial and other forms of assistance to States, multi-State entities, and Indian tribes to facilitate the coordination and delegation described under this section.

SECTION 10. LEAD AGENCY.

(a) APPLICABILITY.—The provisions of this section apply pursuant to this Act only where a Priority Energy Project is subject to the jurisdiction of more than one Federal agency or upon the election of the Priority Energy Project Developer.

(b) LEAD AGENCY.—The Federal Energy Regulatory Commission shall act as the lead agency for purposes of coordinating, reviewing, or otherwise granting any permit or authorization or other agency action regarding a Priority Energy Project pursuant to this Act.

(c) AUTHORITY TO SET DEADLINES.—The Federal Energy Regulatory Commission, in consultation with other Federal agencies and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate

permitting and environmental reviews with the lead agency, shall establish prompt and binding intermediate milestones and final deadlines for the granting of permits or authorizations or other agency actions relating to the Priority Energy Project not later than 90 days following notification by a Priority Energy Project Developer that it is invoking the provisions of this section for its Priority Energy Project.

(d) REQUIREMENT TO MEET DEADLINES.—All Federal agencies shall meet the deadlines established pursuant to subsection (c) and cooperate fully with the Federal Energy Regulatory Commission in its capacity as lead agency pursuant to this Act. In the event an agency fails to act in accordance with a final deadline established pursuant to subsection (c) regarding a Priority Energy Project, the permit or authorization or other agency action shall be deemed granted and approved.

(e) APPEALS.—As lead agency, the Federal Energy Regulatory Commission shall hear all agency appeals in lieu of an affected agency regarding a Priority Energy Project and in hearing such appeals is authorized to remand, reverse, or revise any agency decision.

(f) CONSOLIDATED RECORD.—As lead agency, the Federal Energy Regulatory Commission, in consultation with other Federal agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions regarding the Priority Energy Project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., if warranted, or such other form of analysis.

(g) RESOURCES.—All Federal agencies are required, upon request of the Federal Energy Regulatory Commission, as lead agency, to allocate personnel and other resources to assist it in fulfilling its obligations under this section.

SECTION 11. PROJECT FINANCE.

(a) IN GENERAL.—The approval to construct or operate a Priority Energy Project pursuant to any Federal permit, as applicable, shall remain valid and authorized for the later of—

(1) 18 months following the date on which the last permit needed by a Priority Energy Project to commence construction or operation is deemed final and no longer subject to judicial review; or

(2) 3 years or, in the case of a nationwide permit issued by the Army Corps of Engineers pursuant to 33 C.F.R. Part 330, 5 years.

SECTION 12. ENERGY PROJECT MOBILIZATION.

(a) ENVIRONMENTAL ASSESSMENTS.—

(1) In preparing or reviewing an Environmental Assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any regulations promulgated thereto, an agency shall consider, in addition to any mitigation required by the agency, all applicable Federal, State, local, and other laws and regulations, guidelines, permit conditions, and any other requirements and best practices regarding a Priority Energy Project and any other actions considered in a cumulative effects analysis.

(2) Pursuant to paragraph (1), the agency shall make a Finding of No Significant Impact or a mitigated Finding of No Significant Impact, as applicable, unless, presuming administrative regularity, the agency can conclusively demonstrate that the mitigation required by the agency and the applicable Federal, State, local, and other laws and regulations, guidelines, permit conditions, and any other requirements and best practices regarding a Priority Energy Project and any other actions considered in a cumulative effects analysis will not prevent or otherwise mitigate a significant impact on the human environment.

(b) ENVIRONMENTAL APPEALS BOARD.—

(1) The Administrator of the Environmental Protection Agency shall not delegate any authority to the Environmental Appeals Board to consider, review, reject, remand, or otherwise invalidate any permit.

(2) The Administrator shall perform all duties currently assigned to the Environmental Appeals Board in his individual capacity.

(c) NAVIGABLE WATERS.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) shall be amended by striking paragraph (7) and inserting the following in lieu thereof—

"(7) The term 'navigable waters' means only and exclusively those waters of the United States that are currently regulated at the time of enactment of this Act by the Army Corps of Engineers under Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403)."

(d) ARMY CORPS OF ENGINEERS PERMITTING EXCLUSIVITY.—

(1) REPEAL.—Section 404(c) of the Federal Water Pollution Control Act (33 U.S.C. 1344(c)) is repealed.

(e) VISIBILITY.—Notwithstanding Section 169A of the Clean Air Act (42 U.S.C. 7491), a Priority Energy Project on which construction commences after enactment of this Act is subject to those provisions under Part C of Title I of the Clean Air Act (42 U.S.C. 7470 et seq) pertaining to the review of a new or modified major stationary source's impact on a Class I area only if such Priority Energy Project is located within 100 kilometers of a Class I area. To the extent such an evaluation is required for any project, the analysis shall be designed to predict actual site-specific conditions and impacts rather than theoretical, worst case conditions and impacts.

(f) EXTENDING COMPLIANCE FOR NAAQS ATTAINMENT FOR DOWNWIND STATES.—Section 181 of the Clean Air Act (42 U.S.C. 7511) is amended by adding the following new subsection at the end thereof—

"(d) EXTENDED ATTAINMENT DATE FOR CERTAIN DOWNWIND AREAS.—

"(1) DEFINITIONS.—In this subsection:

"(A) The term 'upwind area' means an area that—

"(i) affects nonattainment in another area, hereinafter referred to as a downwind area; and

"(ii) is either—

"(I) a nonattainment area with a later attainment date than the downwind area, or

"(II) an area in another State that the Administrator has found to be significantly contributing to nonattainment in the downwind area in violation of section 110(a)(2)(D) and for which the Administrator has established requirements through notice and comment rulemaking to eliminate the emissions causing such significant contribution.

"(B) The term 'current classification' means the classification of a downwind area under this section at the time of the determination under paragraph (2).

"(2) EXTENSION.—Notwithstanding the provisions of subsection (b)(2) of this section, a downwind area that is not in attainment within 18 months of the attainment deadline required under this section may seek an extension of time to come into attainment by petitioning the Administrator for such an extension. If the Administrator—

"(A) determines that any area is a downwind area with respect to a particular national ambient air quality standard for ozone;

"(B) approves a plan revision for such area as provided in paragraph (3) prior to a reclassification under subsection (b)(2)(A); and

"(C) determines that the petitioning downwind area has demonstrated that it is affected by transport from an upwind area to a degree that affects the area's ability to attain, the Administrator, in lieu of such reclassification, may extend the attainment date for such downwind area for such standard in accordance with paragraph (5).

"(3) APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator may approve a revision of the applicable implementation plan for the downwind area for such standard that—

"(A) complies with all requirements of this Act applicable under the current classification of the downwind area, including any requirements applicable to the area under section 172(c) for such standard;

"(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection, and provides for implementation of those measures as expeditiously as practicable; and

"(C) provides appropriate measures to ensure that no area downwind of the area receiving the extended attainment date will be affected by transport to a degree that affects the area's ability to attain, from the area receiving the extension.

"(4) PRIOR RECLASSIFICATION DETERMINATION.—If, after April 1, 2003, and prior to the time the 1-hour ozone standard no longer applies to a downwind area, the Administrator made a reclassification determination under subsection (b)(2)(A) for such downwind area, and the Administrator approves a plan consistent with subparagraphs (A) and (B) for such area, the reclassification shall be withdrawn and, for purposes of implementing the 8-hour ozone national ambient air quality standard, the area shall be treated as if the reclassification never occurred. Such plan must be submitted no later than 12 months following enactment of this subsection, and—

"(A) the plan revision for the downwind area must comply with all control and planning requirements of this Act applicable under the classification that applied immediately prior to reclassification, including any requirements applicable to the area under section 172(c) for such standard; and

"(B) the plan must include any additional measures needed to demonstrate attainment no later than the date on which the last reductions in pollution transport that have been found by the Administrator to significantly contribute to nonattainment are required to be achieved by the upwind area or areas. The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the end of the first complete ozone

season following the date on which the last reductions in pollution transport that have been found by the Administrator to significantly contribute to nonattainment are required to be achieved by the upwind area or areas.

"(5) EXTENDED DATE.—The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the new date that the area would have been subject to had it been reclassified under subsection (b)(2).

"(6) RULEMAKING.—Within 12 months after the enactment of this subsection, the Administrator shall, through notice and comment, promulgate rules to define the term 'affected by transport to a degree that affects an areas ability to attain' in order to ensure that downwind areas are not unjustly penalized, and for purposes of paragraphs (2) and (3) of this subsection."

SECTION 13. DOMESTIC ENERGY EXPLORATION AND PRODUCTION.

(a) OIL SHALE, TAR SANDS, AND OTHER STRATEGIC UNCONVENTIONAL FUELS.—

(1) JURISDICTION.—Upon enactment of this Act, the Federal Energy Regulatory Commission, in lieu of the Department of Interior, shall be granted exclusive jurisdiction and all relevant authority to implement and administer the leasing program for research and development of oil shale and tar sands and all other programs and requirements contained in Section 369 of the Energy Policy Act of 2005 (Pub. L. 109-58).

(2) REGULATIONS.—Upon enactment of this Act and pursuant to paragraph (1), the Federal Energy Regulatory Commission shall immediately stay all regulations and guidelines promulgated by the Department of Interior or any other agency under Section 369 of the Energy Policy Act of 2005 and, notwithstanding any other law, publish proposed rules in the Federal Register not later than 6 months following enactment of this Act that fully implement as expeditiously as practicable the provisions of Section 369.

The Federal Energy Regulatory Commission shall publish final rules not later than 18 months following enactment of this Act.

(3) RESOURCES.—The Federal Energy Regulatory Commission is authorized to request from the Department of Interior and the Department of Energy any resources and personnel that it deems necessary to implement and administer the provisions of this subsection, and the Department of Interior and the Department of Energy are required to provide such resources and personnel as requested.

(b) EXPEDITED REVIEW.—

(1) Section 309 of the Energy Policy Act of 2005 is amended by—

(A) striking the phrase "be subject to a rebuttable presumption that the use of" in subsection (a) and inserting the word "apply" in lieu thereof; and

(B) striking the phrase "would apply" in subsection (a).

(c) FUTURE EXECUTIVE BRANCH ACTIONS.—

(1) EFFECTIVENESS.—Upon enactment of this Act, no executive branch action that withdraws more than 100 acres, in the aggregate, of public lands within the United States pursuant to the Antiquities Act of 1906 (16 USC 431 et seq) or any other relevant authority shall be effective except by compliance with this subsection. The provisions of this subsection shall apply to executive branch actions that withdraw less than 100 acres of public land where such withdrawals are located within 100 miles of any other withdrawal of public lands.

(2) WITHDRAWAL.—To the extent authorized by existing law, the President or the relevant head of an agency may withdraw public lands in the United States provided that such withdrawal shall not be effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(3) LIMITATION.—If Congress fails to pass a joint resolution of approval as provided in paragraph (2) for a withdraw of public lands in the United States, the President or the relevant head of an agency are prohibited from withdrawing that same or similar area of public lands for a period of 5 years.

(d) ENERGY PRODUCTION ON FEDERAL LANDS.—

(1) REQUIREMENT.—The Secretary of Interior is directed to take sufficient actions to ensure that by January 1, 2018, not less than 10 percent of the Federal Outer Continental Shelf lands and not less than 10 percent of onshore Federal lands and interests in lands that are under his jurisdiction are being leased for the production of energy.

(2) AUTHORIZATION.—The Secretary of Interior shall utilize all available authority pursuant to this Act and any other Federal law, as applicable, to comply with the requirement in paragraph (1).

(3) EXCLUSIONS.—Pursuant to complying with the requirements of paragraph (1), the Secretary shall not exclude those Federal lands and interests in lands which have been administratively removed from consideration for leasing, including administrative moratoria or any other temporary or permanent withdrawals from energy mineral leasing, unless the area in question has been specifically designated for protection by Congress.

(e) HYDRAULIC FRACTURING.—

(1) IN GENERAL.—Section 300i of the Safe Drinking Water Act (42 U.S.C. 300i) is amended by inserting the following subsection at the end—

"(c) HYDRAULIC FRACTURING.—The provisions of this section shall not apply to the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities."

(f) RADIOLOGICAL MATERIAL REPOSITORY.—

(1) REPOSITORY REQUIRED.—The Federal Government shall site and permit at least one radiological material geologic repository for the disposal of radiological material.

(2) YUCCA MOUNTAIN.—

(A) IN GENERAL.—The repository site at Yucca Mountain shall remain the site for the Nation's radiological material repository unless it is determined unsuitable, based on technical and scientific analysis, by the Nuclear Regulatory Commission following full statutory review of the Department of Energy's license application to construct the Yucca Mountain repository.

(B) APPLICATION.—The Nuclear Regulatory Commission shall continue to review the Department of Energy's pending license application to construct the repository at Yucca Mountain until a determination is made on the merits of the application.

(3) DEADLINES.—

(A) SUITABILITY DETERMINATION.—Not later than 90 days after the enactment of this Act, the Nuclear Regulatory Commission shall make a determination regarding the suitability of Yucca Mountain under paragraph (1).

(B) ACTION ON APPLICATION.—Not later than 180 days after the enactment of this Act, the Nuclear Regulatory Commission shall approve or deny the application under paragraph (2).

(4) LIMITATIONS ON AMOUNT OF RADIOLOGICAL MATERIAL.—All statutory limitations on the amount of radiological material that can be placed in Yucca Mountain are hereby removed and shall be replaced by the Nuclear Regulatory Commission with new limits based on scientific and technical analysis of the full capacity of Yucca Mountain for the storage of radiological material.

(5) ALTERNATIVE REPOSITORY.—

(A) IN GENERAL.—Should the Nuclear Regulatory Commission determine under subsection (b) that Yucca Mountain is not a suitable location to place a radiological material repository, the Secretary shall be responsible for, not later than 1 year after the date on which such determination is made, locating and submitting an application for an alternative geologic repository that provides at least 120,000 tons of storage capacity.

(B) ACTION ON APPLICATION.—Not later than 2 years after the date on which an application is submitted under paragraph (i) or (iii), the Nuclear Regulatory Commission shall approve or deny such application.

(C) FURTHER APPLICATION SUBMISSIONS.—If an application is denied under paragraph (ii), the Secretary shall submit a new application in accordance with paragraph (1) not later than 1 year after the date of such denial.

(D) REQUIREMENTS.—For the purposes of this subtitle and the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), an alternative repository permitted under this subsection shall be subject to the same requirements as Yucca Mountain.

(g) LEASING PROGRAM FOR LANDS WITHIN COASTAL PLAIN.—

(1) FINDINGS.—

(A) The outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

(2) DEFINITIONS.— For purposes of this subsection:

(A) COASTAL PLAIN.—The term ‘Coastal Plain’ means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(B) SECRETARY.—The term ‘Secretary’, except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

(3) LEASING PROGRAM.—

(A) IN GENERAL.—The Secretary shall take such actions as are necessary—

(i) to establish and implement, in accordance with this Act and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(ii) to administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this Act in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(B) REPEAL.—

(i) Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

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

(4) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(A) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(B) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The `Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this Act before the conduct of the first lease sale.

(C) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this Act, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this Act that are not referred to in paragraph (3). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this Act shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law,

compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this Act.

(5) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this Act shall be considered to expand or limit State and local regulatory authority.

(6) SPECIAL AREAS.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

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

(C) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(D) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the Special Area.

(7) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this Act.

(8) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this Act, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(B) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

(9) LEASE SALES.—

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

(B) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(i) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subparagraph (C)) from, a lease sale;

(ii) the holding of lease sales after such nomination process; and

(iii) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(C) LEASE SALE BIDS.—Bidding for leases under this Act shall be by sealed competitive cash bonus bids.

(D) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this Act, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subparagraph (B)(i), but in no case less than 200,000 acres.

(E) TIMING OF LEASE SALES.—The Secretary shall--

(i) conduct the first lease sale under this Act within 22 months after the date of the enactment of this Act;

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

(ii) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(10) GRANT OF LEASES BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to paragraph (9) any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(B) SUBSEQUENT TRANSFERS.—No lease issued under this Act may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(10) LEASE TERMS AND CONDITIONS.—

(A) IN GENERAL.—An oil or gas lease issued pursuant to this Act shall--

(i) provide for the payment of a royalty of 12 1/2 percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(ii) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(ii) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(iv) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(v) provide that the standard of reclamation for lands required to be reclaimed under this Act shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(vi) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to paragraph (3)(A)(i).

(vii) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-

Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(viii) prohibit the export of oil produced under the lease; and

(ix) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this Act and the regulations issued under this Act.

(B) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this Act and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this Act and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

(11) COASTAL PLAIN ENVIRONMENTAL PROTECTION.—

(A) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of paragraph (3), administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(iii) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(B) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that--

(i) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(ii) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under subparagraph (i); and

(iii) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(C) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this Act, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this Act are conducted in a manner consistent with the purposes and environmental requirements of this Act.

(D) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this Act shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(i) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the `Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain.

(ii) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(iii) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(iv) Design safety and construction standards for all pipelines and any access and service roads, that--

(I) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(II) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(v) Prohibitions on general public access and use on all pipeline access and service roads.

(vi) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this Act, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and

equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(vii) Appropriate prohibitions or restrictions on access by all modes of transportation.

(viii) Appropriate prohibitions or restrictions on sand and gravel extraction.

(ix) Consolidation of facility siting.

(x) Appropriate prohibitions or restrictions on use of explosives.

(xi) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(xii) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(xiii) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(xiv) Fuel storage and oil spill contingency planning.

(xv) Research, monitoring, and reporting requirements.

(xvi) Field crew environmental briefings.

(xvii) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(xviii) Compliance with applicable air and water quality standards.

(xix) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(xx) Reasonable stipulations for protection of cultural and archeological resources.

(xxi) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(12) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(A) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(B) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

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

(13) FACILITY CONSOLIDATION PLANNING.—

(A) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct

the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(B) OBJECTIVES.—The plan shall have the following objectives:

(i) Avoiding unnecessary duplication of facilities and activities.

(ii) Encouraging consolidation of common facilities and activities.

(iii) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(iv) Utilizing existing facilities wherever practicable.

(v) Enhancing compatibility between wildlife values and development activities.

(14) ACCESS TO PUBLIC LANDS.—The Secretary shall—

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

(B) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

(15) EXPEDITED JUDICIAL REVIEW.—

(A) FILING OF COMPLAINT.—

(i) DEADLINE.—A complaint seeking judicial review of any provision of this subsection or any action of the Secretary under this subsection shall be filed--

(I) except as provided in subparagraph (II), within the 90-day period beginning on the date of the action being challenged; or

(II) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(ii) VENUE.—Any complaint seeking judicial review of any provision of this Act or any action of the Secretary under this Act may be filed only in the United States Court of Appeals for the District of Columbia.

(iii) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this Act, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this Act and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this Act shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

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

(16) FEDERAL AND STATE DISTRIBUTION OF REVENUES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this Act shall be exclusively dedicated to reducing the Federal budget deficit.

(17) RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.—

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

(i) except as provided in subparagraph (ii), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.); and

(ii) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(B) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement issued under subparagraph (A) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(C) REGULATIONS.—The Secretary shall include in regulations under subparagraph 3(g) provisions granting rights-of-way and easements described in subparagraph (A).

(18) CONVEYANCE.—In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(A) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(B) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

(19) LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.—

(A) FINANCIAL ASSISTANCE AUTHORIZED.—

(i) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subparagraph (D) to provide timely financial assistance to entities that are eligible under subparagraph (ii) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this Act.

(ii) ELIGIBLE ENTITIES.—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this Act, as determined by the Secretary, shall be eligible for financial assistance under this section.

(B) USE OF ASSISTANCE.—Financial assistance under this section may be used only for--

(i) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence values;

(ii) implementing mitigation plans and maintaining mitigation projects;

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

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

(iv) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall--

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

(II) provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(C) APPLICATION.—

(i) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(ii) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(iii) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(D) ESTABLISHMENT OF FUND.—

(i) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

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

(iii) DEPOSITS.—Subject to subparagraph (iv), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties from Federal leases and lease sales authorized under this Act.

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

(v) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(E) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

(h) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—Chapter 8 of title 5, United States Code, is amended to read as follows:

"CHAPTER 8--CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"SEC. 801. CONGRESSIONAL REVIEW.—

(a)(1)(A) Before a rule may take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule;

(iii) a classification of the rule as a major or nonmajor rule, including an explanation of the classification specifically addressing each criteria for a major rule contained within sections 804(2)(A), 804(2)(B), and 804(2)(C);

(iv) a list of any other related regulatory actions intended to implement the same statutory provision or regulatory objective as well as the individual and aggregate economic effects of those actions;

(v) the proposed effective date of the rule; and

(vi) a cost-benefit analysis of the rule

(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions pursuant to title 5 of the United States Code, sections 603, 604, 605, 607, and 609;

(iii) the agency's actions pursuant to title 2 of the United States Code, sections 1532, 1533, 1534, and 1535; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

(3) A major rule relating to a report submitted under paragraph (1) shall take effect upon enactment of a joint resolution of approval described in section 802 or as provided for in the rule following enactment of a joint resolution of approval described in section 802, whichever is later.

(4) A non-major rule shall take effect as provided by section 803 after submission to Congress under paragraph (1).

(5) If a joint resolution of approval relating to a major rule is not enacted within the period provided in subsection (b)(2), then a joint resolution of approval relating to the same rule may not be considered under this chapter in the same Congress by either the House of Representatives or the Senate.

(b)(1) A major rule shall not take effect unless the Congress enacts a joint resolution of approval described under section 802.

(2) If a joint resolution described in subsection (a) is not enacted into law by the end of 70 session days or legislative days, as applicable, beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), then the rule described in that resolution shall be deemed not to be approved and such rule shall not take effect.

(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a major rule may take effect for one 90-calendar-day period if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) Paragraph (1) applies to a determination made by the President by Executive order that the major rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws;

(C) necessary for national security; or

(D) issued pursuant to any statute implementing an international trade agreement.

(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802.

(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

(A) in the case of the Senate, 60 session days, or

(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress is scheduled to adjourn a session of Congress through the date on which the same or succeeding Congress first convenes its next session, sections 802 and 803 shall apply to such rule in the succeeding session of Congress.

(2)(A) In applying sections 802 and 803 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register on--

(I) in the case of the Senate, the 15th session day, or

(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

“SEC. 802. CONGRESSIONAL APPROVAL PROCEDURES FOR MAJOR RULES.—

(a) For purposes of this section, the term `joint resolution' means only a joint resolution introduced on or after the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: “That Congress approves the rule submitted by the X X relating to X X.” (The blank spaces being appropriately filled in).

(1) In the House, the majority leader of the House of Representatives (or his designee) and the minority leader of the House of Representatives (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 legislative days after Congress receives the report referred to in section 801(a)(1)(A).

(2) In the Senate, the majority leader of the Senate (or his designee) and the minority leader of the Senate (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 session days after Congress receives the report referred to in section 801(a)(1)(A).

(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

(2) For purposes of this section, the term `submission date' means the date on which the Congress receives the report submitted under section 801(a)(1).

(c) In the Senate, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 session days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th session day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

(d)(1) In the Senate, when the committee or committees to which a joint resolution is referred have reported, or when a committee or committees are discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

(e)(1) In the House of Representatives, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 legislative days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th legislative day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

(2)(A) A motion in the House of Representatives to proceed to the consideration of a resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to reconsider the vote by which a resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply with respect to a joint resolution described in subsection (a) of the House receiving the joint resolution--

(1) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(2) the vote on final passage shall be on the joint resolution of the other House.

(g) The enactment of a resolution of approval does not serve as a grant or modification of statutory authority by Congress for the promulgation of a rule, does not extinguish or affect any claim, whether substantive or procedural, against any alleged defect in a rule, and shall not form part of the record before the court in any judicial proceeding concerning a rule.

(h) This section and section 803 are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“SEC. 803. CONGRESSIONAL DISAPPROVAL PROCEDURE FOR NON-MAJOR RULES.—

(a) For purposes of this section, the term `joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: `That Congress disapproves the non-major rule

submitted by the XX relating to XX, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

(2) For purposes of this section, the term submission or publication date means the later of the date on which—

(A) the Congress receives the report submitted under section 801(a)(1); or

(B) the non-major rule is published in the Federal Register, if so published.

(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after the date of introduction of the joint resolution, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a

motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a non-major rule—

(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

(1) The joint resolution of the other House shall not be referred to a committee.

(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

“SEC. 804. DEFINITIONS.—For purposes of this chapter—

(a) The term `Federal agency' means any agency as that term is defined in section 551(1).

(b) The term `major rule' means any rule, including an interim final rule, that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

(1) an annual effect on the economy of $100,000,000 or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

(c) The term `non-major rule' means any rule that is not a major rule.

(d) The term `rule' has the meaning given such term in section 551, except that such term does not include—

(1) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefore, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

(2) any rule relating to agency management or personnel; or

(3) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

“SEC. 805. JUDICIAL REVIEW.—

(a) No determination, finding, action, or omission under this chapter shall be subject to judicial review.

(b) Notwithstanding subsection (a), a court may determine whether a Federal agency has completed the necessary requirements under this chapter for a rule to take effect.

"SEC. 806. EXEMPTION FOR MONETARY POLICY.—Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"SEC. 807. EFFECTIVE DATE OF CERTAIN RULES.—Notwithstanding section 801—

(a) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or

(b) any rule other than a major rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines.".

(i) STATEMENT OF ENERGY EFFECTS.

(1) PREPARATION.—

(A) REQUIREMENT.—An agency shall prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for each proposed significant energy action.

(B) CONTENTS.—A Statement of Energy Effects shall consist of a detailed statement by the agency responsible for the significant energy action relating to—

(i) any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented; and

(ii) reasonable alternatives to the action with adverse energy effects, and the expected effects of such alternatives on energy supply, distribution, and use.

(C) GUIDANCE AND CONSULTATION.—The Administrator of the Office of Information and Regulatory Affairs shall provide guidance to the agencies on the implementation of this section and shall consult with other agencies as appropriate in the implementation of this section.

(2) PUBLICATION.—Agencies shall publish their Statements of Energy Effects, or a summary thereof, in each related Notice of Proposed Rulemaking and in any resulting Final Rule.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term "agency" has the meaning given that term in section 3502(1) of title 44, United States Code, except that the term does not include an independent regulatory agency, as defined in paragraph (5) of that section; and

(B) the term "significant energy action" means any action by an agency that is expected to lead to promulgation of a final rule or regulation and that—

(i) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(ii) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.