

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2337  
OFFERED BY MR. RAHALL OF WEST VIRGINIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Energy Policy Reform  
3 and Revitalization Act of 2007”.

**4 SEC. 2. TABLE OF CONTENTS.**

5       The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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

Sec. 101. Fiscally responsible energy amendments.

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

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

Sec. 104. Oil shale and tar sands leasing.

Sec. 105. Limitation of rebuttable presumption regarding application of categorical exclusion under NEPA for oil and gas exploration and development activities.

Sec. 106. Best management practices.

Sec. 107. Federal consistency appeals.

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

**Subtitle A—Accountability and Integrity in the Federal Energy Program**

Sec. 201. Limitations on royalty in-kind.

Sec. 202. Audits.

Sec. 203. Fines and penalties.

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

Sec. 211. Amendments to definitions.

Sec. 212. Interest.

## 2

- Sec. 213. Obligation period.
- Sec. 214. Tolling agreements and subpoenas.
- Sec. 215. Liability for royalty payments.

## Subtitle C—Public Interest in the Federal Energy Program

- Sec. 221. Surface owner protection.
- Sec. 222. Onshore oil and gas reclamation and bonding.
- Sec. 223. Protection of water resources.
- Sec. 224. Due diligence fee.

## Subtitle D—Ensuring Responsible Development of Wind Energy

- Sec. 231. Standards and requirements.
- Sec. 232. Wind Turbine Guidelines Advisory Committee.
- Sec. 233. National wind energy and wildlife survey.
- Sec. 234. Enforcement.
- Sec. 235. Definitions.

## Subtitle E—Enhancing Energy Transmission

- Sec. 241. Power Marketing Administrations report.

## TITLE III—ALTERNATIVE ENERGY AND EFFICIENCY

- Sec. 301. State ocean and coastal alternative energy planning.
- Sec. 302. Canal-side power production at Bureau of Reclamation projects.
- Sec. 303. Increasing energy efficiencies for water desalination.
- Sec. 304. Establishing a pilot program for the development of strategic solar reserves on Federal lands.
- Sec. 305. OTEC regulations.
- Sec. 307. Biomass utilization pilot program.

## TITLE IV—CARBON CAPTURE AND CLIMATE CHANGE MITIGATION

## Subtitle A—Geological Sequestration Assessment

- Sec. 401. Short title.
- Sec. 402. National assessment.

## Subtitle B—Terrestrial Sequestration Assessment

- Sec. 421. Requirement to conduct an assessment.
- Sec. 422. Methodology.
- Sec. 423. Completion of assessment and report.
- Sec. 424. Authorization of appropriations.

## Subtitle C—Sequestration Activities

- Sec. 431. Carbon dioxide storage inventory.
- Sec. 432. Framework for geological carbon sequestration on Federal lands.

## Subtitle D—Natural Resources and Wildlife Programs

## CHAPTER 1—NATURAL RESOURCES MANAGEMENT AND CLIMATE CHANGE

- Sec. 441. Interagency Council on Climate Change.

## CHAPTER 2—NATIONAL POLICY AND STRATEGY FOR WILDLIFE

- Sec. 451. Short title.  
Sec. 452. National policy on wildlife and global warming.  
Sec. 453. Definitions.  
Sec. 454. National strategy.  
Sec. 455. Advisory board.  
Sec. 456. Authorization of appropriations.

CHAPTER 3—STATE AND TRIBAL WILDLIFE GRANTS PROGRAM

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

Subtitle E—Ocean Programs

- Sec. 471. Ocean Policy, Global Warming, and Acidification Program.  
Sec. 472. Planning for climate change in the coastal zone.  
Sec. 473. Enhancing climate change predictions.

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

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

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

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

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

15             “(2) TEMPORARY FEE.—Until such time as a  
16 fee is established by such regulations, the Secretary  
17 shall charge a cost recovery fee of \$1,700 for each

1 such application received on or after October 1,  
2 2007.”.

3 (b) REPEAL OF BLM PERMIT PROCESSING IM-  
4 PROVEMENT FUND.—

5 (1) REPEAL.—Section 35 of the Mineral Leas-  
6 ing Act (30 U.S.C. 191) is amended by striking sub-  
7 section (c).

8 (2) TREATMENT OF BALANCE.—Any balances  
9 remaining in the BLM Permit Processing Improve-  
10 ment Fund on the effective date of this subsection  
11 shall be transferred to the general fund of the  
12 Treasury of the United States.

13 (3) EFFECTIVE DATE.—This subsection shall  
14 take effect on October 1, 2007.

15 **SEC. 102. REPEAL OF DEADLINE FOR CONSIDERATION OF**  
16 **APPLICATIONS FOR PERMITS.**

17 Subsection (p) of section 17 of the Mineral Leasing  
18 Act (30 U.S.C. 226) is repealed.

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

21 (a) REPEAL OF REQUIREMENTS TO DESIGNATE EN-  
22 ERGY RIGHTS-OF-WAY CORRIDORS ON FEDERAL LAND.—  
23 Section 368 of the Energy Policy Act of 2005 (Public Law  
24 109-58; 42 U.S.C.15926) is amended—

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

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

7           (b) STUDY.—

8           (1) STUDY.—Not later than 18 months after  
9 the date of enactment of this Act, the Secretary of  
10 Agriculture, the Secretary of Commerce, the Sec-  
11 retary of Defense, the Secretary of Energy, and the  
12 Secretary of the Interior (in this subsection referred  
13 to collectively as “the Secretaries”) shall, in con-  
14 sultation with affected States, complete a study of—

15                   (A) congestion and constraints in trans-  
16 mission of electricity, oil, gas, and hydrogen;

17                   (B) barriers to access for transmission  
18 from renewable energy sources, such as wind  
19 energy and solar energy; and

20                   (C) the need for energy corridors on public  
21 lands to address identified congestion or con-  
22 straints.

23           (2) CONSIDERATIONS.—In performing the  
24 study, the Secretaries—

1 (A) shall take into account the studies of  
2 electrical transmission congestion completed  
3 under section 216(a)(1) of the Federal Power  
4 Act (16 U.S.C. 824(p)(a)(1)), other projects  
5 authorized or under consideration on public  
6 lands and such projects outside public lands,  
7 and alternatives, individually and in concert,  
8 that could be implemented to address the needs  
9 identified, including an analysis of demand re-  
10 duction, available new technology, and distrib-  
11 uted generation measures that could be taken;

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

14 (i) within one mile of any place des-  
15 igned or otherwise identified by State or  
16 Federal law or any applicable Federal or  
17 State land use plan for recognition or pro-  
18 tection of scenic, natural, cultural, or his-  
19 toric resources; or

20 (ii) in a sensitive ecological area, in-  
21 cluding any area that is designated as crit-  
22 ical habitat under the Endangered Species  
23 Act of 1973 or otherwise identified as sen-  
24 sitive or crucial habitat, including seasonal  
25 habitat, by the United States Fish and

1 Wildlife Service, by a State agency respon-  
2 sible for managing wildlife or wildlife habi-  
3 tat, or in a Federal or State land use plan;

4 (C) identify opportunities to mitigate to  
5 the maximum extent practicable the potential  
6 impact of designating energy corridors, and of  
7 the reasonably foreseeable uses of those cor-  
8 ridors for power lines, pipelines, and other  
9 transmission facilities, on natural, scenic, cul-  
10 tural, and historic values and areas referred to  
11 in subparagraph (B), the protection of which is  
12 in the national interest, including opportunities  
13 to minimize the width of corridors, limiting the  
14 types and numbers of uses of corridors, and  
15 placement of facilities underground; and

16 (D) identify opportunities to improve ac-  
17 cess to the national electric power grid for gen-  
18 erators of renewable energy, such as wind and  
19 solar.

20 (3) UPDATES.—The Secretaries shall periodi-  
21 cally update the results of the study as they consider  
22 appropriate.

23 (4) REPORTS.—After considering recommenda-  
24 tions from interested persons (including an oppor-

1 tunity for comment from the public and affected  
2 States), the Secretaries shall issue—

3 (A) a report presenting the results of the  
4 study; and

5 (B) a report on each update of the study  
6 under paragraph (3).

7 (c) DEFERRAL OF DESIGNATION OF ENERGY COR-  
8 RIDORS PENDING COMPLETION OF STUDY.—

9 (1) LIMITATION ON ACTIONS PENDING COMPLE-  
10 TION OF STUDY.—The Secretaries shall not des-  
11 ignate energy corridors on public lands, including  
12 those corridors under consideration based on section  
13 368 of the Energy Policy Act of 2005 (Public Law  
14 109-58) as in effect prior to the enactment of this  
15 Act, and shall not authorize specific rights-of-way or  
16 projects in such corridors, until the study under sub-  
17 section (b) is completed.

18 (2) USE OF STUDY RESULTS FOR ACTIONS  
19 AFTER COMPLETION OF STUDY.—

20 (A) IN GENERAL.—Subject to subpara-  
21 graph (B), after completion of the study under  
22 subsection (b), the Secretaries shall use the re-  
23 sults of the study to inform subsequent deci-  
24 sions to grant rights-of-way, including under  
25 title V of the Federal Land Policy and Manage-



1           ment Act of 1976 (43 U.S.C. 1761 et seq.), and  
2           to amend land use plans to designate energy  
3           corridors or authorize rights-of-way, in any area  
4           for which no such designation or authorization  
5           currently exists.

6           (B) LIMITATION ON USE.—The results of  
7           the study shall not affect the Secretaries’ obli-  
8           gations to analyze the environmental con-  
9           sequences of a designation or authorization re-  
10          ferred to in subparagraph (A), or to otherwise  
11          comply with applicable laws.

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

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

15               (1) in subsection (c), by striking “not later than  
16               180 days after the date of enactment of this Act,”;

17               (2) in subsection (c), by striking “shall make”  
18               and inserting “may make”;

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

22               (4) in subsection (d)(2)—

23                       (A) in the heading by striking “Final” and  
24                       inserting “Proposed”; and

1 (B) in the text by striking “final” and in-  
2 serting “proposed”;

3 (5) in subsection (d)(2), by striking “6” and in-  
4 serting “12”;

5 (6) in subsection (d)(2) by inserting after the  
6 period “The proposed regulations developed under  
7 this paragraph are to be open for public comment  
8 for no less than 180 days.”;

9 (7) by redesignating subsections (e) through (s)  
10 as subsections (g) through (u), and by inserting  
11 after subsection (d) the following:

12 “(e) OIL SHALE AND TAR SANDS LEASING AND DE-  
13 VELOPMENT STRATEGY.—

14 “(1) GENERAL.—Not later than 6 months after  
15 the completion of the programmatic environmental  
16 impact statement under subsection (d), the Sec-  
17 retary shall prepare an oil shale and tar sands leas-  
18 ing and development strategy, in cooperation with  
19 the Secretary of Energy and the Administrator of  
20 the Environmental Protection Agency.

21 “(2) PURPOSE.—The purpose of the strategy  
22 developed under this subsection is to allow for the  
23 sustainable and publicly acceptable large-scale devel-  
24 opment of oil shale within the Green River Forma-  
25 tion.

1           “(3) CONTENTS.—The strategy shall include  
2           plans and programs for obtaining information re-  
3           quired for determining the optimal methods, loca-  
4           tions, amount, and timeframe for potential develop-  
5           ment on federal lands within the Green River For-  
6           mation. The strategy shall also include plans for  
7           conducting critical environmental and ecological re-  
8           search, high-payoff process improvement research,  
9           an assessment of carbon management options, and a  
10          large-scale demonstration of carbon dioxide seques-  
11          tration in the general vicinity of the Piceance Basin.

12          “(f) ALTERNATIVE APPROACHES.—Not later than  
13          nine months after the completion of the programmatic en-  
14          vironmental impact statement under subsection (d), the  
15          Secretary shall, in cooperation with the Secretary of En-  
16          ergy and the Administrator of the Environmental Protec-  
17          tion Agency, prepare and publish a report on alternative  
18          approaches to providing access to Federal lands for early  
19          first-of-a-kind commercial facilities for extracting and  
20          processing oil shale and tar sands.”;

21                 (8) in subsection (g), as so redesignated, by  
22          striking “of the final regulation required by sub-  
23          section (d)” and inserting “of final regulations  
24          issued under this section”;

1 (9) in subsection (g), as so redesignated, by  
2 adding at the end the following: “Compliance with  
3 the National Environmental Policy Act of 1969 is  
4 required on a site-by-site basis for all lands proposed  
5 to be leased under the commercial leasing program  
6 established in this subsection.”; and

7 (10) in subsection (i)(1)(B), as so redesignated,  
8 by striking “subsection (e)” and inserting “sub-  
9 section (g)”.

10 **SEC. 105. LIMITATION OF REBUTTABLE PRESUMPTION RE-**  
11 **GARDING APPLICATION OF CATEGORICAL**  
12 **EXCLUSION UNDER NEPA FOR OIL AND GAS**  
13 **EXPLORATION AND DEVELOPMENT ACTIVI-**  
14 **TIES.**

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

17 (1) in subsection (b)(3), by inserting “, other  
18 than at such a location or site in an area that is cru-  
19 cial wildlife habitat or a significant wildlife corridor”  
20 after “activity” ; and

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

22 “(c) ADHERENCE TO CEQ REGULATIONS.—In ad-  
23 ministering this section, the Secretary of the Interior in  
24 managing the public lands, and the Secretary of Agri-  
25 culture in managing National Forest System lands, shall

1 adhere to the regulations issued by the Council on Envi-  
2 ronmental Quality relating to categorical exclusions (40  
3 C.F.R. 1507.3 and 1508.4), as in effect on the date of  
4 enactment of this Act.”.

5 **SEC. 106. BEST MANAGEMENT PRACTICES.**

6 Not later than 180 days after the date of enactment  
7 of this Act, the Secretary of the Interior, through the Bu-  
8 reau of Land Management, shall amend the best manage-  
9 ment practices guidelines for oil and gas development on  
10 Federal lands, to—

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

14 (2) create an incentive for oil and gas operators  
15 to adopt best management practices that minimize  
16 adverse impacts to wildlife habitat, by providing ex-  
17 pedited permit review for any operator that commits  
18 to adhering to those practices without seeking waiver  
19 of such stipulations.

20 **SEC. 107. FEDERAL CONSISTENCY APPEALS.**

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

23 (b) **CLARIFICATION OF APPEAL DECISION TIME PE-**  
24 **RIODS AND INFORMATION REQUIREMENTS.**—Section

1 319(b) of the Coastal Zone Management Act of 1972 (16  
2 U.S.C. 1465(b)) is amended—

3 (1) in paragraph (1), by striking “160-day”  
4 and inserting “320-day”;

5 (2) in paragraph (3)(A)—

6 (A) by striking “160-day” and inserting  
7 “320-day”; and

8 (B) by amending clause (ii) to read as fol-  
9 lows:

10 “(ii) as the Secretary determines nec-  
11 essary to receive, on an expedited basis,  
12 any supplemental or clarifying information  
13 relevant to the consolidated record com-  
14 piled by the lead Federal permitting agen-  
15 cy to complete a consistency review under  
16 this title.”; and

17 (3) in paragraph (3)(B)—

18 (A) by striking “160-day” and inserting  
19 “320-day”; and

20 (B) by striking “for a period not to exceed  
21 60 days.” and inserting “once.”.

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

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

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

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

11 (1) in subsection (d)—

12 (A) in the heading by striking “Benefit”  
13 and inserting “Filling of Strategic Petroleum  
14 Reserve and benefit”; and

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

19 (2) by adding at the end:

20 “(k) LIMITATION.—

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

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

1 the purpose of filling the Strategic Petroleum Re-  
2 serve.”.

3 **SEC. 202. AUDITS.**

4 (a) REQUIREMENT TO INCREASE THE NUMBER OF  
5 AUDITS.—The Secretary of the Interior shall ensure that  
6 by fiscal year 2009 the Minerals Management Service  
7 shall perform no less than 550 audits of oil and gas leases  
8 each fiscal year.

9 (b) STANDARDS.—Not later than 120 days after the  
10 date of enactment of this Act, the Secretary of the Interior  
11 shall issue regulations that require that all employees that  
12 conduct audits or compliance reviews must meet profes-  
13 sional auditor qualifications that are consistent with the  
14 latest revision of the Government Auditing Standards pub-  
15 lished by the Government Accountability Office. Such reg-  
16 ulations shall also ensure that all audits conducted by the  
17 Department of the Interior are performed in accordance  
18 with such standards.

19 **SEC. 203. FINES AND PENALTIES.**

20 (a) SANCTIONS FOR VIOLATIONS RELATING TO FED-  
21 ERAL OIL AND GAS ROYALTIES.—Section 109 of the Fed-  
22 eral Oil and Gas Royalty Management Act of 1982 (30  
23 U.S.C. 1719) is amended to read as follows:

24 “CIVIL PENALTIES

25 “SEC. 109. (a) ROYALTY VIOLATIONS.—(1) No per-  
26 son shall—



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

6           “(B) fail or refuse to make any royalty pay-  
7 ment in the amount or value required by any min-  
8 eral leasing law or any regulation, order, or lease  
9 under such a law;

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

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

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

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

1 from the first date the royalty payment was due;  
2 and

3 “(B) in the case of any violation, for a civil  
4 penalty of up to \$25,000 per violation for each day  
5 the violation continues.

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

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

11 “(B) corrects the violation.

12 “(b) LEASE ADMINISTRATION VIOLATIONS.—Any  
13 person who—

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

15 “(A) any designation by the person under  
16 section 102(a); or

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

19 “(2) fails or refuses to permit—

20 “(A) lawful entry;

21 “(B) inspection, including any inspection  
22 authorized by section 108; or

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

1           “(3) fails or refuses to comply with subsection  
2           102(b)(3) (relating to notification regarding begin-  
3           ning or resumption of production); or

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

10          “(c) THEFT.—Any person who—

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

15           “(2) purchases, accepts, sells, transports, or  
16           conveys to another, any oil or gas knowing or having  
17           reason to know that such oil or gas was stolen or  
18           unlawfully removed or diverted,

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

21          “(d) REPEATED VIOLATIONS.—(1)(A) If the Sec-  
22           retary or an authorized designee of the Secretary deter-  
23           mines that any person has repeatedly violated subsection  
24           (a), (b), or (c), the Secretary or designee shall notify the  
25           person of the violation and demand compliance.

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

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

10          “(2) In addition to the penalty provided in paragraph  
11 (1)(C), if the Secretary determines that any person has  
12 repeatedly violated subsection (a), (b), or (c) or any lease  
13 management order, the Secretary may—

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

16           “(B) prohibit the person—

17           “(i) from acquiring any additional oil or  
18 gas lease, including by transfer or assignment;

19           and

20           “(ii) from being designated under section  
21 102(a) to make payments due under any lease;

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

24           “(D) collect from the person reimbursement, in-  
25 cluding interest, of all costs of release, transfer, or

1 reclamation of lease sites canceled or transferred, in-  
2 cluding costs of disposing of lease property, facili-  
3 ties, and equipment.

4 “(e) ADMINISTRATIVE APPEAL.—(1) Any determina-  
5 tion by the Secretary or a designee of the Secretary of  
6 the amount of any royalties or civil penalties owed under  
7 subsection (a), (b), (c), or (d) shall be final, unless within  
8 15 days after notification by the Secretary or designee the  
9 person liable for such amount files an administrative ap-  
10 peal in accordance with regulations issued by the Sec-  
11 retary.

12 “(2) If a person files an administrative appeal pursu-  
13 ant to paragraph (1), the Secretary or designee shall make  
14 a final determination in accordance with the regulations  
15 referred to in paragraph (1).

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

20 “(g) COMPROMISE AND REDUCTION.—On a case-by-  
21 case basis the Secretary may compromise or reduce civil  
22 penalties under this section.

23 “(h) NOTICE.—Notice under this subsection (a) shall  
24 be by personal service by an authorized representative of  
25 the Secretary or by registered mail. Any person may, in

1 the manner prescribed by the Secretary, designate a rep-  
2 resentative to receive any notice under this subsection.

3 “(i) RECORD OF DETERMINATION.—In determining  
4 the amount of such penalty, or whether it should be remit-  
5 ted or reduced, and in what amount, the Secretary shall  
6 state on the record the reasons for his determinations.

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

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

19 “(1) after the order making the assessment has  
20 become a final order and if such person does not file  
21 a petition for judicial review of the order in accord-  
22 ance with subsection (j), or

23 “(2) after a court in an action brought under  
24 subsection (j) has entered a final judgment in favor  
25 of the Secretary,

1 the court shall have jurisdiction to award the amount as-  
2 sessed plus interest from the date of the expiration of the  
3 90-day period referred to in subsection (j). Judgment by  
4 the court shall include an order to pay.

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

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

16 “(A) the date on which the person corrects the  
17 violation and certifies that all violations of a like na-  
18 ture have been corrected for all of the oil and gas  
19 leases held or operated by such person; or

20 “(B) the date a final, nonappealable order has  
21 been issued by the Secretary or a court of competent  
22 jurisdiction.

23 “(2) A person determined by the Secretary or a des-  
24 ignee of the Secretary to have violated subsection (a),

1 (b)(2), or (b)(4) shall maintain all records with respect  
2 to the person's oil and gas leases until the later of—

3 “(A) the date the Secretary releases the person  
4 from the obligation to maintain such records; and

5 “(B) the expiration of the period during which  
6 the records must be maintained under section  
7 103(b).

8 “(n) STATE SHARING OF PENALTIES.—Amounts re-  
9 ceived by the United States in an action brought under  
10 section 3730 of title 31, United States Code, that arises  
11 from any underpayment of royalties owed to the United  
12 States under any lease shall be treated as royalties paid  
13 to the United States under that lease for purposes of the  
14 mineral leasing laws and the Land and Water Conserva-  
15 tion Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).”.

16 (b) SHARED CIVIL PENALTIES.—Section 206 of the  
17 Federal Oil and Gas Royalty Management Act of 1982  
18 (30 U.S.C. 1736) is amended—

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

21 (2) by striking the second sentence.



1 **Subtitle B—Amendments to Fed-**  
2 **eral Oil and Gas Royalty Man-**  
3 **agement Act of 1982**

4 **SEC. 211. AMENDMENTS TO DEFINITIONS.**

5 Section 3 of the Federal Oil and Gas Royalty Man-  
6 agement Act of 1982 (30 U.S.C. 1702) is amended—

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

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

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

16 (4) by amending paragraph (24) to read as fol-  
17 lows:

18 “(24) ‘designee’ means any person who pays,  
19 offsets, or credits monies, makes adjustments, re-  
20 quests and receives refunds, or submits reports with  
21 respect to payments a lessee must make pursuant to  
22 section 102(a);”;

23 (5) in paragraph (25)(B), by striking “(subject  
24 to the provision of section 102(a) of this Act)”;

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

3 **SEC. 212. INTEREST.**

4           (a) ESTIMATED PAYMENTS; INTEREST ON AMOUNT  
5 OF UNDER PAYMENT.—Section 111(j) of the Federal Oil  
6 and Gas Royalty Management Act of 1982 (30 U.S.C.  
7 1721(j)) is amended by striking “If the estimated pay-  
8 ment exceeds the actual royalties due, interest is owned  
9 on the overpayment.”.

10          (b) OVERPAYMENTS.—Section 111 of the Federal Oil  
11 and Gas Royalty Management Act of 1982 (30 U.S.C.  
12 1721) is amended by striking subsections (h) and (i).

13          (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall be effective one year after the date of  
15 enactment of this Act.

16 **SEC. 213. OBLIGATION PERIOD.**

17          Section 115(c) of the Federal Oil and Gas Royalty  
18 Management Act of 1982 (30 U.S.C. 1724(c)) is amend-  
19 ed—

20                 “(3) ADJUSTMENTS.—In the case of an adjust-  
21 ment under section 111A(a) (30 U.S.C. 1721a(a)) in  
22 which a recoupment by the lessee results in an un-  
23 derpayment of an obligation, for purposes of this Act  
24 the obligation becomes due on the date the lessee or  
25 its designee makes the adjustment.”.

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

2 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of  
3 the Federal Oil and Gas Royalty Management Act of 1982  
4 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-  
5 tice to the lessee who designated the designee)”.

6 (b) SUBPEONAS.—Section 115(d)(2)(A) of the Fed-  
7 eral Oil and Gas Royalty Management Act of 1982 (30  
8 U.S.C. 1724(d)(2)(A)) is amended by striking “(with no-  
9 tice to the lessee who designated the designee, which notice  
10 shall not constitute a subpoena to the lessee)”.

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

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

15 “(a) In order to increase receipts and achieve effec-  
16 tive collections of royalty and other payments, a lessee who  
17 is required to make any royalty or other payment under  
18 a lease or under the mineral leasing laws, shall make such  
19 payments in the time and manner as may be specified by  
20 the Secretary or the applicable delegated State. Any per-  
21 son who pays, offsets or credits monies, makes adjust-  
22 ments, requests and receives refunds, or submits reports  
23 with respect to payments the lessee must make is the les-  
24 see’s designee under this Act. Notwithstanding any other  
25 provision of this Act to the contrary, a designee shall be  
26 liable for any payment obligation of any lessee on whose

1 behalf the designee pays royalty under the lease. The per-  
2 son owning operating rights in a lease and a person own-  
3 ing legal record title in a lease shall be liable for that per-  
4 son's pro rata share of payment obligations under the  
5 lease.”.

## 6 **Subtitle C—Public Interest in the** 7 **Federal Energy Program**

### 8 **SEC. 221. SURFACE OWNER PROTECTION.**

9 (a) DEFINITIONS.—As used in this section—

10 (1) the term “Secretary” means the Secretary  
11 of the Interior;

12 (2) the term “lease” means a lease issued by  
13 the Secretary under the Mineral Leasing Act (30  
14 U.S.C. 181 et seq.);

15 (3) the term “lessee” means the holder of a  
16 lease; and

17 (4) the term “operator” means any person that  
18 is responsible under the terms and conditions of a  
19 lease for the operations conducted on leased lands or  
20 any portion thereof.

21 (b) POST-LEASE SURFACE USE AGREEMENT.—

22 (1) IN GENERAL.—Except as provided in sub-  
23 section (c), the Secretary may not authorize any op-  
24 erator to conduct exploration and drilling operations  
25 on lands with respect to which title to oil and gas

1 resources is held by the United States but title to  
2 the surface estate is not held by the United States,  
3 until the operator has filed with the Secretary a doc-  
4 ument, signed by the operator and the surface owner  
5 or owners, showing that the operator has secured a  
6 written surface use agreement between the operator  
7 and the surface owner or owners that meets the re-  
8 quirements of paragraph (2).

9 (2) CONTENTS.—The surface use agreement  
10 shall provide for—

11 (A) the use of only such portion of the sur-  
12 face estate as is reasonably necessary for explo-  
13 ration and drilling operations based on site-spe-  
14 cific conditions;

15 (B) the accommodation of the surface es-  
16 tate owner to the maximum extent practicable,  
17 including the location, use, timing, and type of  
18 exploration and drilling operations, consistent  
19 with the operator's right to develop the oil and  
20 gas estate;

21 (C) the reclamation of the site to a condi-  
22 tion capable of supporting the uses which such  
23 lands were capable of supporting prior to explo-  
24 ration and drilling operations or other uses as

1           agreed to by the operator and the surface  
2           owner; and

3           (D) compensation for damages as a result  
4           of exploration and drilling operations, including  
5           but not limited to—

6                   (i) loss of income and increased costs  
7                   incurred;

8                   (ii) damage to or destruction of per-  
9                   sonal property, including crops, forage, and  
10                  livestock; and

11                  (iii) failure to reclaim the site in ac-  
12                  cordance with this subparagraph (C).

13           (3) PROCEDURE.—

14                   (A) IN GENERAL.—An operator shall no-  
15                   tify the surface estate owner or owners of the  
16                   operator's desire to conclude an agreement  
17                   under this section. If the surface estate owner  
18                   and the operator do not reach an agreement  
19                   within 90 days after the operator has provided  
20                   such notice, the matter shall be referred to  
21                   third party arbitration for resolution within a  
22                   period of 90 days. The cost of such arbitration  
23                   shall be the responsibility of the operator.

24                   (B) IDENTIFICATION OF ARBITERS.—The  
25                   Secretary shall identify persons with experience

1 in conducting arbitrations and shall make this  
2 information available to operators and surface  
3 owners.

4 (C) REFERRAL TO IDENTIFIED ARBI-  
5 TER.—Referral of a matter for arbitration by a  
6 person identified by the Secretary pursuant to  
7 subparagraph (B) shall be sufficient to con-  
8 stitute compliance with subparagraph (A).

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

16 (c) AUTHORIZED EXPLORATION AND DRILLING OP-  
17 ERATIONS.—

18 (1) AUTHORIZATION WITHOUT SURFACE USE  
19 AGREEMENT.—The Secretary may authorize an op-  
20 erator to conduct exploration and drilling operations  
21 on lands covered by subsection (b) in the absence of  
22 an agreement with the surface estate owner or own-  
23 ers, if—

24 (A) the Secretary makes a determination  
25 in writing that the operator made a good faith

1 attempt to conclude such an agreement, includ-  
2 ing referral of the matter to arbitration pursu-  
3 ant to subsection (b)(3), but that no agreement  
4 was concluded within 90 days after the referral  
5 to arbitration;

6 (B) the operator submits a plan of oper-  
7 ations that provides for the matters specified in  
8 subsection (b)(2) and for compliance with all  
9 other applicable requirements of Federal and  
10 State law; and

11 (C) the operator posts a bond or other fi-  
12 nancial assurance in an amount the Secretary  
13 determines to be adequate to ensure compensa-  
14 tion to the surface estate owner for any dam-  
15 ages to the site, in the form of a surety bond,  
16 trust fund, letter of credit, government security,  
17 certificate of deposit, cash, or equivalent.

18 (2) SURFACE OWNER PARTICIPATION.—The  
19 Secretary shall provide surface estate owners with  
20 an opportunity to—

21 (A) comment on plans of operations in ad-  
22 vance of a determination of compliance with  
23 this section;



1 (B) participate in bond level determina-  
2 tions and bond release proceedings under this  
3 subsection;

4 (C) attend an on-site inspection during  
5 such determinations and proceedings;

6 (D) file written objections to a proposed  
7 bond release; and

8 (E) request and participate in an on-site  
9 inspection when they have reason to believe  
10 there is a violation of the terms and conditions  
11 of a plan of operations.

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

22 (4) BOND RELEASE.—Upon request and after  
23 inspection and opportunity for surface estate owner  
24 review, the Secretary may release the financial as-  
25 surance required under this subsection if the Sec-



1           “(p) RECLAMATION REQUIREMENTS.—An operator  
2 producing oil or gas (including coalbed methane) under  
3 a lease issued pursuant to this Act shall—

4           “(1) at a minimum restore the land affected to  
5 a condition capable of supporting the uses that it  
6 was capable of supporting prior to any drilling, or  
7 higher or better uses of which there is reasonable  
8 likelihood, so long as such use or uses do not present  
9 any actual or probable hazard to public health or  
10 safety or pose any actual or probable threat of water  
11 diminution or pollution, and the permit applicants’  
12 declared proposed land use following reclamation is  
13 not impractical or unreasonable, inconsistent with  
14 applicable land use policies and plans, or involve un-  
15 reasonable delay in implementation, or is violative of  
16 Federal or State law;

17           “(2) ensure that all reclamation efforts proceed  
18 in an environmentally sound manner and as contem-  
19 poraneously as practicable with the oil and gas drill-  
20 ing operations; and

21           “(3) submit with the plan of operations a rec-  
22 lamation plan that describes in detail the methods  
23 and practices that will be used to ensure complete  
24 and timely restoration of all lands affected by oil  
25 and gas operations.

1           “(q) RECLAMATION BOND OR OTHER FINANCIAL AS-  
2 SURANCES.—An operator producing oil or gas (including  
3 coalbed methane) under a lease issued under this Act shall  
4 post a bond or other financial assurances that cover the  
5 reclamation of that area of land within the permit area  
6 upon which the operator will initiate and conduct oil and  
7 gas drilling and reclamation operations within the initial  
8 term of the permit. As succeeding increments of oil and  
9 gas drilling and reclamation operations are to be initiated  
10 and conducted within the permit area, the lessee shall file  
11 with the regulatory authority an additional bond or bonds  
12 or other financial assurances to cover such increments in  
13 accordance with this section. The amount of the bond or  
14 other financial assurances required for each bonded area  
15 shall depend upon the reclamation requirements of the ap-  
16 proved permit; shall reflect the probable difficulty of rec-  
17 lamation giving consideration to such factors as topog-  
18 raphy, geology of the site, hydrology, and revegetation po-  
19 tential; and shall be determined by the Secretary. The  
20 amount of the bond or other financial assurances shall be  
21 sufficient to assure the completion of the reclamation plan  
22 if the work had to be performed by the Secretary in the  
23 event of forfeiture.

24           “(r) REGULATIONS.—No later than one year after  
25 the date of the enactment of this subsection, the Secretary

1 shall promulgate regulations to implement the require-  
2 ments, including for the release of bonds or other financial  
3 assurances, of subsections (p) and (q).”.

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

5 (a) MINERAL LEASING ACT REQUIREMENTS.—Sec-  
6 tion 17 of the Mineral Leasing Act (30 U.S.C. 226) is  
7 further amended by adding at the end the following:

8 “(s) WATER REQUIREMENTS.—

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

12 “(A) remediate or replace the water sup-  
13 ply of a water user who obtains all or part of  
14 such user’s supply of water for domestic, agri-  
15 cultural, or other purposes from an under-  
16 ground or surface source that has been affected  
17 by contamination, diminution, or interruption  
18 proximately resulting from drilling operations  
19 for such production; and

20 “(B) comply with all applicable require-  
21 ments of Federal and State law for discharge of  
22 any water produced under the lease.

23 “(2) WATER MANAGEMENT PLAN.—An applica-  
24 tion for a permit to drill submitted pursuant to a  
25 lease issued under this Act shall be accompanied by

1 a proposed water management plan including provi-  
2 sions to—

3 “(A) protect the quantity and quality of  
4 surface and ground water systems, both on-site  
5 and off-site, from adverse effects of the explo-  
6 ration, development, and reclamation processes  
7 or to provide alternative sources of water if  
8 such protection cannot be assured;

9 “(B) protect the rights of present users of  
10 water that would be affected by operations  
11 under the lease, including the discharge of any  
12 water produced in connection with such oper-  
13 ations that is not reinjected; and

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

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

20 (1) be construed as impairing or in any manner  
21 affecting any right or jurisdiction of any State with  
22 respect to the waters of such State; or

23 (2) be construed as limiting, altering, modi-  
24 fying, or amending any of the interstate compacts or

1 equitable apportionment decrees that apportion  
2 water among and between States.

3 (c) REGULATIONS.—No later than one year after the  
4 date of the enactment of this Act, the Secretary of the  
5 Interior shall promulgate regulations to implement this  
6 section.

7 **SEC. 224. DUE DILIGENCE FEE.**

8 (a) ESTABLISHMENT.—The Secretary of the Interior  
9 shall, within 180 days after the date of enactment of this  
10 Act, issue regulations to establish a fee with respect to  
11 Federal onshore lands that are subject to a lease for pro-  
12 duction of oil, natural gas, or coal under which production  
13 is not occurring.

14 (b) AMOUNT.—The amount of the fee shall be \$1 per  
15 year for each acre of land that is not in production for  
16 that year.

17 (c) ASSESSMENT AND COLLECTION.—The Secretary  
18 shall assess and collect the fee established under this sec-  
19 tion.

20 (d) DEPOSIT AND USE.—Amounts received by the  
21 United States in the form of the fee established under this  
22 section shall be available to the Secretary of the Interior  
23 for use to repair damage to Federal lands and resources  
24 caused by oil and gas development, in accordance with the  
25 the documents submitted by the President with the budget

1 submission for fiscal year 2008 relating to the Healthy  
2 Lands Initiative.

3 **Subtitle D—Ensuring Responsible**  
4 **Development of Wind Energy**

5 **SEC. 231. STANDARDS AND REQUIREMENTS.**

6 (a) IN GENERAL.—Within 180 days after the submis-  
7 sion of the report required under section 232 and comple-  
8 tion of the survey required under section 233, the Sec-  
9 retary, acting through the Director and after public notice  
10 and comment, shall promulgate regulations that establish  
11 minimum standards for wind projects to avoid, minimize,  
12 and mitigate adverse impacts on migratory birds, bats,  
13 and other wildlife.

14 (b) NEW WIND PROJECTS.—Such standards shall,  
15 for wind projects that have not been constructed before  
16 the date the Secretary publishes regulations in the Federal  
17 Register pursuant to subsection (a), include the following:

18 (1) Preconstruction surveys to be carried out by  
19 independent scientists to reasonably evaluate the ex-  
20 tent of potential impacts to birds, bats, and other  
21 wildlife, including cumulative impacts.

22 (2) Siting standards to avoid impacts, including  
23 cumulative impacts, on birds, bats, and other wildlife  
24 and to avoid ecologically sensitive areas.



1           (3) Construction and operating requirements to  
2           minimize impacts to birds, bats, and other wildlife  
3           and incorporate best management practices and  
4           adaptive management strategies.

5           (4) Post-construction monitoring standards con-  
6           ducted by independent scientists to assess actual im-  
7           pacts, including cumulative impacts, on birds, bats,  
8           and other wildlife and to guide future research.

9           (5) Other requirements recommended by the re-  
10          port required under section 232.

11         (c) EXISTING PROJECTS.—Such standards shall, for  
12         all wind projects that are in operation before the date the  
13         Secretary publishes regulations in the Federal Register  
14         pursuant to subsection (a), include at a minimum appro-  
15         priate standards for monitoring and operating require-  
16         ments to mitigate adverse impacts on birds, bats, and  
17         other wildlife.

18         **SEC. 232. WIND TURBINE GUIDELINES ADVISORY COM-**  
19                 **MITTEE.**

20         (a) IN GENERAL.—The Secretary, within 30 days  
21         after the date of enactment of this subtitle, shall convene  
22         or utilize an existing Wind Turbine Guidelines Advisory  
23         Committee to study and make recommendations to the  
24         Secretary on developing effective measures consistent with  
25         the standards established under section 231 to avoid or

1 minimize impacts to wildlife and their habitats related to  
2 wind projects. The Committee shall assess information re-  
3 garding—

4 (1) recommendations contained in interim  
5 guidelines released in 2003 by the United States  
6 Fish and Wildlife Service entitled “Interim Guidance  
7 on Avoiding and Minimizing Wildlife Impacts from  
8 Wind Turbines”;

9 (2) methods to evaluate potential wind project  
10 impacts to birds, bats, and other wildlife and cost-  
11 effective measures to acquire the information nec-  
12 essary to assess those impacts prior to selecting sites  
13 and designing wind projects;

14 (3) existing Federal and State environmental  
15 laws, regulations, and guidelines applicable to wind  
16 projects;

17 (4) the role of State wildlife conservation plans  
18 and State wildlife agencies and other applicable  
19 State actions in providing oversight and direction to  
20 the development of wind projects;

21 (5) processes for coordinating State, tribal,  
22 local, and national review and evaluation of the im-  
23 pacts to wildlife from wind projects and to achieve  
24 compliance with State and Federal laws and inter-  
25 national treaties; and

1           (6) other matters as necessary to develop regu-  
2           lations that meet the standards specified in section  
3           231 and allow for the responsible development of  
4           wind energy.

5           (b) COMMITTEE OPERATIONS.—The Wind Turbine  
6 Guidelines Advisory Committee shall conduct its oper-  
7 ations in accordance with the Federal Advisory Committee  
8 Act (5 U.S.C. App.).

9           (c) COMMITTEE MEMBERSHIP.—The Committee  
10 shall not exceed 20 members. The members shall be ap-  
11 pointed by the Secretary to achieve balanced representa-  
12 tion of all relevant stakeholder interests including rep-  
13 resentatives from the United State Fish and Wildlife Serv-  
14 ice, the United States Geological Survey, and other Fed-  
15 eral agencies, as well as representatives from other inter-  
16 ested persons including States, tribes, wind energy devel-  
17 opment organizations, nongovernmental conservation or-  
18 ganizations, and local regulatory and licensing commis-  
19 sions.

20           (d) REPORT TO SECRETARY.—The Wind Turbine  
21 Advisory Committee shall, within 2 years after the date  
22 of enactment of this subtitle, submit a report to the Sec-  
23 retary providing recommendations and advice on effective  
24 standards and requirements to protect birds, bats, and  
25 other wildlife that may interact with wind projects.

1 **SEC. 233. NATIONAL WIND ENERGY AND WILDLIFE SURVEY.**

2 (a) IN GENERAL.—The Secretary, acting through the  
3 Director and in coordination with the United States Geo-  
4 logical Survey and other appropriate agencies within the  
5 Department, shall complete within one year after the date  
6 of enactment of this subtitle a national survey (including  
7 of relevant areas of the Outer Continental Shelf) of migra-  
8 tory bird and bat habitat, that identifies areas with a high-  
9 risk potential for adverse impacts of wind projects for  
10 birds, bats, and other wildlife to better support informed  
11 and science-based decisions regarding the responsible de-  
12 velopment of the wind energy industry.

13 (b) CONTENTS.—The survey shall include the fol-  
14 lowing elements:

15 (1) Preparation of maps of observed and pre-  
16 dicted bird and bat abundance and densities that  
17 identify locations where birds, bats, and other wild-  
18 life reasonably can be expected to experience a high  
19 risk of adverse impacts from wind projects and  
20 where the development of wind projects should be  
21 prohibited or avoided.

22 (2) Documentation of broad-scale patterns of  
23 daytime and nocturnal migration routes and pat-  
24 terns, including flight directions, altitudes, passage  
25 rates, and population densities.

1           (3) Information regarding the effects of weath-  
2 er, topography, and other variables that affect bird  
3 and bat migrant densities and flight characteristics.

4           (4) Overlay information identifying critical  
5 habitats or other sensitive ecological areas including  
6 areas such as national wildlife refuges, national  
7 parks, national grasslands and conservation areas,  
8 national forests, wilderness areas and wilderness  
9 study areas, national marine sanctuaries, national  
10 estuarine research reserves, and other similar areas  
11 established under State or regional conservation  
12 plans.

13           (5) Information identifying areas of high wind  
14 power potential and relative low-risk adverse impacts  
15 to birds, bats, and other wildlife that are appropriate  
16 for the responsible development of wind energy.

17           (6) Other information considered necessary by  
18 the Director.

19       (c) COORDINATION WITH STATES AND OTHERS.—  
20 The Secretary shall consult with State wildlife agencies,  
21 wind energy operators, and other relevant stakeholders in  
22 the design and implementation of the survey, and may in-  
23 corporate applicable surveys, monitoring data, research,  
24 and other information as the Secretary considers nec-  
25 essary to improve the accuracy of the survey.

1 (d) REPORT TO SECRETARY AND ADVISORY COM-  
2 MITTEE.—Upon completion of the survey the Director  
3 shall forward copies to the Secretary and to the advisory  
4 committee convened under section 232 for their review  
5 and consideration in the development of standards and re-  
6 quirements established under that section.

7 **SEC. 234. ENFORCEMENT.**

8 The Secretary shall enforce the Endangered Species  
9 Act of 1973, the Migratory Bird Treaty Act, the Bald  
10 Eagle Protection Act, the Golden Eagle Protection Act,  
11 the Marine Mammal Protection Act of 1973, the National  
12 Environmental Policy Act of 1969, and any other relevant  
13 Federal law to address adverse wildlife impacts related to  
14 wind projects. Nothing in this section preempts State en-  
15 forcement of applicable State laws.

16 **SEC. 235. DEFINITIONS.**

17 As used in this subtitle:

18 (1) DIRECTOR.—The term “Director” means  
19 the Director of the United States Fish and Wildlife  
20 Service, or a designee of that Director.

21 (2) INDEPENDENT SCIENTIST.—The term  
22 “independent scientist” means a scientist who is not  
23 an employee of, or regular consultant to, the wind  
24 power industry.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (4) WIND PROJECT.—The term “wind project”  
4           means any project in the United States that uses  
5           wind and industrial turbines to generate power for  
6           utility distribution in excess of 20 megawatts.

7           **Subtitle E—Enhancing Energy**  
8           **Transmission**

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

10          (a) ANALYSIS.—The Secretary of Energy, acting  
11          through the Administrators of the Bonneville and Western  
12          Area Power Marketing Administrations and in coordina-  
13          tion with regional transmission entities, shall conduct, or  
14          participate with such regional transmission entities to con-  
15          duct, an analysis of the existing capacity of transmission  
16          systems serving the States of California, Oregon, and  
17          Washington to determine whether the existing capacity is  
18          adequate to accommodate and integrate development and  
19          commercial operation of ocean wave, tidal, and current en-  
20          ergy projects in State and Federal marine waters adjacent  
21          to those States.

22          (b) REPORT.—Based on the analysis conducted under  
23          subsection (a), the Secretary of Energy shall prepare and  
24          provide to the Natural Resources Committee of the House  
25          of Representatives and the Energy and Natural Resources

1 Committee of the Senate, not later than one year after  
2 the date of enactment of this Act, a report identifying  
3 changes required, if any, in the capacity of existing trans-  
4 mission systems serving the States referred to in sub-  
5 section (a) in order to reliably and efficiently accommodate  
6 and integrate generation from commercial ocean wave,  
7 tidal, and current energy projects in aggregate, escalating  
8 amounts equal to 2.5, 5, and 10 percent of the current  
9 electrical energy consumption in those States.

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

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

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

17 “OCEAN AND COASTAL ALTERNATIVE ENERGY STATE  
18 SURVEYS; ALTERNATIVE ENERGY SITE IDENTIFICA-  
19 TION AND PLANNING

20 “SEC. 306B. (a) GRANTS TO STATES.—The Sec-  
21 retary may make grants to eligible coastal States to sup-  
22 port voluntary State efforts to initiate and complete sur-  
23 veys of portions of coastal State waters and Federal wa-  
24 ters adjacent to a State’s coastal zone, in consultation  
25 with the Minerals Management Service, to identify poten-  
26 tial areas suitable or unsuitable for the exploration, devel-



1 opment, and production of alternative energy that are con-  
2 sistent with the enforceable policies of coastal manage-  
3 ment plans approved pursuant to section 306A.

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

7 “(1) hydrographic and bathymetric surveys;

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

11 “(3) identification and characterization of sig-  
12 nificant or sensitive marine ecosystems or other  
13 areas possessing important conservation, rec-  
14 reational, ecological, historic, or aesthetic values;

15 “(4) surveys of existing marine uses in the OCS  
16 and identification of potential conflicts;

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

20 “(6) other actions as may be necessary.

21 “(c) PARTICIPATION AND COOPERATION.—To the ex-  
22 tent practicable, coastal States shall provide opportunity  
23 for the participation in surveys under this section by rel-  
24 evant Federal agencies, State agencies, local governments,  
25 regional organizations, port authorities, and other inter-

1 ested parties and stakeholders, public and private, that is  
2 adequate to develop a comprehensive survey.

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

7 “(e) ANNUAL GRANTS.—For each of fiscal years  
8 2008 through 2011, the Secretary may make a grant to  
9 a coastal State under this section if the coastal State dem-  
10 onstrates to the satisfaction of the Secretary that the  
11 grant will be used to develop an alternative energy survey  
12 consistent with the requirements set forth in section 306A  
13 and this section.

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

17 “(g) STATE MATCH.—

18 “(1) BEFORE FISCAL YEAR 2010.—The Sec-  
19 retary shall not require any State matching fund  
20 contribution for grants awarded under this section  
21 for any fiscal year before fiscal year 2010.

22 “(2) AFTER FISCAL YEAR 2010.—The Secretary  
23 shall require a coastal State to provide a matching  
24 fund contribution for a grant under this section for  
25 surveys of a State’s coastal waters, according to—

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

3                   “(B) a 1-to-1 ratio of Federal-to-State  
4                   contributions for fiscal year 2011.

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

8                   “(h) SECRETARIAL REVIEW.—After an initial grant  
9                   is made to a coastal State under this section, no subse-  
10                  quent grant may be made to that coastal State under this  
11                  section unless the Secretary finds that the coastal State  
12                  is satisfactorily developing its survey.

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

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

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

10       “(l) ASSISTANCE BY THE SECRETARY.—The Sec-  
11 retary shall—

12               “(1) under section 307(a) and to the extent  
13 practicable, make available to coastal States the re-  
14 sources and capabilities of the National Oceanic and  
15 Atmospheric Administration to provide technical as-  
16 sistance to the coastal States to develop surveys  
17 under this section; and

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

21       (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
22 318(a) of the Coastal Zone Management Act of 1972 (16  
23 U.S.C. 1464) is amended—

24               (1) in paragraph (1) by striking “and” after  
25 the semicolon;

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

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

4           “(3) for grants under section 306B such sums  
5           as are necessary; and”.

6   **SEC. 302. CANAL-SIDE POWER PRODUCTION AT BUREAU OF**  
7                                   **RECLAMATION PROJECTS.**

8           Not later than one year after the date of the enact-  
9           ment of this Act, the Secretary of the Interior shall com-  
10          plete an evaluation and report to Congress on the potential  
11          for developing rights-of-way along Bureau of Reclamation  
12          canals and infrastructure for solar or wind energy produc-  
13          tion through leasing of lands or other means. The report  
14          to Congress shall specify—

15                 (1) location of potential rights-of-way for en-  
16                 ergy production;

17                 (2) total acreage available for energy produc-  
18                 tion;

19                 (3) existing transmission infrastructure at sites;

20                 (4) estimates of fair market leasing value of po-  
21                 tential energy sites; and

22                 (5) estimate energy development potential at  
23                 sites.

1 **SEC. 303. INCREASING ENERGY EFFICIENCIES FOR WATER**  
2 **DESALINATION.**

3 The Water Desalination Act of 1996 (42 U.S.C.  
4 10301 note; Public Law 104–298) is amended by adding  
5 at the end the following new section:

6 **“SEC. 10. RESEARCH ON REVERSE OSMOSIS TECHNOLOGY**  
7 **FOR WATER DESALINATION AND WATER RE-**  
8 **CYCLING.**

9 “(a) RESEARCH PROGRAM.—The Secretary of the In-  
10 terior, in consultation with the Secretary of Energy, shall  
11 implement a program to research methods for improving  
12 the energy efficiency of reverse osmosis technology for  
13 water desalination and water recycling.

14 “(b) REPORT.—Not later than one year after the  
15 date of the enactment of this Act, the Secretary of the  
16 Interior shall submit to Congress a report which shall in-  
17 clude—

18 “(1) a review of existing and emerging tech-  
19 nologies, both domestic and international, that are  
20 likely to improve energy efficiency or utilize renew-  
21 able energy sources at existing and future desalina-  
22 tion and recycling facilities; and

23 “(2) an analysis of the economic viability of en-  
24 ergy efficiency technologies.”.

1 **SEC. 304. ESTABLISHING A PILOT PROGRAM FOR THE DE-**  
2 **VELOPMENT OF STRATEGIC SOLAR RE-**  
3 **SERVES ON FEDERAL LANDS.**

4 (a) PURPOSE.—The purpose of this section is to es-  
5 tablish a pilot program for the development of strategic  
6 solar reserve on Federal lands for the advancement, devel-  
7 opment, assessment, and installation of commercial con-  
8 centrating solar power energy systems.

9 (b) STRATEGIC SOLAR RESERVE PROGRAM.—

10 (1) SITE SELECTION.—The Secretary of the In-  
11 terior, in consultation with the Secretary of Energy,  
12 the Secretary of Defense, and the Federal Energy  
13 Regulatory Commission, States, tribal, or local units  
14 of governments, as appropriate, affected utility in-  
15 dustries, and other interested persons, shall complete  
16 the following:

17 (A) Identify Federal lands under the juris-  
18 diction of the Bureau of Land Management,  
19 subject to valid existing rights, that are suitable  
20 and feasible for the installation of concentrating  
21 solar power energy systems sufficient to create  
22 a solar energy reserve of no less than 4 GW  
23 and no more than 10 GW.

24 (B) Perform any environmental reviews  
25 that may be required to complete the designa-  
26 tion of such solar reserves.

1 (C) Incorporate the designated solar re-  
2 serves into the relevant agency land use and re-  
3 source management plans or equivalent plans.

4 (D) Identify the needed transmission up-  
5 grades to the solar reserves.

6 (2) MINIMUM POWER OF SITES.—Each site  
7 identified as suitable and feasible for the installation  
8 of concentrating solar power systems shall be suffi-  
9 cient for the installation of at least 1 GW.

10 (3) LANDS NOT INCLUDED.—The following  
11 Federal lands shall not be included within a stra-  
12 tegic solar reserve site:

13 (A) Components of the National Land-  
14 scape Conservation System.

15 (B) Areas of Critical Environmental Con-  
16 cern.

17 (4) IMPLEMENTATION OF THE STRATEGIC  
18 SOLAR RESERVE.—(A) The Secretary of Energy and  
19 the Secretary of Interior shall expeditiously imple-  
20 ment a strategic solar reserve program for concen-  
21 trating solar energy to produce no less than 4 GW  
22 and no more than 10 GW on such Federal lands,  
23 following the completion of the requirements con-  
24 tained in subparagraph (B).



1           (B) The Secretary of Energy, in consultation  
2           with the Secretary of the Interior, shall establish a  
3           program within the Department of Energy to admin-  
4           ister the selection of concentrating solar power tech-  
5           nologies for use on such Federal lands identified in  
6           paragraph (1)(A). The Secretary of Energy shall es-  
7           tablish criteria for an application process to allow  
8           for a variety of concentrating solar technologies and  
9           for project development milestones to ensure due  
10          diligence in the development of the strategic solar  
11          reserves.

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

23           (6) PERMITS.—The Secretary of the Interior  
24          shall ensure that all strategic solar reserve installa-  
25          tion pursuant to this section is permitted using an

1 expedited permitting process. The Secretary shall, in  
2 consultation with the Secretary of Energy, complete  
3 the preparation of a Programmatic Environmental  
4 Impact Statement by the Departments of Energy  
5 and Interior for concentrating solar power on Fed-  
6 eral lands.

7 (7) RENTAL FEES; LEASE TERM.—The rental  
8 fee for each strategic solar reserve right-of-way au-  
9 thorization under this subsection shall be established  
10 at \$300 per acre during the 10-year period begin-  
11 ning on the date of the enactment of this Act. Rent-  
12 al fees after such period shall be established by regu-  
13 lations promulgated by the Secretary of the Interior  
14 and shall be adjusted by the Secretary each 5 years  
15 thereafter. The rental fee shall be paid in annual  
16 payments commencing on the day of operation. Dur-  
17 ing the development and construction phase of a  
18 project, the rental fee shall be waived. The leases  
19 shall be for a term of 30 years. The rental fees es-  
20 tablished in this section shall apply to all concen-  
21 trating solar power projects that have pending appli-  
22 cations with the Bureau of Land Management as of  
23 June 1, 2007.

24 (8) REPORT TO CONGRESS.—The Secretary of  
25 the Interior, in consultation with the Secretary of

1 Energy, shall submit a report to Congress on the  
2 findings of the pilot project—

3 (A) not later than 3 years after the instal-  
4 lation of the first facility pursuant to this sec-  
5 tion; and

6 (B) 10 years after the installation of the  
7 first facility pursuant to this section.

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

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

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

20 **SEC. 305. OTEC REGULATIONS.**

21 The Administrator of the National Oceanic and At-  
22 mospheric Administration shall, within two years after the  
23 date of enactment of this Act, issue regulations necessary  
24 to implement the Administrator's authority to license off-  
25 shore thermal energy conversion facilities under the Ocean

1 Thermal Energy Conversion Research, Development, and  
2 Demonstration Act (42 U.S.C. 9001 et seq.).

3 **SEC. 307. BIOMASS UTILIZATION PILOT PROGRAM.**

4 (a) REPLACEMENT OF CURRENT GRANT PRO-  
5 GRAM.—Section 210 of the Energy Policy Act of 2005 (42  
6 U.S.C. 15855) is amended to read as follows:

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

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

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

13 “(2) As a consequence of this linkage, the proc-  
14 ess of developing and evaluating appropriate tech-  
15 nologies and facilities for woody biomass energy and  
16 utilization must be integrated with long-term forest  
17 management planning processes, particularly in situ-  
18 ations where Federal lands dominate the forested  
19 landscape.

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

25 “(1) ecological forest restoration;

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

3           “(3) pre-commercial thinnings;

4           “(4) brush;

5           “(5) mill residues; and

6           “(6) slash.

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

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

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

24           “(3) The testing of multiple technologies and  
25 approaches to biomass utilization for energy, with

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

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

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

1           “(1) Federal land containing old growth forest  
2           or late successional forest.

3           “(2) Federal land on which the removal of vege-  
4           tation is prohibited, including components of the Na-  
5           tional Wilderness Preservation System.

6           “(3) Wilderness Study Areas.

7           “(4) Inventoried roadless areas.

8           “(5) Components of the National Landscape  
9           Conservation System.

10          “(6) National Monuments.

11          “(f) MULTIPLE PROJECTS.—In conducting the pilot  
12          program, the Secretary concerned shall include a variety  
13          of projects involving—

14                 “(1) innovations in facilities of various sizes  
15                 and processing techniques; and

16                 “(2) the full spectrum of woody biomass pro-  
17                 ducing regions of the United States.

18          “(g) SELECTION CRITERIA AND PROJECT SCALE.—  
19          In selecting the projects to be conducted under the pilot  
20          program, and the appropriate scale of projects, the Sec-  
21          retary concerned shall consider criteria that evaluate exist-  
22          ing economic, ecological, and social conditions, focusing on  
23          opportunities such as workforce training, job creation, eco-  
24          system health, reducing energy costs, and facilitating the  
25          production of alternative energy fuels. The agreement on

1 the scale of a project shall be reached through a collabo-  
2 rative approach, as evidenced by the broad involvement,  
3 analysis, and agreement of interested persons, including  
4 local governments, energy developers, conservationists,  
5 and land management agencies. In selecting the appro-  
6 priate scale of projects to be conducted under the pilot  
7 program, the Secretary concerned shall also consider the  
8 results of the supply study as outlined in subsection (d).

9       “(h) MONITORING AND REPORTING REQUIRE-  
10 MENTS.—As part of the pilot program, the Secretary con-  
11 cerned shall impose monitoring and reporting require-  
12 ments to ensure that the ecological, social, and economic  
13 effects of the projects conducted under the pilot program  
14 are being monitored and that the accomplishments, chal-  
15 lenges, and lessons of each project are recorded and re-  
16 ported.

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

18               “(1) HIGHEST AND BEST USE.—The term  
19       ‘highest and best use’, with regard to biomass,  
20       means—

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

24                       “(B) yielding a wide range of existing and  
25                       innovative products and biomass uses that cre-



1           ate new markets, stimulate existing ones, and  
2           improve rural economies, maintains or improves  
3           ecosystem integrity, while also supporting tradi-  
4           tional biomass energy generation.

5           “(2) PILOT PROGRAM.—The term ‘pilot pro-  
6           gram’ means the Biomass Utilization Pilot Program  
7           established pursuant to this section.

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

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

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

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

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

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

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

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

“210. Biomass utilization pilot program.”.

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

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

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

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

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

10 (a) DEFINITIONS.—In this section:

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

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

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

1           (4) RISK.—The term “risk” includes any risk  
2           posed       by       geomechanical,       geochemical,  
3           hydrogeological, structural, and engineered hazards.

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

7           (6) STORAGE FORMATION.—The term “storage  
8           formation” means a deep saline formation,  
9           unmineable coal seam, or oil or gas reservoir that is  
10          capable of accommodating a volume of industrial  
11          carbon dioxide.

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

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

18               (2) the capacity of the potential storage forma-  
19               tions;

20               (3) the injectivity of the potential storage for-  
21               mations;

22               (4) an estimate of potential volumes of oil and  
23               gas recoverable by injection and storage of industrial  
24               carbon dioxide in potential storage formations;

1           (5) the risk associated with the potential stor-  
2           age formations; and

3           (6) the Carbon Sequestration Atlas of the  
4           United States and Canada that was completed by  
5           the Department of Energy in April 2006.

6           (c) COORDINATION.—

7           (1) FEDERAL COORDINATION.—

8           (A) CONSULTATION.—The Secretary shall  
9           consult with the Secretary of Energy and the  
10          Administrator of the Environmental Protection  
11          Agency on issues of data sharing, format, devel-  
12          opment of the methodology, and content of the  
13          assessment required under this section to en-  
14          sure the maximum usefulness and success of  
15          the assessment.

16          (B) COOPERATION.—The Secretary of En-  
17          ergy and the Administrator shall cooperate with  
18          the Secretary to ensure, to the maximum extent  
19          practicable, the usefulness and success of the  
20          assessment.

21          (2) STATE COORDINATION.—The Secretary  
22          shall consult with State geological surveys and other  
23          relevant entities to ensure, to the maximum extent  
24          practicable, the usefulness and success of the assess-  
25          ment.

1 (d) EXTERNAL REVIEW AND PUBLICATION.—On  
2 completion of the methodology under subsection (b), the  
3 Secretary shall—

4 (1) publish the methodology and solicit com-  
5 ments from the public and the heads of affected  
6 Federal and State agencies;

7 (2) establish a panel of individuals with exper-  
8 tise in the matters described in paragraphs (1)  
9 through (5) of subsection (b) composed, as appro-  
10 priate, of representatives of Federal agencies, insti-  
11 tutions of higher education, nongovernmental organi-  
12 zations, State organizations, industry, and inter-  
13 national geoscience organizations to review the  
14 methodology and comments received under para-  
15 graph (1); and

16 (3) on completion of the review under para-  
17 graph (2), publish in the Federal Register the re-  
18 vised final methodology.

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

23 (f) NATIONAL ASSESSMENT.—

24 (1) IN GENERAL.—Not later than 2 years after  
25 the date of publication of the methodology under

1 subsection (d)(1), the Secretary, in consultation with  
2 the Secretary of Energy and State geological sur-  
3 veys, shall complete a national assessment of capac-  
4 ity for carbon dioxide in accordance with the meth-  
5 odology.

6 (2) GEOLOGICAL VERIFICATION.—As part of  
7 the assessment under this subsection, the Secretary  
8 shall carry out a drilling program to supplement the  
9 geological data relevant to determining storage ca-  
10 pacity of carbon dioxide in geological storage forma-  
11 tions, including—

12 (A) well log data;

13 (B) core data; and

14 (C) fluid sample data.

15 (3) PARTNERSHIP WITH OTHER DRILLING PRO-  
16 GRAMS.—As part of the drilling program under  
17 paragraph (2), the Secretary shall enter, as appro-  
18 priate, into partnerships with other entities to collect  
19 and integrate data from other drilling programs rel-  
20 evant to the storage of carbon dioxide in geologic  
21 formations.

22 (4) INCORPORATION INTO NATCARB.—

23 (A) IN GENERAL.—On completion of the  
24 assessment, the Secretary of Energy shall incor-  
25 porate the results of the assessment using the

1 NatCarb database, to the maximum extent  
2 practicable.

3 (B) RANKING.—The database shall include  
4 the data necessary to rank potential storage  
5 sites for capacity and risk, across the United  
6 States, within each State, by formation, and  
7 within each basin.

8 (5) REPORT.—Not later than 180 days after  
9 the date on which the assessment is completed, the  
10 Secretary shall submit to the Committee on Natural  
11 Resources of the House of Representatives and the  
12 Committee on Energy and Natural Resources of the  
13 Senate a report describing the findings under the as-  
14 sessment.

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

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out this section  
21 \$30,000,000 for the period of fiscal years 2008 through  
22 2012.



1                   **Subtitle B—Terrestrial**  
2                   **Sequestration Assessment**

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

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

6               (1) conduct an assessment of the amount of  
7 carbon stored in terrestrial, aquatic, and coastal eco-  
8 systems (including estuaries);

9               (2) determine the processes that control the  
10 flux of carbon in and out of each ecosystem;

11              (3) estimate the potential for increasing carbon  
12 sequestration in natural systems through manage-  
13 ment measures or restoration activities in each eco-  
14 system; and

15              (4) develop near-term and long-term adaptation  
16 strategies that can be employed to enhance the se-  
17 questration of carbon in each ecosystem.

18           (b) USE OF NATIVE PLANT SPECIES.—In developing  
19 management measures, restoration activities, or adapta-  
20 tion strategies, the Secretary shall emphasize the use of  
21 native plant species for each ecosystem.

22           (c) CONSULTATION.—The Secretary shall develop the  
23 methodology and conduct the assessment in consultation  
24 with the Secretary of Energy, the Administrator of the

1 National Oceanic and Atmospheric Administration, and  
2 the heads of other relevant agencies.

3 **SEC. 422. METHODOLOGY.**

4 (a) IN GENERAL.—Within 270 days after the date  
5 of enactment of this Act, the Secretary shall develop a  
6 methodology for conducting the assessment.

7 (b) PUBLICATION OF PROPOSED METHODOLOGY;  
8 COMMENT.—Upon completion of a proposed methodology,  
9 the Secretary shall publish the proposed methodology and  
10 solicit comments from the public and heads of affected  
11 Federal and State agencies for 60 days before publishing  
12 a final methodology.

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

14 The Secretary shall—

15 (1) complete the national assessment within 2  
16 years after publication of the final methodology  
17 under section 422; and

18 (2) submit a report describing the results of the  
19 assessment to the House Committee on Natural Re-  
20 sources and the Senate Committee on Energy and  
21 Natural Resources within 180 days after the assess-  
22 ment is completed.

1 **SEC. 424. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to carry out  
3 this subtitle \$15,000,000 for the period of fiscal years  
4 2008 through 2012.

5 **Subtitle C—Sequestration**  
6 **Activities**

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

8 Section 354 of the Energy Policy Act of 2005 (42  
9 U.S.C. 15910) is amended by redesignating subsection (d)  
10 as subsection (e), and by inserting after subsection (c) the  
11 following:

12 “(d) RECORDS AND INVENTORY.—The Secretary of  
13 the Interior, acting through the Bureau of Land Manage-  
14 ment, shall maintain records on and an inventory of the  
15 amount of carbon dioxide stored from Federal energy  
16 leases.”.

17 **SEC. 432. FRAMEWORK FOR GEOLOGICAL CARBON SEQUES-**  
18 **TRATION ON FEDERAL LANDS.**

19 Not later than 1 year after the date of enactment  
20 of this Act, the Secretary of the Interior shall submit to  
21 the Committee on Natural Resources of the House of Rep-  
22 resentatives and the Committee on Energy and Natural  
23 Resources of the Senate a report on a recommended regu-  
24 latory and certification framework for conducting geologi-  
25 cal carbon sequestration activities on Federal lands. The  
26 Secretary shall identify a lead agency within the Depart-

1 ment of the Interior to develop this framework. One of  
2 the goals of the framework shall be to identify what ac-  
3 tions need to be taken in order to allow for commercial-  
4 scale geological carbon sequestration activities to be un-  
5 dertaken on Federal lands as expeditiously as possible.

6 **Subtitle D—Natural Resources and**  
7 **Wildlife Programs**

8 **CHAPTER 1—NATURAL RESOURCES**

9 **MANAGEMENT AND CLIMATE CHANGE**

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

11 (a) ESTABLISHMENT.—The Secretary of the Interior  
12 shall establish an interagency Council on Climate Change  
13 to address the impacts of climate change on Federal lands,  
14 the ocean environment, and the Federal water infrastruc-  
15 ture. The panel shall include the head of each of the fol-  
16 lowing agencies:

17 (1) The Bureau of Land Management.

18 (2) The National Park Service.

19 (3) United States Geological Survey.

20 (4) The United States Fish and Wildlife Serv-  
21 ice.

22 (5) The Forest Service.

23 (6) The National Oceanic and Atmospheric Ad-  
24 ministration.

25 (7) The Bureau of Reclamation.

1 (8) The Council on Environmental Quality.

2 (9) The Minerals Management Service.

3 (b) PLAN.—Not later than one year after the date  
4 of the enactment of this Act, the Secretary of the Interior  
5 shall submit a plan to Congress describing what the agen-  
6 cies listed in subsection (a) shall do both individually and  
7 cooperatively to accomplish the following:

8 (1) Working in cooperation with the United  
9 States Geological Survey, develop an interagency in-  
10 ventory and Geographic Information System data-  
11 base of United States ecosystems, water supplies,  
12 and water infrastructure vulnerable to climate  
13 change.

14 (2) Manage land, water, and ocean resources in  
15 a manner that takes into account projected climate  
16 change impacts, including but not limited to, pro-  
17 longed periods of drought, changing hydrology, and  
18 in the case of oceans, increasing ocean acidification.

19 (3) Develop consistent protocols to incorporate  
20 climate change impacts in land and water manage-  
21 ment decisions across land and water resources  
22 under the jurisdiction of those agencies listed in sub-  
23 section (a).

24 (4) Incorporate the most current, peer-reviewed  
25 science on climate change and the economic, social,

1 and ecological impacts of climate change into the de-  
2 cision making process of those agencies listed in sub-  
3 section (a).

4 **CHAPTER 2—NATIONAL POLICY AND**  
5 **STRATEGY FOR WILDLIFE**

6 **SEC. 451. SHORT TITLE.**

7 This chapter may be cited as the “Global Warming  
8 Wildlife Survival Act”.

9 **SEC. 452. NATIONAL POLICY ON WILDLIFE AND GLOBAL**  
10 **WARMING.**

11 It is the policy of the Federal Government, in co-  
12 operation with State, tribal, and affected local govern-  
13 ments, other concerned public and private organizations,  
14 landowners, and citizens to use all practicable means and  
15 measures—

16 (1) to assist wildlife populations and their habi-  
17 tats in adapting to and surviving the effects of glob-  
18 al warming; and

19 (2) to ensure the persistence and resilience of  
20 the wildlife of the United States, together with its  
21 habitat, as an essential part of our Nation’s culture,  
22 landscape, and natural resources.

23 **SEC. 453. DEFINITIONS.**

24 In this chapter:

1           (1) ECOLOGICAL PROCESSES.—The term “eco-  
2           logical processes” means the biological, chemical,  
3           and physical interactions between the biotic and abi-  
4           otic components of ecosystems, including nutrient  
5           cycling, pollination, predator-prey relationships, soil  
6           formation, gene flow, hydrologic cycling, decomposi-  
7           tion, and disturbance regimes such as fire and flood-  
8           ing.

9           (2) HABITAT LINKAGES.—The term “habitat  
10          linkages” means areas that connect wildlife habitat  
11          or potential wildlife habitat, and that facilitate the  
12          ability of wildlife to move within a landscape in re-  
13          sponse to the effects of global warming.

14          (3) SECRETARY.—The term “Secretary” means  
15          the Secretary of the Interior.

16          (4) WILDLIFE.—The term “wildlife” means—  
17                (A) any species of wild, free-ranging fauna,  
18                including fish and other aquatic species; and  
19                (B) any fauna in a captive breeding pro-  
20                gram the object of which is to reintroduce indi-  
21                viduals of a depleted indigenous species into  
22                previously occupied range.

23          (5) HABITAT.—The term “habitat” means the  
24          physical, chemical, and biological properties that are  
25          used by wildlife for growth, reproduction, and sur-

1       vival, including aquatic and terrestrial plant commu-  
2       nities, food, water, cover, and space, on a tract of  
3       land, in a body of water, or in an area or region.

4   **SEC. 454. NATIONAL STRATEGY.**

5       (a) REQUIREMENT.—

6           (1) IN GENERAL.—The Secretary shall, within  
7       two years after the date of the enactment of this  
8       Act, on the basis of the best available science as pro-  
9       vided by the science advisory board under section  
10      455, promulgate a national strategy for assisting  
11      wildlife populations and their habitats in adapting to  
12      the impacts of global warming.

13          (2) CONSULTATION AND COMMENT.—In devel-  
14      oping the national strategy, the Secretary shall—

15           (A) consult with the Secretary of Agri-  
16           culture, the Secretary of Commerce, the Admin-  
17           istrator of the Environmental Protection Agen-  
18           cy, State fish and wildlife agencies, Indian  
19           tribes, local governments, conservation organi-  
20           zations, scientists, and other interested stake-  
21           holders; and

22           (B) provide opportunity for public com-  
23           ment.

24      (b) CONTENTS.—



1           (1) IN GENERAL.—The Secretary shall include  
2           in the national strategy prioritized goals and meas-  
3           ures to—

4                   (A) identify and monitor wildlife popu-  
5                   lations, including game species, likely to be ad-  
6                   versely affected by global warming, with par-  
7                   ticular emphasis on wildlife populations at  
8                   greatest need for conservation;

9                   (B) identify and monitor coastal, marine,  
10                  terrestrial, and freshwater habitat at greatest  
11                  risk of being damaged by global warming;

12                  (C) assist species in adapting to the im-  
13                  pacts of global warming;

14                  (D) protect, acquire, and restore wildlife  
15                  habitat to build resilience to global warming;

16                  (E) provide habitat linkages and corridors  
17                  to facilitate wildlife movements in response to  
18                  global warming;

19                  (F) restore and protect ecological processes  
20                  that sustain wildlife populations vulnerable to  
21                  global warming; and

22                  (G) incorporate consideration of climate  
23                  change in, and integrate climate change adapta-  
24                  tion strategies for wildlife and its habitat into,  
25                  the planning and management of Federal lands

1           administered by the Department of the Interior  
2           and lands administered by the Forest Service.

3           (2) COORDINATION WITH OTHER PLANS.—In  
4           developing the national strategy, the Secretary shall  
5           to the maximum extent practicable—

6                   (A) take into consideration research and  
7                   information in State comprehensive wildlife con-  
8                   servation plans, the North American Waterfowl  
9                   Management Plan, the National Fish Habitat  
10                  Action Plan, and other relevant wildlife con-  
11                  servation plans; and

12                   (B) coordinate and integrate, to the extent  
13                   consistent with the policy set forth in section  
14                   452, the goals and measures identified in the  
15                   national strategy with goals and measures iden-  
16                   tified in such plans.

17           (c) REVISION.—The Secretary shall revise the na-  
18           tional strategy not later than five years after its initial  
19           promulgation, and not later than every ten years there-  
20           after, to reflect new information on the impacts of global  
21           warming on wildlife and its habitat and advances in the  
22           development of strategies for adapting to or mitigating for  
23           such impacts.

24           (d) IMPLEMENTATION.—

1           (1) IMPLEMENTATION ON FEDERAL LAND SYS-  
2           TEMS.—To achieve the goals of the national strategy  
3           and to implement measures for the conservation of  
4           wildlife and its habitat identified in the national  
5           strategy—

6                   (A) the Secretary of the Interior shall exer-  
7                   cise the authority of such Secretary under this  
8                   Act and other laws within the Secretary's juris-  
9                   diction pertaining to the administration of  
10                  lands; and

11                   (B) the Secretary of Agriculture shall exer-  
12                   cise the authority of such Secretary under this  
13                   Act and other laws within the Secretary's juris-  
14                   diction pertaining to the administration of  
15                  lands.

16           (2) WILDLIFE CONSERVATION PROGRAMS.—  
17           Consistent with their authorities under other laws,  
18           the Secretary, the Secretary of Agriculture, and the  
19           Secretary of Commerce shall administer wildlife con-  
20           servation programs authorized under other laws to  
21           achieve the goals of the national strategy and to im-  
22           plement measures for the conservation of wildlife  
23           and its habitat identified in the national strategy.

24   **SEC. 455. ADVISORY BOARD.**

25           (a) SCIENCE ADVISORY BOARD.—

1           (1) IN GENERAL.—The Secretary shall establish  
2           and appoint the members of a science advisory board  
3           comprised of not less than 10 and not more than 20  
4           members recommended by the President of the Na-  
5           tional Academy of Sciences with expertise in wildlife  
6           biology, ecology, climate change and other relevant  
7           disciplines. The director of the National Global  
8           Warming and Wildlife Science Center established  
9           under subsection (b) shall be an ex officio member  
10          of the science advisory board.

11          (2) FUNCTIONS.—The science advisory board  
12          shall—

13                (A) provide scientific and technical advice  
14                and recommendations to the Secretary on the  
15                impacts of global warming on wildlife and its  
16                habitat, areas of habitat of particular impor-  
17                tance for the conservation of wildlife popu-  
18                lations affected by global warming, and strate-  
19                gies and mechanisms to assist wildlife popu-  
20                lations and their habitats in adapting to the im-  
21                pacts of global warming in the management of  
22                Federal lands and in other Federal programs  
23                for wildlife conservation;

24                (B) advise the National Global Warming  
25                and Wildlife Science Center established under

1 subsection (b) and review the quality of the re-  
2 search programs of the Center; and

3 (C) advise the Secretary regarding the best  
4 science available for purposes of section  
5 454(a)(1).

6 (3) PUBLIC AVAILABILITY.—The advice and  
7 recommendations of the science advisory board shall  
8 be available to the public.

9 (b) NATIONAL GLOBAL WARMING AND WILDLIFE  
10 SCIENCE CENTER.—

11 (1) IN GENERAL.—The Secretary shall establish  
12 the National Global Warming and Wildlife Science  
13 Center within the United States Geological Survey.

14 (2) FUNCTIONS.—The National Global Warm-  
15 ing and Wildlife Science Center shall—

16 (A) conduct scientific research on national  
17 issues related to the impacts of global warming  
18 on wildlife and its habitat and mechanisms for  
19 adaptation to, mitigation of, or prevention of  
20 such impacts;

21 (B) consult with and advise Federal land  
22 management agencies and Federal wildlife  
23 agencies regarding the impacts of global warm-  
24 ing on wildlife and its habitat and mechanisms  
25 for adaptation to or mitigation of such impacts,

1 and the incorporation of information regarding  
2 such impacts and the adoption of mechanisms  
3 for adaptation or mitigation of such impacts in  
4 the management and planning for Federal  
5 lands and in the administration of Federal wild-  
6 life programs; and

7 (C) consult with State and local agencies,  
8 universities, and other public and private enti-  
9 ties regarding their research, monitoring, and  
10 other efforts to address the impacts of global  
11 warming on wildlife and its habitat.

12 (3) INTEGRATION WITH OTHER FEDERAL AC-  
13 TIVITIES.—The Secretary, the Secretary of Agri-  
14 culture, and the Secretary of Commerce shall ensure  
15 that activities carried out pursuant to this section  
16 are integrated with climate change program activi-  
17 ties carried out pursuant to other Federal law.

18 (c) DETECTION OF CHANGES.—The Secretary, the  
19 Secretary of Agriculture, and the Secretary of Commerce  
20 shall each exercise authorities under other laws to carry  
21 out programs to detect changes in wildlife abundance, dis-  
22 tribution, and behavior related to global warming, includ-  
23 ing—

1           (1) conducting species inventories on Federal  
2 lands and in marine areas within the exclusive eco-  
3 nomic zone of the United States; and

4           (2) establishing and implementing robust, co-  
5 ordinated monitoring programs.

6 **SEC. 456. AUTHORIZATION OF APPROPRIATIONS.**

7           (a) IMPLEMENTATION OF NATIONAL STRATEGY.—Of  
8 the amounts appropriated to carry out this chapter for  
9 each fiscal year—

10           (1) 45 percent are authorized to be made avail-  
11 able to Federal agencies to develop and implement  
12 the national strategy promulgated under section 454  
13 in the administration of the Federal land systems, of  
14 which—

15           (A) 35 percent shall be allocated to the  
16 Department of the Interior to—

17           (i) operate the National Global Warm-  
18 ing and Wildlife Science Center established  
19 under section 455; and

20           (ii) carry out the policy set forth in  
21 section 452 and implement the national  
22 strategy in the administration of the Na-  
23 tional Park System the National Wildlife  
24 Refuge System, and on the Bureau of  
25 Land Management's public lands; and

1           (B) 10 percent shall be allocated to the  
2           Department of Agriculture to carry out the pol-  
3           icy set forth in section 452 and implement the  
4           national strategy in the administration of the  
5           National Forest System;

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

12           (A) 10 percent shall be allocated to the  
13           Department of the Interior to fund endangered  
14           species, migratory bird, and other fish and wild-  
15           life programs administered by the United  
16           States Fish and Wildlife Service, other than op-  
17           erations and maintenance of the national wild-  
18           life refuges; and

19           (B) 15 percent shall be allocated to the  
20           Department of the Interior for implementation  
21           of cooperative grant programs benefiting wild-  
22           life including the Cooperative Endangered Spe-  
23           cies Fund, Private Stewardship Grants, the  
24           North American Wetlands Conservation Act,  
25           the Neotropical Migratory Bird Conservation



1 Fund, and the National Fish Habitat Action  
2 Plan, and used for activities that assist wildlife  
3 and its habitat in adapting to the impacts of  
4 global warming; and

5 (3) 30 percent are authorized to be made avail-  
6 able for grants to States and Indian tribes through  
7 the State and tribal wildlife grants program author-  
8 ized under section 461, to—

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

14 (B) revise or supplement existing State  
15 comprehensive wildlife conservation plans as  
16 necessary to include specific strategies for as-  
17 sisting wildlife and its habitat in adapting to  
18 the impacts of global warming.

19 (b) AVAILABILITY.—

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

23 (2) INITIAL 5-YEAR PERIOD.—During the 5-  
24 year period beginning on the effective date of this  
25 Act, a State shall not be eligible to receive such

1 funding unless the head of the State's wildlife agen-  
2 cy has—

3 (A) approved, and provided to the Sec-  
4 retary, an explicit strategy to assist wildlife  
5 populations in adapting to the impacts of global  
6 warming; and

7 (B) incorporated such strategy as a supple-  
8 ment to the State's comprehensive wildlife con-  
9 servation plan.

10 (3) SUBSEQUENT PERIOD.—After such 5-year  
11 period, a State shall not be eligible to receive such  
12 funding unless the State has submitted to the Sec-  
13 retary, and the Secretary has approved, a revision to  
14 its comprehensive wildlife conservation plan that—

15 (A) describes the impacts of global warm-  
16 ing on the diversity and health of the State's  
17 wildlife populations and their habitat;

18 (B) describes and prioritizes proposed con-  
19 servation actions to assist wildlife populations  
20 in adapting to such impacts;

21 (C) establishes programs for monitoring  
22 the impacts of global warming on wildlife popu-  
23 lations and their habitats; and

24 (D) establishes methods for assessing the  
25 effectiveness of conservation actions taken to

1           assist wildlife populations in adapting to such  
2           impacts and for adapting such actions to re-  
3           spond appropriately to new information or  
4           changing conditions.

5           (c) INTENT OF CONGRESS.—It is the intent of Con-  
6           gress that funding provided to Federal agencies and  
7           States pursuant to this chapter supplement, and not re-  
8           place, existing sources of funding for wildlife conservation.

9                           **CHAPTER 3—STATE AND TRIBAL**  
10                           **WILDLIFE GRANTS PROGRAM**

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

12           (a) AUTHORIZATION OF PROGRAM.—There is author-  
13           ized to be established a State and Tribal Wildlife Grants  
14           Program to be administered by the Secretary of the Inte-  
15           rior and to provide wildlife conservation grants to States  
16           and to the District of Columbia, Puerto Rico, Guam, the  
17           United States Virgin Islands, the Northern Mariana Is-  
18           lands, American Samoa, and federally recognized Indian  
19           tribes for the planning, development, and implementation  
20           of programs for the benefit of wildlife and their habitat,  
21           including species that are not hunted or fished.

22           (b) ALLOCATION OF FUNDS.—

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

1 (A) 10 percent shall be for a competitive  
2 grant program for Indian tribes that are not  
3 subject to the remaining provisions of this sec-  
4 tion;

5 (B) of the amounts remaining after the  
6 Application of subparagraph (A), and after the  
7 deduction of the Secretary's administrative ex-  
8 penses to carry out this section—

9 (i) not more than one-half of 1 per-  
10 cent shall be allocated to each of the Dis-  
11 trict of Columbia and to the Common  
12 wealth of Puerto Rico; and

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

18 (C) of the amount remaining after the ap-  
19 plication of subparagraphs (B) and (C), the sec-  
20 retary shall apportion among the States—

21 (i) one-third based on the ratio that  
22 the land area of each State bears to the  
23 total land area of all States; and

1 (ii) two-thirds based on the ratio that  
2 the population of each State bears to the  
3 total population of all States.

4 (2) ADJUSTMENTS.—The amounts apportioned  
5 under subparagraph (C) of paragraph (1) for a fis-  
6 cal year shall be adjusted equitably so that no State  
7 is apportioned under such subparagraph a sum that  
8 is—

9 (A) less than 1 percent of the amount  
10 available for apportionment under that subpara-  
11 graph that fiscal year; or

12 (B) more than 5 percent of such amount.

13 (c) COST SHARING.—

14 (1) PLAN DEVELOPMENT GRANTS.—The Fed-  
15 eral share of the costs of developing or revising a  
16 comprehensive wildlife conservation plan shall not  
17 exceed 75 percent of the total costs of developing or  
18 revising such plan.

19 (2) PLAN IMPLEMENTATION GRANTS.—The  
20 Federal share of the costs of implementing an activ-  
21 ity in an approved comprehensive wildlife conserva-  
22 tion plan carried out with a grant under this section  
23 shall not exceed 50 percent of the total costs of such  
24 activities.

1           (3) PROHIBITION ON USE OF FEDERAL  
2 FUNDS.—The non-Federal share of costs of an activ-  
3 ity carried out under this section shall not be paid  
4 with amounts derived from any Federal grant pro-  
5 gram.

6           (d) REQUIREMENT FOR PLAN.—

7           (1) IN GENERAL.—No State, territory, or other  
8 jurisdiction shall be eligible for a grant under this  
9 section unless it submits to the Secretary a com-  
10 prehensive wildlife conservation plan that—

11                   (A) complies with paragraph (2); and

12                   (B) considers the broad range of the State,  
13 territory, or other jurisdiction's wildlife and as-  
14 sociated habitats, with appropriate priority  
15 placed on those species with the greatest con-  
16 servation need and taking into consideration the  
17 relative level of funding available for the con-  
18 servation of those species.

19           (2) CONTENTS.—The comprehensive wildlife  
20 conservation plan must contain—

21                   (A) information on the distribution and  
22 abundance of species of wildlife, including low  
23 and declining populations as the State , terri-  
24 tory, or other jurisdiction's fish and wildlife  
25 agency considers appropriate, that are indic-

1           ative of the diversity and health of the jurisdic-  
2           tions wildlife;

3           (B) the location and relative condition of  
4           key habitats and community types essential to  
5           conservation of species identified in subpara-  
6           graph (A);

7           (C) descriptions of problems which may  
8           adversely affect species identified in subpara-  
9           graph (A) or their habitats, and priority re-  
10          search and survey efforts needed to identify fac-  
11          tors that may assist in restoration and im-  
12          proved conservation of these species and habi-  
13          tats;

14          (D) descriptions of conservation actions  
15          proposed to conserve the identified species and  
16          habitats and priorities for implementing such  
17          actions;

18          (E) proposed plans for monitoring species  
19          identified in subparagraph (A) and their habi-  
20          tats, for monitoring the effectiveness of the con-  
21          servation actions proposed in subparagraph  
22          (D), and for adapting these conservation ac-  
23          tions to respond appropriately to new informa-  
24          tion or changing conditions;

1 (F) descriptions of procedures to review  
2 the comprehensive wildlife conservation plan at  
3 intervals not to exceed ten years;

4 (G) plans for coordinating the develop-  
5 ment, implementation, review, and revision of  
6 the comprehensive wildlife conservation plan  
7 with Federal, State, and local agencies and In-  
8 dian tribes that manage significant land and  
9 water areas within the jurisdiction or admin-  
10 ister programs that significantly affect the con-  
11 servation of identified species and habitats; and

12 (H) provisions for broad public participa-  
13 tion as an essential element of the development,  
14 revision, and implementation of the comprehen-  
15 sive wildlife conservation plan.

16 (e) SAVINGS CLAUSE.—State comprehensive wildlife  
17 strategies approved by the Secretary pursuant to previous  
18 congressional authorizations and appropriations Acts shall  
19 remain in effect until such strategies expire or are revised  
20 in accordance with their terms. Except as specified in sec-  
21 tion 456(b) with respect to funds made available under  
22 such section, conservation and education activities con-  
23 ducted or proposed to be conducted pursuant to such pre-  
24 viously approved strategies shall remain authorized.



1 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as are nec-  
3 essary to carry out this section.

## 4 **Subtitle E—Ocean Programs**

### 5 **SEC. 471. OCEAN POLICY, GLOBAL WARMING, AND ACIDIFI-** 6 **CATION PROGRAM.**

7 (a) DEVELOPMENT AND IMPLEMENTATION.—

8 (1) IN GENERAL.—The Secretary of Commerce,  
9 shall, within two years after the date of enactment  
10 of this Act, and on the basis of the best available  
11 science, develop and implement a national strategy  
12 using existing authorities and the authority provided  
13 in this section to support coastal State and Federal  
14 agency efforts to—

15 (A) predict, plan for, and mitigate the im-  
16 pacts on ocean and coastal ecosystems from  
17 global warming, relative sea level rise and ocean  
18 acidification; and

19 (B) ensure the recovery, resiliency, and  
20 health of ocean and coastal ecosystems.

21 (2) CONSULTATION AND COMMENT.—Before  
22 and during the development of the national strategy,  
23 the Secretary shall—

24 (A) consult with the Secretary of the Inte-  
25 rior, the Administrator of the Environmental

1 Protection Agency, the Regional Fishery Man-  
2 agement Councils, coastal States, Indian tribes,  
3 local governments, conservation organizations,  
4 scientists, and other interested stakeholders;  
5 and

6 (B) provide opportunities for public notice  
7 and comment.

8 (b) CONTENTS.—

9 (1) IN GENERAL.—The Secretary shall include  
10 in the national strategy prioritized goals and meas-  
11 ures to—

12 (A) incorporate climate change adaptation  
13 strategies into the planning and management of  
14 ocean and coastal programs and resources ad-  
15 ministered by the Department of Commerce;

16 (B) support restoration, protection, and  
17 enhancement of natural processes that minimize  
18 the impacts of relative sea level rise, global  
19 warming, and ocean acidification;

20 (C) minimize the impacts of global warm-  
21 ing and ocean acidification on marine species  
22 and their habitats;

23 (D) identify, protect, and restore ocean  
24 and coastal habitats needed to build healthy  
25 and resilient ecosystems;

1           (E) support the development of climate  
2 change resiliency plans under the Coastal Zone  
3 Management Act of 1972 (16 U.S.C. 1451 et  
4 seq.);

5           (F) provide technical assistance and train-  
6 ing to other Federal agencies, States, local com-  
7 munities, universities, and other stakeholders;  
8 and

9           (G) identify additional research that is  
10 needed to better anticipate and plan for the im-  
11 pacts of global warming and ocean acidification  
12 on ocean and coastal resources.

13           (2) COORDINATION WITH OTHER PLANS.—In  
14 developing the national strategy, the Secretary  
15 shall—

16           (A) take into consideration research and  
17 information available in Federal, regional, and  
18 State management and restoration plans and  
19 any other relevant reports and information; and

20           (B) encourage and take into account State  
21 and regional plans for protecting and restoring  
22 the health and resilience of ocean and coastal  
23 ecosystems.

24           (c) REVISION.—The Secretary shall revise the na-  
25 tional strategy not later than 5 years after its promulga-

1 tion, and not later than every 10 years thereafter, to re-  
2 flect new information on the impacts of global warming,  
3 relative sea level rise, and acidification on ocean and coast-  
4 al ecosystems and their resources and advances in the de-  
5 velopment of strategies for adapting to or mitigating for  
6 such impacts.

7 (d) SCIENCE ADVISORY BOARD.—

8 (1) CONSULTATION.—The Secretary shall con-  
9 sult with the National Oceanic and Atmospheric Ad-  
10 ministration's Science Advisory Board in the devel-  
11 opment and implementation of the strategy.

12 (2) REVIEW INFORMATION.—The Science Advi-  
13 sory Board shall periodically—

14 (A) review new information on the impacts  
15 of global warming, relative sea level rise, and  
16 acidification on ocean and coastal ecosystems  
17 and their resources and advances in the devel-  
18 opment of strategies for adapting to or miti-  
19 gating for such impacts; and

20 (B) provide that information to the Sec-  
21 retary.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated such sums as may be  
24 necessary to implement this section. Amounts appro-

1 priated shall be used for the exclusive purpose of carrying  
2 out the activities specified in this section.

3 (f) REPORT TO CONGRESS.—Copies of the strategy  
4 and implementation plan and any updates shall be pro-  
5 vided to the Congress.

6 **SEC. 472. PLANNING FOR CLIMATE CHANGE IN THE COAST-**  
7 **AL ZONE.**

8 (a) IN GENERAL.—The Coastal Zone Management  
9 Act of 1972 (16 U.S.C. 1451 et seq.) is amended by add-  
10 ing at the end the following:

11 “CLIMATE CHANGE RESILIENCY PLANNING

12 “SEC. 320. (a) IN GENERAL.—The Secretary shall  
13 establish consistent with the national policies set forth in  
14 section 303 a coastal climate change resiliency planning  
15 and response program to—

16 “(1) provide assistance to coastal states to vol-  
17 untarily develop coastal climate change resiliency  
18 plans pursuant to approved management programs  
19 approved under section 306, to minimize contribu-  
20 tions to climate change and to prepare for and re-  
21 duce the negative consequences that may result from  
22 climate change in the coastal zone; and

23 “(2) provide financial and technical assistance  
24 and training to enable coastal states to implement  
25 plans developed pursuant to this section through  
26 coastal states’ enforceable policies.

1           “(b) GUIDELINES.—Within 180 days after the date  
2 of enactment of this section, the Secretary, in consultation  
3 with the coastal states, shall issue guidelines for the imple-  
4 mentation of the grant program established under sub-  
5 section (c).

6           “(c) CLIMATE CHANGE RESILIENCY PLANNING  
7 GRANTS.—

8           “(1) IN GENERAL.—The Secretary, subject to  
9 the availability of appropriations, may make a grant  
10 to any coastal state for the purpose of developing cli-  
11 mate change resiliency plans pursuant to guidelines  
12 issued by the Secretary under subsection (b).

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

15           “(A) Identification of public facilities and  
16 public services, coastal resources of national  
17 significance, coastal waters, energy facilities, or  
18 other water uses located in the coastal zone  
19 that are likely to be impacted by climate  
20 change.

21           “(B) Adaptive management strategies for  
22 land use to respond or adapt to changing envi-  
23 ronmental conditions, including strategies to  
24 protect biodiversity and establish habitat buffer  
25 zones, migration corridors, and climate refugia.

1           “(C) Requirements to initiate and main-  
2           tain long-term monitoring of environmental  
3           change to assess coastal zone resiliency and to  
4           adjust when necessary adaptive management  
5           strategies and new planning guidelines to attain  
6           the policies under section 303.

7           “(3) STATE HAZARD MITIGATION PLANS.—  
8           Plans developed with a grant under this section shall  
9           be consistent with State hazard mitigation plans de-  
10          veloped under State or Federal law.

11          “(4) ALLOCATION.—Grants under this section  
12          shall be available only to coastal states with manage-  
13          ment programs approved by the Secretary under sec-  
14          tion 306 and shall be allocated among such coastal  
15          states in a manner consistent with regulations pro-  
16          mulgated pursuant to section 306(c).

17          “(5) PRIORITY.—In the awarding of grants  
18          under this subsection the Secretary may give priority  
19          to any coastal state that has received grant funding  
20          to develop program changes pursuant to paragraphs  
21          (1), (2), (3), (5), (6), (7), and (8) of section 309(a).

22          “(6) TECHNICAL ASSISTANCE.—The Secretary  
23          may provide technical assistance to a coastal state  
24          consistent with section 310 to ensure the timely de-

1       velopment of plans supported by grants awarded  
2       under this subsection.

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

8               “(d) COASTAL RESILIENCY PROJECT GRANTS.—

9               “(1) IN GENERAL.—The Secretary, subject to  
10       the availability of appropriations, may make grants  
11       to any coastal state that has a climate change resil-  
12       iency plan approved under subsection (c)(7), in  
13       order to support projects that implement strategies  
14       contained within such plans.

15              “(2) PROGRAM REQUIREMENTS.—The Sec-  
16       retary within 90 days after approval of the first plan  
17       approved under subsection (c)(7), shall publish in  
18       the Federal Register requirements regarding appli-  
19       cations, allocations, eligible activities, and all terms  
20       and conditions for grants awarded under this sub-  
21       section. No less than 30 percent of the funds appro-  
22       priated in any fiscal year for grants under this sub-  
23       section shall be awarded through a merit-based com-  
24       petitive process.



1           “(3) ELIGIBLE ACTIVITIES.—The Secretary  
2           may award grants to coastal states to implement  
3           projects in the coastal zone to address stress factors  
4           in order to improve coastal climate change resiliency,  
5           including the following:

6                   “(A) Activities to address physical disturb-  
7                   ances within the coastal zone, especially activi-  
8                   ties related to public facilities and public serv-  
9                   ices, tourism, sedimentation, and other factors  
10                  negatively impacting coastal waters, and fish-  
11                  eries-associated habitat destruction or alter-  
12                  ation.

13                  “(B) Monitoring, control, or eradication of  
14                  disease organisms and invasive species.

15                  “(C) Activities to address the loss, deg-  
16                  radation or fragmentation of wildlife habitat  
17                  through projects to establish marine and terres-  
18                  trial habitat buffers, wildlife refugia or net-  
19                  works thereof, and preservation of migratory  
20                  wildlife corridors and other transition zones.

21                  “(D) Implementation of projects to reduce,  
22                  mitigate, or otherwise address likely impacts  
23                  caused by natural hazards in the coastal zone,  
24                  including sea level rise, coastal inundation,  
25                  coastal erosion and subsidence, severe weather

1 events such as cyclonic storms, tsunamis and  
2 other seismic threats, and fluctuating Great  
3 Lake water levels.

4 “(E) Provide technical training and assist-  
5 ance to local coastal policy makers to increase  
6 awareness of science, management, and tech-  
7 nology information related to climate change  
8 and adaptation strategies.”.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
10 318(a) of the Coastal Zone Management Act of 1972 (16  
11 U.S.C. 1464) is further amended by adding at the end  
12 the following:

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

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

16 (a) SHORT TITLE.—This section may be cited as the  
17 “National Integrated Coastal and Ocean Observation Act  
18 of 2007”.

19 (b) PURPOSES.—The purposes of this section are the  
20 following:

21 (1) Establish a National Integrated Coastal and  
22 Ocean Observation System comprised of Federal and  
23 non-Federal components, coordinated at the regional  
24 level by a network of Regional Information Coordi-  
25 nation Entities, that includes in situ, remote, and

1 other coastal and ocean observations, technologies,  
2 and data management and communication systems,  
3 to gather daily specific coastal and ocean data vari-  
4 ables and to ensure the timely dissemination and  
5 availability of usable observation data to support na-  
6 tional defense, marine commerce, energy production,  
7 scientific research, ecosystem-based marine and  
8 coastal resource management, and public safety and  
9 to promote the general public welfare.

10 (2) Improve the Nation's capability to measure,  
11 track, explain, and predict events related directly  
12 and indirectly to climate change, natural climate  
13 variability, and interactions between the oceanic and  
14 atmospheric environments, including the Great  
15 Lakes.

16 (3) Authorize activities to promote basic and  
17 applied research to develop, test, and deploy innova-  
18 tions and improvements in coastal and ocean obser-  
19 vation technologies, modeling systems, and other sci-  
20 entific and technological capabilities to improve our  
21 conceptual understanding of global climate change  
22 and physical, chemical, and biological dynamics of  
23 the ocean and coastal and Great Lakes environ-  
24 ments.

1           (4) Institutionalize coordinated programs of  
2 public outreach, education, and training—

3           (A) to enhance public understanding of the  
4 ocean, coastal and Great Lakes environment,  
5 the influence and effects of global climate  
6 change on the coastal and ocean environment;  
7 and

8           (B) to promote greater public awareness  
9 and stewardship of the Nation’s ocean, coastal,  
10 and Great Lakes resources.

11 (c) DEFINITIONS.—In this section:

12           (1) COUNCIL.—The term “Council” means the  
13 National Ocean Research Leadership Council re-  
14 ferred to in section 7902 of title 10, United States  
15 Code.

16           (2) ADMINISTRATOR.—The term “Adminis-  
17 trator” means the Administrator of the National  
18 Oceanic and Atmospheric Administration.

19           (3) FEDERAL ASSETS.—The term “Federal as-  
20 sets” means all relevant non-classified civilian coast-  
21 al and ocean observations, technologies, and related  
22 modeling, research, data management, basic and ap-  
23 plied technology research and development, and pub-  
24 lic education and outreach programs, that are man-  
25 aged by member agencies of the Council.

1           (4) NON-FEDERAL ASSETS.—The term “non-  
2 Federal assets” means all relevant coastal and ocean  
3 observations, technologies, related basic and applied  
4 technology research and development, and public  
5 education and outreach programs managed through  
6 States, regional organizations, universities, non-  
7 governmental organizations, or the private sector.

8           (5) REGIONAL INFORMATION COORDINATION  
9 ENTITIES.—

10           (A) IN GENERAL.—The term “Regional In-  
11 formation Coordination Entity”, subject to sub-  
12 paragraphs (B) and (C), means an organiza-  
13 tional body that is certified or established by  
14 the lead Federal agency designated in sub-  
15 section (d)(3)(C)(iii) and coordinating State,  
16 Federal, local, and private interests at a re-  
17 gional level with the responsibility of engaging  
18 the private and public sectors in designing, op-  
19 erating, and improving regional coastal and  
20 ocean observing systems in order to ensure the  
21 provision of data and information that meet the  
22 needs of user groups from the respective re-  
23 gions.

1 (B) INCLUDED ASSOCIATIONS.—Such term  
2 includes Regional Associations as described by  
3 the System Plan.

4 (C) LIMITATION.—Nothing in this section  
5 shall be construed to invalidate existing certifi-  
6 cations, contracts, or agreements between Re-  
7 gional Associations and other elements of the  
8 System.

9 (6) SECRETARY.—The term “Secretary” means  
10 the Secretary of Commerce.

11 (7) SYSTEM.—The term “System” means the  
12 National Integrated Coastal and Ocean Observation  
13 System established under subsection (d).

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

19 (9) INTERAGENCY WORKING GROUP.—The term  
20 “Interagency Working Group” means the Inter-  
21 agency Working Group on Ocean Observations as es-  
22 tablished by the U.S. Ocean Policy Committee Sub-  
23 committee on Ocean Science and Technology pursu-  
24 ant to Executive Order 13366 signed December 17,  
25 2004.

1 (d) NATIONAL INTEGRATED COASTAL AND OCEAN  
2 OBSERVING SYSTEM.—

3 (1) ESTABLISHMENT.—The President, acting  
4 through the Council, shall establish a National Inte-  
5 grated Coastal and Ocean Observation System to  
6 fulfill the purposes set forth in subsection (b) and  
7 the System plan and to fulfill the Nation's inter-  
8 national obligations to contribute to the global earth  
9 observation system of systems and the global ocean  
10 observing system.

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

14 (3) AVAILABILITY OF DATA.—The head of each  
15 Federal agency that has administrative jurisdiction  
16 over a Federal asset shall make available data that  
17 are produced by that asset and that are not other-  
18 wise restricted for integration, management, and dis-  
19 semination by the System.

20 (4) ENHANCING ADMINISTRATION AND MAN-  
21 AGEMENT.—The head of each Federal agency that  
22 has administrative jurisdiction over a Federal asset  
23 may take appropriate actions to enhance internal  
24 agency administration and management to better  
25 support, integrate, finance, and utilize observation

1 data, products, and services developed under this  
2 section to further its own agency mission and re-  
3 sponsibilities.

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

9 (6) NON-FEDERAL ASSETS.—Non-Federal as-  
10 sets shall be coordinated by the Interagency Work-  
11 ing Group or by Regional Information Coordination  
12 Entities.

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

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

23 (2) INTERAGENCY WORKING GROUP.—The  
24 Interagency Working Group shall, with respect to  
25 the System, be responsible for—



1 (A) implementation of operations plans  
2 and policies developed by the Council;

3 (B) development of an annual coordinated,  
4 comprehensive System budget;

5 (C) identification of gaps in observation  
6 coverage or needs for capital improvements of  
7 both Federal assets and non-Federal assets;

8 (D) establishment of data management  
9 and communication protocols and standards;

10 (E) establishment of required observation  
11 data variables;

12 (F) development of certification standards  
13 for all non-Federal assets or Regional Informa-  
14 tion Coordination Entities to be eligible for in-  
15 tegration into the System; and

16 (G) periodically review and recommend to  
17 the Council revisions to the System plan.

18 (3) LEAD FEDERAL AGENCY.—The Secretary,  
19 acting through the Administrator, shall function as  
20 the lead Federal agency for the System. The Sec-  
21 retary, through the Administrator, may establish an  
22 Interagency Program Coordinating Office to facili-  
23 tate the Secretary's responsibilities as the lead Fed-  
24 eral agency for System oversight and management.  
25 The Administrator shall—

1 (A) implement policies, protocols, and  
2 standards established by the Council and dele-  
3 gated by the Interagency Working Group;

4 (B) promulgate regulations to integrate  
5 the participation of non-Federal assets into the  
6 System and enter into and oversee contracts  
7 and agreements with Regional Information Co-  
8 ordination Entities to effect this purpose;

9 (C) implement a competitive funding proc-  
10 ess for the purpose of assigning contracts and  
11 agreements to Regional Information Coordina-  
12 tion Entities;

13 (D) certify or establish Regional Informa-  
14 tion Coordination Entities to coordinate State,  
15 Federal, local, and private interests at a re-  
16 gional level with the responsibility of engaging  
17 private and public sectors in designing, oper-  
18 ating, and improving regional coastal and ocean  
19 observing systems in order to ensure the provi-  
20 sion of data and information that meet the  
21 needs of user groups from the respective re-  
22 gions;

23 (E) formulate a process by which gaps in  
24 observation coverage or needs for capital im-  
25 provements of Federal assets and non-Federal

1 assets of the System can be identified by the  
2 Regional Information Coordination Entities, the  
3 Administrator, or other members of the System  
4 and transmitted to the Interagency Working  
5 Group;

6 (F) be responsible for the coordination,  
7 storage, management, and communication of  
8 observation data gathered through the System  
9 to all end-user communities;

10 (G) subject to the availability of appropria-  
11 tions and pursuant to procedures adopted by  
12 the Administrator after consultation with the  
13 working group and the system advisory panel,  
14 implement a competitive matching grant or  
15 other grant program to promote research and  
16 development of innovative and new observation  
17 technologies, including testing and field trials;

18 (H) implement a program of public edu-  
19 cation and outreach to improve public aware-  
20 ness of global climate change and effects on the  
21 ocean, coastal, and Great Lakes environment;  
22 and

23 (I) report annually to the Council through  
24 the Interagency Working Group on the accom-  
25 plishments, operational needs, and performance

1 of the System to achieve the purposes of this  
2 Act and the System plan.

3 (4) REGIONAL INFORMATION COORDINATION  
4 ENTITY.—To be certified or established under para-  
5 graph (3)(D), a Regional Information Coordination  
6 Entity must be certified or established by contract  
7 or agreement by the Administrator, and must agree  
8 to—

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

12 (B) identify gaps in observation coverage  
13 or needs for capital improvements of Federal  
14 assets and non-Federal assets of the System,  
15 and transmit such information to the Inter-  
16 agency Working Group via the Administrator;

17 (C) demonstrate an organizational struc-  
18 ture and strategic operational plan to ensure  
19 the efficient and effective administration of pro-  
20 grams and assets to support daily data observa-  
21 tions for integration into the System;

22 (D) comply with all financial oversight re-  
23 quirements established by the Administrator,  
24 including requirements relating to audits; and

1           (E) demonstrate a capability to work with  
2           other governmental and nongovernmental enti-  
3           ties at all levels to identify and provide informa-  
4           tion products of the System for multiple users  
5           within the service area of the Regional Informa-  
6           tion Coordination Entities and otherwise.

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

16          (6) CIVIL LIABILITY.—For purposes of deter-  
17          mining liability arising from the dissemination and  
18          use of observation data gathered pursuant to this  
19          section, any non-Federal asset or Regional Informa-  
20          tion Coordination Entity that is certified under  
21          paragraph (3)(D) and that is participating in the  
22          System shall be considered to be part of the Na-  
23          tional Oceanic and Atmospheric Administration. Any  
24          employee of such a non-Federal asset or Regional  
25          Information Coordination Entity, while operating

1 within the scope of his or her employment in car-  
2 rying out the purposes of this section, with respect  
3 to tort liability, is deemed to be an employee of the  
4 Federal Government.

5 (f) INTERAGENCY FINANCING, GRANTS, CONTRACTS,  
6 AND AGREEMENTS.—

7 (1) IN GENERAL.—The member departments  
8 and agencies of the Council, subject to the avail-  
9 ability of appropriations, may participate in inter-  
10 agency financing and share, transfer, receive, obli-  
11 gate, and expend funds appropriated to any member  
12 agency for the purposes of carrying out any adminis-  
13 trative or programmatic project or activity to further  
14 the purposes of this section, including support for  
15 the Interagency Working Group, the Interagency Co-  
16 ordinating Program Office, a common infrastruc-  
17 ture, and integration to expand or otherwise enhance  
18 the System.

19 (2) JOINT CENTERS AND AGREEMENTS.—Mem-  
20 ber Departments and agencies of the Council shall  
21 have the authority to create, support, and maintain  
22 joint centers, and to enter into and perform such  
23 contracts, leases, grants, cooperative agreements, or  
24 other transactions as may be necessary to carry out

1 the purposes of this section and fulfillment of the  
2 System Plan.

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

7 (h) REPORT TO CONGRESS.—Two years after the  
8 date of enactment of this Act, and biennially thereafter,  
9 the Secretary through the Council shall submit to the Con-  
10 gress a report on the performance of the System, achieve-  
11 ment of the purposes and objectives of this section and  
12 the System plan, and recommendations for operational im-  
13 provements to enhance the efficiency, accuracy, and over-  
14 all capability of the System.