

75

AMENDMENT TO H.R. 2454
OFFERED BY MR. TIM MURPHY OF
PENNSYLVANIA

At the end of the bill add the following new title:

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

4 **Subtitle A—Offshore Leasing**

5 **SEC. _01. LEASING PROGRAM CONSIDERED APPROVED.**

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

16 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
17 The Secretary is considered to have issued a final environ-
18 mental impact statement for the program described in
19 subsection (a) in accordance with all requirements under

1 section 102(2)(C) of the National Environmental Policy
2 Act of 1969 (42 U.S.C. 4332(2)(C)).

3 **SEC. 02. LEASE SALES.**

4 (a) OUTER CONTINENTAL SHELF.—

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

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

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

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

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

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

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

13 **SEC. 03. SEAWARD BOUNDARIES OF STATES.**

14 (a) SEAWARD BOUNDARIES.—Section 4 of the Sub-
15 merged Lands Act (43 U.S.C. 1312) is amended by strik-
16 ing “three geographical miles” each place it appears and
17 inserting “12 nautical miles”.

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

20 (1) in subsection (a)(2), by striking “three geo-
21 graphical miles” and inserting “12 nautical miles”;
22 and

23 (2) in subsection (b)—

24 (A) by striking “three geographical miles”
25 and inserting “12 nautical miles”; and

1 (B) by striking “three marine leagues” and
2 inserting “12 nautical miles”.

3 (c) EFFECT OF AMENDMENTS.—

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

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

13 (3) TAXATION.—

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

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

23 **SEC. 04. MILITARY OPERATIONS.**

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

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

8 **SEC. 05. COORDINATION WITH ADJACENT STATES.**

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

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

14 (2) by adding the following:

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

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

3 “(2) In this subsection:

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

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

1 **SEC. _06. GULF OF MEXICO OIL AND GAS.**

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

5 **SEC. _07. SHARING OF REVENUES.**

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

8 (1) in paragraph (2) by striking “Notwith-
9 standing” and inserting “Except as provided in
10 paragraph (6), and notwithstanding”;

11 (2) by redesignating paragraphs (6) and (7) as
12 paragraphs (8) and (9); and

13 (3) by inserting after paragraph (5) the fol-
14 lowing:

15 “(6) BONUS BIDS AND ROYALTIES UNDER
16 QUALIFIED LEASES.—

17 “(A) NEW LEASES.—Of amounts received
18 by the United States as bonus bids, royalties,
19 rentals, and other sums collected under any
20 qualified lease on submerged lands made avail-
21 able for leasing under this Act by the enact-
22 ment of the American Conservation and Clean
23 Energy Independence Act that are located with-
24 in the seaward boundaries of a State estab-
25 lished under section 4(a)(2)(A)—

1 “(i) 30 percent shall be paid to the
2 States that are producing States with re-
3 spect to those submerged lands;

4 “(ii) 10 percent shall be deposited in
5 the general fund of the Treasury;

6 “(iii) 20 percent shall be deposited in
7 the Renewable Energy and Energy Effi-
8 ciency Reserve established by paragraph
9 (7);

10 “(iv) 5 percent shall be deposited into
11 the Clean Water Reserve established by
12 paragraph (7);

13 “(v) 10 percent shall be deposited in
14 the Environment Restoration Reserve es-
15 tablished by paragraph (7);

16 “(vi) 8 percent shall be deposited in
17 the Conservation Reserve established by
18 paragraph (7);

19 “(vii) 10 percent shall be deposited in
20 the Clean Coal Technology Deployment
21 and Carbon Capture and Sequestration
22 Reserve established by paragraph (7);

23 “(viii) 5 percent shall be deposited in
24 the Carbon Free Technology and Nuclear

1 Energy Reserve established by paragraph
2 (7); and

3 “(ix) 2 percent shall be available to
4 the Secretary of Health and Human Serv-
5 ices for carrying out the Low-Income
6 Home Energy Assistance Act of 1981 (42
7 U.S.C. 8621, et seq.).

8 “(B) LEASED TRACT THAT LIES PAR-
9 Tially WITHIN THE SEAWARD BOUNDARIES OF
10 A STATE.—In the case of a leased tract that lies
11 partially within the seaward boundaries of a
12 State, the amounts of bonus bids and royalties
13 from such tract that are subject to subpara-
14 graph (A)(ii) with respect to such State shall be
15 a percentage of the total amounts of bonus bids
16 and royalties from such tract that is equivalent
17 to the total percentage of surface acreage of the
18 tract that lies within such seaward boundaries.

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

23 “(i) Education.

24 “(ii) Transportation.

1 “(iii) Coastal restoration, environ-
2 mental restoration, and beach replenish-
3 ment.

4 “(iv) Energy infrastructure.

5 “(v) Renewable energy development.

6 “(vi) Energy efficiency and conserva-
7 tion.

8 “(vii) Any other purpose determined
9 by State law.

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

11 “(i) ADJACENT STATE.—The term
12 ‘Adjacent State’ means, with respect to
13 any program, plan, lease sale, leased tract
14 or other activity, proposed, conducted, or
15 approved pursuant to the provisions of this
16 Act, any State the laws of which are de-
17 clared, pursuant to section 4(a)(2), to be
18 the law of the United States for the por-
19 tion of the outer Continental Shelf on
20 which such program, plan, lease sale,
21 leased tract, or activity appertains or is, or
22 is proposed to be, conducted.

23 “(ii) ADJACENT ZONE.—The term
24 ‘adjacent zone’ means, with respect to any
25 program, plan, lease sale, leased tract, or

1 other activity, proposed, conducted, or ap-
2 proved pursuant to the provisions of this
3 Act, the portion of the outer Continental
4 Shelf for which the laws of a particular ad-
5 jacent State are declared, pursuant to sec-
6 tion 4(a)(2), to be the law of the United
7 States.

8 “(iii) PRODUCING STATE.—The term
9 ‘producing State’ means an Adjacent State
10 having an adjacent zone containing leased
11 tracts from which are derived bonus bids
12 and royalties under a lease under this Act.

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

16 “(v) QUALIFIED LEASE.—The term
17 ‘qualified lease’ means a natural gas or oil
18 lease made available under this Act grant-
19 ed after the date of the enactment of the
20 American Conservation and Clean Energy
21 Independence Act, for an area that is
22 available for leasing as a result of enact-
23 ment of section 101 of that Act.

24 “(E) APPLICATION.—This paragraph shall
25 apply to bonus bids and royalties received by

1 the United States under qualified leases after
2 September 30, 2008.

3 “(7) ESTABLISHMENT OF RESERVE AC-
4 COUNTS.—

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

8 “(i) the Renewable Energy and En-
9 ergy Efficiency Reserve which shall be ap-
10 plied—

11 “(I) first, to offset the alternative
12 energy and conservation tax incentives
13 extended by title III of the American
14 Conservation and Clean Energy Inde-
15 pendence Act; and

16 “(II) to extent not applied under
17 subclause (I), to offset the cost of leg-
18 islation enacted after the date of the
19 enactment of the American Conserva-
20 tion and Clean Energy Independence
21 Act to accelerate the use of cleaner
22 domestic energy resources and alter-
23 native fuels; to promote the utilization
24 of energy-efficient products and prac-
25 tices; to promote the development and

1 deployment of smart transportation
2 systems, energy efficient vehicles, and
3 mass transportation systems that pre-
4 serve the environment and increase
5 energy efficiency of transportation;
6 and to increase research, development,
7 and deployment of clean renewable en-
8 ergy and efficiency technologies and
9 job training programs for those pur-
10 poses;

11 “(ii) the Clean Water Reserve, to off-
12 set the cost of legislation enacted after the
13 date of the enactment of the American
14 Conservation and Clean Energy Independ-
15 ence Act to provide assistance, which may
16 include grants, matching grants, and no-
17 and low-interest loans, to State, county,
18 and local governments to rebuild and mod-
19 ernize clean water and sewage infrastruc-
20 ture;

21 “(iii) the Environment Restoration
22 Reserve, to offset the cost of legislation en-
23 acted after the date of the enactment of
24 the American Conservation and Clean En-
25 ergy Independence Act to conduct restora-

1 tion activities to improve the overall health
2 of the ecosystems primarily or entirely
3 within wildlife refuges, national parks,
4 lakes, bays, rivers, and streams, including
5 the Great Lakes, the Chesapeake and
6 Delaware Bays, the San Francisco Bay/
7 Sacramento San Joaquin Bay Delta, the
8 Florida Everglades, New York Harbor, the
9 Colorado River Basin, the Mississippi
10 River basin and tributaries, and Intra-
11 coastal Waterways and inlets that serve
12 them;

13 “(iv) the Conservation Reserve, to off-
14 set the cost of legislation enacted after the
15 date of the enactment of the American
16 Conservation and Clean Energy Independ-
17 ence Act for conservation research, devel-
18 opment, and deployment programs to in-
19 crease residential home energy efficiency,
20 such as weatherization, and conservation
21 tax credits and deductions for energy effi-
22 ciency in the residential, commercial, in-
23 dustrial, and public sectors including Con-
24 servation Districts;

1 “(v) the Clean Coal Technology De-
2 ployment and Carbon Capture and Seques-
3 tration Reserve, to offset the cost of legis-
4 lation enacted after the date of the enact-
5 ment of the American Conservation and
6 Clean Energy Independence Act to pro-
7 mote, through grants, loans, and loan
8 guarantees, research, development, and
9 construction projects associated with car-
10 bon capture and storage in the production
11 of liquid transportation fuels, electricity,
12 synthetic natural gas, and chemical feed-
13 stock, giving priority to the construction
14 and modernization of plants that imple-
15 ment the most advanced pollution controls
16 to prevent the release of carbon, particu-
17 late matter, and other pollutants; and

18 “(vi) the Carbon Free Technology and
19 Nuclear Energy Reserve, to offset the cost
20 of legislation enacted after the date of the
21 enactment of the American Conservation
22 and Clean Energy Independence Act to
23 promote the deployment of carbon free
24 technologies, including through loan guar-
25 antees for commercial nuclear power

1 plants, the disposition and recycling or re-
2 processing of spent fuel from nuclear
3 power plants, and the financing of long-
4 term safe storage of spent fuel.

5 “(B) PROCEDURE FOR ADJUSTMENTS.—

6 “(i) BUDGET COMMITTEE CHAIR-
7 MAN.—After the reporting of a bill or joint
8 resolution, or the offering of an amend-
9 ment thereto or the submission of a con-
10 ference report thereon, providing funding
11 for the purposes set forth in clause (i), (ii),
12 (iii), or (iv) of subparagraph (A) in excess
13 of the amount of the deposits under para-
14 graph (6)(A) for those purposes for fiscal
15 year 2009, the chairman of the Committee
16 on the Budget of the applicable House of
17 Congress shall make the adjustments set
18 forth in clause (ii) for the amount of new
19 budget authority and outlays in that meas-
20 ure and the outlays flowing from that
21 budget authority.

22 “(ii) MATTERS TO BE ADJUSTED.—

23 The adjustments referred to in clause (i)
24 are to be made to—

1 “(I) the discretionary spending
2 limits, if any, set forth in the appro-
3 priate concurrent resolution on the
4 budget;

5 “(II) the allocations made pursu-
6 ant to the appropriate concurrent res-
7 olution on the budget pursuant to sec-
8 tion 302(a) of the Congressional
9 Budget Act of 1974; and

10 “(III) the budget aggregates con-
11 tained in the appropriate concurrent
12 resolution on the budget as required
13 by section 301(a) of the Congressional
14 Budget Act of 1974.

15 “(iii) AMOUNTS OF ADJUSTMENTS.—
16 The adjustments referred to in clauses (i)
17 and (ii) shall not exceed the receipts esti-
18 mated by the Congressional Budget Office
19 that are attributable to this Act for the fis-
20 cal year in which the adjustments are
21 made.

22 “(C) EXPENDITURES ONLY BY SECRETARY
23 OF THE INTERIOR IN CONSULTATION.—Legisla-
24 tion shall not be treated as legislation referred
25 to in subparagraph (A) unless any expenditure

1 under such legislation for a purpose referred to
2 in that subparagraph may be made only after
3 consultation with the Administrator of the En-
4 vironmental Protection Agency, the Adminis-
5 trator of the National Oceanic and Atmospheric
6 Administration, the Secretary of the Army act-
7 ing through the Corps of Engineers, and, as ap-
8 propriate, the Secretary of State.

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

22 (b) ESTABLISHMENT OF STATE SEAWARD BOUND-
23 ARIES.—Section 4(a)(2)(A) of the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
25 first sentence by striking “, and the President” and all

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

17 **SEC. _08. INVENTORY OF OFFSHORE ENERGY RESOURCES.**

18 (a) IN GENERAL.—The Secretary of the Interior (in
19 this section referred to as the “Secretary”) shall promptly
20 prepare an inventory of offshore energy resources of the
21 United States, including through conduct of geological and
22 geophysical explorations by private industry in all of the
23 United States outer Continental Shelf areas of the Atlan-
24 tic Ocean and the Pacific Ocean under part 251 of title

1 30, Code of Federal Regulations (or successor regula-
2 tions).

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

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

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

17 (2) any leasing, exploration, development, or
18 production of any Federal offshore oil and gas
19 leases.

20 (d) FUNDING.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall make a 1-time transfer to the Secretary,
23 without further appropriation and from royalties col-
24 lected by the United States in conjunction with the

1 production of oil and gas, of such sums as are nec-
2 essary for the Secretary to carry out this section.

3 (2) LIMITATION.—The amount transferred
4 under paragraph shall not exceed \$50,000,000.

5 **SEC. _09. PROHIBITIONS ON SURFACE OCCUPANCY AND**
6 **OTHER APPROPRIATE ENVIRONMENTAL**
7 **SAFEGUARDS.**

8 (a) REGULATIONS.—

9 (1) IN GENERAL.—The Secretary of the Inte-
10 rior shall promulgate regulations that establish ap-
11 propriate environmental safeguards for the explo-
12 ration and production of oil and natural gas on the
13 outer Continental Shelf.

14 (2) REQUIREMENTS.—The regulations shall in-
15 clude provisions ensuring that—

16 (A) no surface facility shall be installed for
17 the purpose of production of oil or gas re-
18 sources in any area that is within 10 miles from
19 the shore of any coastal State, in any area of
20 the outer Continental Shelf that has not pre-
21 viously been made available for oil and gas leas-
22 ing;

23 (B) only temporary surface facilities are
24 installed for areas that are located—

1 (i) beyond 10 miles from the shore
2 from the shore of any coastal State, in any
3 area of the Outer Continental Shelf that
4 has not previously been made available for
5 oil and gas leasing; and

6 (ii) not more than 20 miles from the
7 shore;

8 (C) the impact of offshore production fa-
9 cilities on coastal vistas is otherwise mitigated;
10 and

11 (D) onshore facilities that are able to draw
12 upon the resources of the outer Continental
13 Shelf within 10 miles of shore are allowed.

14 (b) CONFORMING AMENDMENT.—Section 105 of the
15 Department of the Interior, Environment, and Related
16 Agencies Appropriations Act, 2006 (Public Law 109–54;
17 119 Stat. 521) (as amended by section 103(d) of the Gulf
18 of Mexico Energy Security Act of 2006 (43 U.S.C. 1331
19 note; Public Law 109–432)) is amended by inserting “and
20 any other area that the Secretary of the Interior may offer
21 for leasing, preleasing, or any related activity under sec-
22 tion 104 of that Act” after “2006”).

1 including their suspension, and any environ-
2 mental analyses relating to such activity.

3 **SEC. 22. EXCLUSIVE JURISDICTION OVER CAUSES AND**
4 **CLAIMS RELATING TO COVERED OIL AND**
5 **NATURAL GAS ACTIVITIES.**

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

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

11 (2) after the person filing a petition seeking
12 such judicial review has exhausted all available ad-
13 ministrative remedies with respect to such Federal
14 action.

15 **SEC. 23. TIME FOR FILING PETITION; STANDING.**

16 (a) **IN GENERAL.**—All petitions referred to in section
17 22 must be filed within 30 days after the latter of the
18 challenged Federal action or the exhaustion of all available
19 administrative remedies with respect to such Federal ac-
20 tion. A claim or challenge shall be barred unless it is filed
21 within the time specified.

22 (b) **STANDING.**—No person whose legal rights will
23 not be directly and adversely affected by the challenged
24 action, and who is not within the zone of interest protected
25 by each Act under which the challenge is brought, shall

1 have standing to file any petition referred to in section
2 __22.

3 **SEC. __24. TIMETABLE.**

4 The United States Court of Appeals for the District
5 of Columbia Circuit shall complete all judicial review, in-
6 cluding rendering a judgment, before the end of the 120-
7 day period beginning on the date on which a petition re-
8 ferred to in section __22 is filed, unless all parties to such
9 proceeding agree to an extension of such period.

10 **SEC. __25. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

11 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
12 SIONS.—In any judicial review referred to in section __22,
13 any administrative findings and conclusions relating to the
14 challenged Federal action shall be presumed to be correct
15 unless shown otherwise by clear and convincing evidence
16 contained in the administrative record.

17 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
18 judicial review referred to in section __22, the Court shall
19 not grant or approve any prospective relief unless the
20 court finds that such relief is narrowly drawn, extends no
21 further than necessary to correct the violation of a Federal
22 law requirement, and is the least intrusive means nec-
23 essary to correct the violation concerned.

1 **SEC. __26. PRESIDENTIAL WAIVER.**

2 Notwithstanding any other provision of law, the
3 President may waive any legal requirement relating to the
4 approval of any covered oil and natural gas activity if the
5 President determines in the President's sole discretion
6 that such activity is important to the national interest and
7 outweighs such legal requirement.

8 **SEC. __27. LEGAL FEES.**

9 Any person filing a petition referred to in section
10 __22 who is not a prevailing party shall pay to the pre-
11 vailing parties (including intervening parties), other than
12 the United States, fees and other expenses incurred by
13 that party in connection with the judicial review, unless
14 the Court finds that the position of the person was sub-
15 stantially justified or that special circumstances make an
16 award unjust.

17 **SEC. __28. EXCLUSION.**

18 Section __22 shall not apply to disputes between the
19 parties to a lease issued pursuant to an authorizing leas-
20 ing statute regarding the obligations of such lease or the
21 alleged breach thereof.

1 **Subtitle C—Other Energy**
2 **Provisions**

3 **SEC. 31. ELIMINATION OF RESTRICTION ON ENERGY AL-**
4 **TERNATIVES AND ENERGY EFFICIENCY.**

5 (a) **ELIMINATION OF OTHER RESTRICTIONS ON USE**
6 **OF ENERGY ALTERNATIVES.—**

7 (1) **RENEWABLE BIOMASS.—Section**
8 211(o)(1)(I) of the Clean Air Act (42 U.S.C.
9 7545(o)(1)(I)) is amended effective January 1,
10 2009—

11 (A) in clause (ii), by striking “on non-fed-
12 eral land”; and

13 (B) in clause (iv), by striking “that are
14 from non-federal forestlands, including
15 forestlands” and inserting “from forestlands,
16 including those on public lands and those”.

17 (2) **ALTERNATIVE FUELS.—Section 526 of the**
18 Energy Independence and Security Act of 2007 (42
19 U.S.C. 17142) is repealed.

20 (3) **LIMITATION ON NUMBER OF NEW QUALI-**
21 **FIED HYBRID ADVANCED LEAN-BURN TECHNOLOGY**
22 **VEHICLES.—Section 30B of the Internal Revenue**
23 Code of 1986 is amended by striking subsection (f).

24 (b) **NEW SOURCE REVIEW UNDER THE CLEAN AIR**
25 **ACT.—Part A of title I of the Clean Air Act (42 U.S.C.**

1 7401 and following) is amended by adding the following
2 new section at the end thereof:

3 **“SEC. 132. NEW SOURCE REVIEW.**

4 “In promulgating regulations respecting new source
5 review under this Act, the Administrator shall include in
6 such regulations provisions providing that routine mainte-
7 nance and repair shall not constitute a modification of an
8 existing source requiring compliance with new source re-
9 view requirements. Such provisions shall provide that
10 equipment replacement shall be considered routine mainte-
11 nance and repair if it meets each of the following require-
12 ments:

13 “(1) It does not increase actual emissions of
14 any air pollutant by more than 5 percent.

15 “(2) It does not increase actual emissions of
16 any air pollutant by more than 40 tons per year.

17 Notwithstanding any other provision of this Act, no State
18 may include in any State implementation plan any provi-
19 sions regarding new source review that are more stringent
20 than those contained in the regulations of the Adminis-
21 trator under this section.”.

22 **SEC. _32. POLICIES REGARDING BUYING AND BUILDING**
23 **AMERICAN.**

24 (a) **INTENT OF CONGRESS.**—It is the intent of the
25 Congress that this Act, among other things, result in a

1 healthy and growing American industrial, manufacturing,
2 transportation, and service sector employing the vast tal-
3 ents of America's workforce to assist in the development
4 of energy from domestic sources. Moreover, the Congress
5 intends to monitor the deployment of personnel and mate-
6 rial onshore and offshore to encourage the development
7 of American technology and manufacturing to enable
8 United States workers to benefit from this Act by good
9 jobs and careers, as well as the establishment of important
10 industrial facilities to support expanded access to Amer-
11 ican resources.

12 (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—
13 Section 30(a) of the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1356(a)) is amended in the matter preceding
15 paragraph (1) by striking “regulations which” and insert-
16 ing “regulations that shall be supplemental and com-
17 plimentary with and under no circumstances a substi-
18 tution for the provisions of the Constitution and laws of
19 the United States extended to the subsoil and seabed of
20 the outer Continental Shelf pursuant to section 4 of this
21 Act, except insofar as such laws would otherwise apply to
22 individuals who have extraordinary ability in the sciences,
23 arts, education, or business, which has been demonstrated
24 by sustained national or international acclaim, and that”.

1 **SEC. 33. CLEAN COAL TECHNOLOGY DEPLOYMENT**
2 **GRANT AND LOAN PROGRAM.**

3 (a) **PURPOSE.**—The purpose of this section is to en-
4 courage innovative, state of the art energy plants to reduce
5 and eliminate emissions of CO₂ and other greenhouse
6 gases.

7 (b) **DOE PROGRAM.**—The Secretary Energy shall
8 implement a competitive grant and loan program to award
9 funding to qualified projects for a 3-year period for the
10 construction or modernization of coal fired generation
11 units to enable the use at such units of the most viable
12 and cost effective technology to reduce emissions of carbon
13 dioxide and other greenhouse gases. In carrying out such
14 program, the Secretary shall give priority to the funding
15 of projects that will emit the least amount of carbon diox-
16 ide and other greenhouse gases.

17 (c) **QUALIFIED PROJECTS.**—(1) Projects for the con-
18 struction or modernization of units with carbon capture
19 and sequestration or storage systems shall be qualified for
20 assistance under this section in the form of grants of up
21 to \$2,000,000,000 per unit up to a maximum grant of
22 \$2,000,000 per Megawatt (MW) of capacity. Such
23 projects may be qualified for loan guarantees under this
24 section in the amount of up to \$3,000,000,000 per unit
25 up to a maximum of \$3,000,000 per Megawatt of capacity.

1 (2) The maximum amount of funding assistance
2 under this section for construction and modernization
3 costs shall be as follows:

4 (A) A grant of 75 percent of such costs and a
5 loan guarantee of 25 percent of such costs for the
6 first year in which assistance is provided.

7 (B) A grant of 50 percent of such costs and a
8 loan guarantee of 50 percent of such costs for the
9 second year in which assistance is provided.

10 (C) A grant of 25 percent of such costs and a
11 loan guarantee of 75 percent of such costs for the
12 first year in which assistance is provided.

13 (d) MINIMUM SIZE.—No project shall be qualified for
14 assistance under this section for any unit that is less than
15 250 MW of capacity.

