

CONSOLIDATED LAND, ENERGY, AND AQUATIC RESOURCES (CLEAR) ACT

H.R. 3534

**SECTION-BY-SECTION
OF THE
AMENDMENT IN THE NATURE OF A SUBSTITUTE DISCUSSION DRAFT
(JUNE 22, 2010, 5:25PM)**

Sec. 1. Short Title.— The title of the bill is the “Consolidated Land, Energy, and Aquatic Resources Act of 2010.”

Sec. 3. Definitions.—

- The term “administrator” means the Administrator of the National Oceanic and Atmospheric Administration (NOAA)
- The term “affected Indian tribe” means an Indian tribe with federally reserved rights affirmed by treaty, statute, order, or other law.
- The term “alternative energy” means electricity generated by a “renewable energy resource”, which is defined as wind, solar, geothermal, marine hydrokinetic, biomass, landfill gas, and qualified hydropower, as defined by Section 1301(c) of the Energy Policy Act of 2005 (26 U.S.C. 45(c)).
- The term “coastal state” is given the same definition as in the Coastal Zone Management Act, where it means any of the states bordering the Atlantic, Pacific, Gulf of Mexico, Long Island Sound, Arctic Ocean, or the Great Lakes. Puerto Rico and the insular areas are also included in the definition under the CZMA (16 U.S.C. 1453).
- The term “Department” means the Department of the Interior.
- The term “ecosystem based management” means an integrated approach to management considers an entire ecosystem, aims to maintain ecosystems in a healthy and sustainable condition, emphasizes the protection of the ecosystem as a whole, considers the cumulative impacts of all activities occurring within the ecosystem, explicitly accounts for the interconnectedness within an ecosystem, and integrates ecological, social, economic, cultural, and institutional perspectives.
- The term “Federal land management agency” means the Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service, and the National Park Service.
- The term “function” means authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.
- The term “important ecological area” means an area that contributes significantly to local or larger marine ecosystem health or is an especially unique or sensitive marine ecosystem.
- The term “Indian land” has the same definition as under the Indian Tribal Energy Development and Self-Determination Act of 2005 (25 U.S.C. 3501(2)), which includes

all lands within Indian reservations, pueblo, or rancherias, lands held in trust by the United States for tribes or individuals, and certain other lands.

- The term “marine ecosystem health” means the ability of an ecosystem in ocean and coastal waters to support and maintain patterns, important processes, and productive, sustainable, and resilient communities of organisms, having a species composition, diversity, and functional organization resulting from the natural habitat of the region, such that it is capable of supporting a variety of activities and providing a complete range of ecological benefits.
- The term “minerals” has the same definition as in the Outer Continental Shelf Lands Act (OCSLA; 43 U.S.C. 1331 et seq.), where it means oil, gas, sulphur, geopressured-geothermal, and all other minerals authorized by Congress to be produced from federal lands.
- The term “nonrenewable energy resource” means oil and natural gas.
- The term “Outer Continental Shelf” has the same definition as in the Outer Continental Shelf Lands Act (OCSLA; 43 U.S.C. 1331 et seq.), where it means all submerged lands lying outside of 3 geographical miles (roughly 3 nautical miles) from the coastline of most states, and outside of 9 geographical miles (roughly 9 nautical miles) from the Gulf of Mexico coastlines of the states of Florida and Texas.
- The term “public land State” means Alaska, Washington Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, and New Mexico.
- The term “Regional Ocean Partnership” means collaborative initiatives between two or more states to implement policies or activities under authorities granted to the states under the Coastal Zone Management Act (16 U.S.C. 1451 et seq.).
- The term “renewable energy resource” means wind, solar, geothermal, biomass, landfill gas, incremental hydropower, free-flowing hydropower, wave, tidal, current, and ocean thermal energy.
- The term “Secretaries” means the Secretary of the Interior and the Secretary of Commerce.
- The term “Secretary” means the Secretary of the Interior.
- The term “surface use plan of operations” means a plan for the use and restoration of Federal lands for energy development approved by either the Bureau of Land Management or the Forest Service.
- The terms “Federal land”, “lease”, “lease site”, and “mineral leasing law” have the same definitions as under the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701 et seq.).
- The term “Tribe” has the same definition as under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

Title I – Creation of New Department of the Interior Agencies

Sec. 101. Bureau of Energy and Resource Management.—This section would establish a Bureau of Energy and Resource Management (BERM), with a mandate to manage the leasing and permitting for renewable energy, non-renewable energy, and mineral resources on all onshore and offshore Federal lands in the United States; however, leasing on Indian lands would

not be handled by BERM. The BERM Director would be appointed by the President and subject to Senate confirmation. Subsection (d) would provide additional authority and direction to the Secretary for conducting studies and collecting data that are necessary to fulfill the Secretary's environmental responsibilities under the Outer Continental Shelf Lands Act; a separate office within BERM would be responsible for managing the Bureau's environmental studies and analysis activities. Under subsection (f), the Bureau of Land Management and Forest Service would retain their authorities as the multiple-use managers of lands under their jurisdiction, and would be responsible for ensuring that energy production on Federal lands is done in an environmentally sound manner, through the identification of lands and waters that are eligible for energy development, the establishment of best management practices, the authorization of waivers to lease stipulations, the establishment and enforcement of appropriate financial assurances to ensure proper site reclamation, environmental site inspections, authority to issue notices of non-compliance for violations of permits and surface use plans, and other activities as deemed necessary by the Secretary. Bureau of Safety and Environmental Enforcement (BSEE; established in Section 102) employees would also have the authority to issue notices of noncompliance and issue civil penalties for land-use violations observed during BSEE inspections.

Sec. 102. Bureau of Safety and Environmental Enforcement.—This section would establish a Bureau of Safety and Environmental Enforcement (BSEE), with a mandate to carry out all the safety and environmental regulatory activities, including inspections, on all onshore and offshore Federal lands in the United States. The BSEE Director would be appointed by the President and subject to Senate confirmation. Subsection (d) would give BSEE the following responsibilities: oversight for BERM's OCS National Environmental Policy Act (NEPA) reviews; suspension or cancellation of leases in the event that activities under those leases threatens health or the environment; developing health, safety, and environmental regulations for operations on onshore and offshore federal lands, including mandatory Safety and Environment Management programs; conducting investigations; and implementing the new Offshore Technology Research and Risk Assessment Program established under Section 211 of this Act. Subsection (e) would require that BSEE inspectors be highly qualified and well-trained, and would establish a National Oil and Gas Health and Safety Academy ("Academy") for training the national oil and gas inspector workforce. Subsection (e) would also allow the Secretary to work with educational institutions and the oil and gas industry to create appropriate training and continuing education programs outside the Academy.

Sec. 103. Office of Natural Resources Revenue.—This section would establish an Office of Natural Resources Revenue (ONRR), which would be responsible for collecting and disbursing all royalties and other revenues from energy and mineral related activities on onshore and offshore federal lands, auditing such collections, and promulgating regulations relevant to revenue collection and management. Subsection (d) would create an independent program within ONRR to carry out auditing and oversight of revenue collection. The ONRR would be headed by a Deputy Assistant Secretary appointed by the President and subject to Senate confirmation.

Sec. 104. Ethics.—This section would require that the Secretary of the Interior certify that all BERM, BSEE, and ONRR employees that interact with oil and gas companies are in full compliance with all Federal employee ethics laws and regulations.

Sec. 105. Direct Hiring Authority for Critical Scientific and Technical Personnel.—This section would allow the government to better compete for talent with industry by providing the Secretary authority to hire highly-qualified technical personnel for BERM, BSEE, or ONRR outside of the civil service system. In addition, subsection (c) would allow the Secretary to hire certain individuals for up to 4-year terms at enhanced salaries if those individuals bring extremely high levels of crucial expertise, provided that there are no more than 40 such hires at any one time at BERM or BSEE. Subsection (d) allows the Secretary to rehire former employees without a reduction of termination of their annuities.

Sec. 106. References.—This section would ensure that all references to functions that previously existed in the Minerals Management Service or in the Bureau of Land Management energy program are transferred to the appropriate new entities created in this Act.

Sec. 107. Abolishment of Minerals Management Service.—This section would formally abolish the Minerals Management Service (MMS), and ensure that all completed administrative proceedings, pending administrative proceedings, and pending civil actions related to MMS are not affected by this abolishment.

Sec. 108. Conforming Amendment.—This section would add the titles of the heads of the new agencies to the appropriate pay scale section of the U.S. Code.

Sec. 109. OCS Safety and Environmental Advisory Board.—This section would create a new safety and advisory board under the Federal Advisory Committee Act. This board would be tasked with providing to the Secretary advice on safety and environmental issues surrounding energy and mineral development issues on the Outer Continental Shelf.

Title II – Federal Oil and Gas Development

Subtitle A – Safety, Environmental, and Financial Reform of the Outer Continental Shelf Lands Act

Sec. 201. Short Title.—This title of this subtitle is the “Outer Continental Shelf Lands Act Amendments of 2010.”

Sec. 202. Definitions.—This section would amend the Outer Continental Shelf Lands Act (OCSLA) to add a definition for “safety case”. A safety case is defined as a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given environment, and requirements for its use in offshore drilling operations have been adopted by a number of countries around the world, including Norway and the United Kingdom.

Sec. 203. National Policy for the Outer Continental Shelf.—This section would amend Section 3 of the OCSLA to require a more balanced approach to energy development that

acknowledges the other resources of the OCS, and to emphasize that energy-related activities should be conducted without harming the marine, coastal, or human environments.

Sec. 204. Jurisdiction of Laws on the Outer Continental Shelf.—This section would amend Section 4 of the OCSLA to ensure that the laws of the United States also apply to renewable energy facilities on the OCS. Currently, U.S. laws clearly apply to oil and gas facilities, but court rulings indicate that renewable energy facilities, such as offshore windmills, may not be covered.

Sec. 205. OCS Leasing Standard.—This section would amend Section 5 of the OCSLA to clarify the authority of the Secretary to issue regulations related to operational safety and environmental protection on the OCS, and would require the Secretary to issue regulations mandating: independent third-party certification of crucial pieces of safety equipment (such as blowout preventers); new requirements for subsea testing and secondary activation of blowout preventers; independent third-party certification of the well casing and cementing procedures; adoption of safety and environmental management systems by operators on the OCS; and compliance with other environmental and natural resource conservation laws. The Secretary would also be required to consult with the Secretary of Commerce on any regulation that may affect the marine or coastal environment. This section would also require that the Secretary provide to the public, free of charge, any documents incorporated by reference into any OCS-related regulations.

Sec. 206. Leases, Easements, and Rights-of-Way.—This section would amend Section 8 of the OCSLA by adding three new subsections related to royalties and financial assurances. New subsection 8(q) would require the Secretary to conduct a bonding study at least once every five years to determine if financial assurance levels are adequate for operations on the OCS. New subsection 8(r) would require the Secretary to conduct a fiscal system review at least once every three years that would outline in-place royalty and rental rates and indicate whether the Secretary intended to modify those rates. New subsection 8(s) would require the Secretary to conduct a comparative fiscal review at least once every five years, in which would assess the overall oil and gas fiscal system of the United States and compare it to systems in place in other countries. Subsection (b) of Section 206 would disqualify a company from bidding for new leases if it was not meeting safety and environmental requirements on its existing leases, or if it had outstanding obligations under the Oil Pollution Act of 1990. Subsection (c) would amend the alternative energy leasing subsection of OCSLA to delete ambiguous language from Section 388 of EPACT (43 U.S.C. 1337(p)) that could be interpreted to allow non-energy development under the Secretary's offshore alternative energy leasing authority. The section would also provide for non-competitive authorizations if an applicant were seeking to carry out short-term meteorological or marine testing. Subsection (d) would require the Secretary to request a review by the Secretary of Commerce of any proposed lease sale. Subsection (e) would eliminate the authority of the Secretary to lease a tract greater than 5,760 acres.

Sec. 207. Disposition of Revenues.—This section would amend Section 9 of the OCSLA to provide for yearly mandatory funding of \$900 million for the Land and Water Conservation Fund, \$150 million for the Historic Preservation Fund, and 10% of total offshore revenues for a new Ocean Resources Conservation and Assistance (ORCA) Fund, as created by Section 605 of this Act.

Sec. 208. Exploration Plans.—This section would amend Section 11 of the OCSLA to strengthen and create new requirements for exploration plans, as well as eliminate the 30-day deadline for approval of those plans. Exploration plans would be required to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Categorical exclusions would no longer be allowed for approving plans, and a plan would only be able to be approved if the applicant has demonstrated capability and technology to respond immediately to a worst-case-scenario oil spill. Subsection (d) would add additional requirements for obtaining drilling permits, including a full engineering review of the well and safety systems that certifies that best available technology will be used. New subsection 11(j) adds additional requirements for deepwater wells, and new subsection 11(k) would provide additional authority for the disapproval of a plan if the exploration activities would probably cause damage to the marine, coastal, or human environments.

Sec. 209. OCS Leasing Program.—This section would amend Section 18 of the OCSLA to provide for additional consideration of environmental factors in the preparation of 5-year leasing plans. This section would also require consultation with the Secretary of Commerce during the preparation of those plans. In addition, a new subsection 18(i) is added, which would establish a research and development program designed to improve the ability to estimate oil and gas resources and address gaps in environmental data on the OCS.

Sec. 210. Environmental Studies.—This section would amend Section 20 of the OCSLA to require environmental studies, in cooperation with the Secretary of Commerce, at least once every three years of OCS areas where oil and gas lease sales are scheduled. Subsection (b) would direct the Secretary to conduct research on the impacts of deepwater oil spills and the use of dispersants.

Sec. 211. Safety Regulations.—This section would amend Section 21 of the OCSLA to require more frequent studies by the Secretaries of Interior and Homeland Security on the adequacy of health and safety regulations relevant to operations on the OCS. This section would also broaden the requirement to use best available and safest technologies, and require the Secretary to publish lists of the best available technologies for key areas of well design and operation, including blowout preventers and oil spill response technologies. New subsection 21(g) would mandate regulations requiring all operators to have safety cases before they could receive new permits to drill. New subsection 21(h) would create an Offshore Technology Research and Risk Assessment Program designed to research and assess industry trends, new drilling technologies, and oil spill response technologies, among other topics.

Sec. 212. Enforcement of Safety and Environmental Regulations.—This section would amend Section 22 of the OCSLA to require monthly inspections of drilling rigs, more frequent investigations of safety-related incidents on the OCS, investigations of all allegations brought by employees of operators or contractors, and certifications from operators, operators' Chief Executive Officers, and independent third parties regarding compliance with safety and other regulations.

Sec. 213. Remedies and Penalties.—This section would amend Section 24 of the OCSLA to increase civil penalties from \$20,000 per day to \$75,000 or \$150,000 per day, depending on the violation. Subsection (b) raises the maximum criminal fine under the Act from \$100,000 to \$10,000,000.

Sec. 214. Uniform Planning for OCS.—This section would amend Section 25 of the OCSLA to strengthen and create new requirements for development and production plans, and to ensure that such requirements extend to all areas of the OCS, whereas in existing law the Gulf of Mexico is exempt. As with exploration plans, this section would require development and production plans to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Approval of plans through categorical exclusions would no longer be allowed. This section would also require applicants to provide a comprehensive survey of the marine and coastal environment within their proposed area of operations, and to use production platform as observation stations for collecting data for the Integrated Coastal and Ocean Observing System. Development and production plans would not be able to be approved unless the applicant has the demonstrated ability to effectively remediate a worst-case release of oil from activities conducted under the plan.

Sec. 215. Oil and Gas Information Program.—This section would amend Section 26 of the OCSLA to require lessees to provide additional data on drilling operations to the Secretary, and to provide it in electronic format in real-time, or as quickly as possible if real-time is not feasible. This section would also delete provisions requiring the government to pay for data reproduction costs.

Sec. 216. Limitation on Royalty-in-Kind Program.—This section would amend Section 27 of the OCSLA to eliminate the authority for the Secretary to conduct a regular royalty-in-kind program.

Sec. 217. Repeal of Royalty Relief Provisions.— This section would repeal the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAAct) (P.L. 109-58).

Sec. 218. Registry Requirements.—This section would amend Section 30 of the OCSLA to clarify that U.S. immigration laws apply to facilities on the OCS, and to require that all vessels conducting operations on the OCS pursuant to the OCSLA, including drilling rigs, be flagged in the United States. This section also would add an “intention of Congress” section that states that energy development activities on the OCS should be conducted in a way so as to support domestic industry and jobs.

Sec. 219. Developing Innovations in Oil Spill Containment and Response Technologies.— This section would add a New Horizon Oil Spill Containment and Response Technology grant program to the OCSLA. This program would provide competitive grants for research into new technologies for preventing, modeling, responding to, and cleaning up from oil spills.

Sec. 221. Diligent Development.—This section would require the promulgation of regulations establishing diligent development benchmarks for oil and gas leases. The regulations would have to provide for extending those benchmarks in situations where diligent development is not possible due to environmental or other restrictions beyond a lessee’s control.

Sec. 222. Reporting Requirements.—This section would require lessees to report twice a year on the steps that are being taken to develop each of their non-producing leases. This information would be put into an electronic searchable database available to the public. Currently, according to the Department of the Interior’s Inspector General (OIG Evaluation C-EV-MOA-0009-2008, “Oil and Gas Production on Federal Leases: No Simple Answer,” February 2009), the Department does not know exactly what is occurring on non-producing leases.

Sec. 223. Notice Requirements.—This section would require the Secretary of the Interior to notify the public, surface land owners, and holders of special use recreation permits (such as outdoor recreation companies, hosts of annual events, etc.) when relevant lands are being offered for oil and gas leasing.

Sec. 224. Oil and Gas Leasing System.—This section would amend Section 17 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) to make changes in the federal oil and gas leasing system, such as requiring the receipt of fair market value, changing the bidding system from oral to sealed bids, changing the requirement of a minimum four lease-sales per state per year to a maximum of three lease sales per state per year, allowing the Secretary to evaluate the value of the lands proposed for lease, and eliminating non-competitive leasing. The national minimum acceptable bid would be raised from \$2 per acre to \$2.50 per acre, and rentals would be raised from the current structure of \$1.50/acre for the first five years and \$2/acre for the remaining years, which has not been adjusted since 1987, to \$2.50/acre for the first five years and \$3/acre for the remaining years. The Secretary would also be given explicit authority to increase rental rates if necessary to enhance financial returns to the United States and to promote more efficient management of oil and gas resources on federal lands.

Sec. 225. Electronic Reporting.—This section would authorize the Secretary to inform Congressional committees of large pipeline right-of-way applications and proposed lease reinstatements electronically instead of through a paper copy, if the committee requests.

Sec. 226. Best Management Practices.—This section would require oil and gas operators on federal lands to adhere to best management practices, with site-specific adjustments allowed to account for special circumstances.

Sec. 227. Surface Disturbance, Reclamation.—This section would amend Section 18 of the Mineral Leasing Act to require the submission of interim and final reclamation plans along with each application for a permit to drill. Lessees who had not completed reclamation activities on existing leases no longer in production would be unable to obtain new leases. This section also requires the Secretary to set the amount of required financial assurances high enough to ensure that reclamation can be undertaken if necessary, and to establish reclamation standards.

Sec. 228. Wildlife Sustainability.— This section would direct the Secretaries of Interior and Agriculture to plan for and manage areas under their respective jurisdictions in order to maintain sustainable populations of native and desirable non-native species of plants and animals, consistent with the requirements of existing law. If conditions beyond the Secretary’s control prevent sustainability, the Secretary concerned would be required to protect the survival of species and certify that management activities do not increase the likelihood of extirpation. The Secretaries would be required to establish monitoring programs using identified focal species to evaluate sustainability and to coordinate management at the federal and state levels.

Sec. 229. Online Availability to the Public of Information Relating to Oil and Gas Chemical Use.—This section would require the list of chemicals (as well as information about those chemicals) used in drilling or completing a well to be posted online within 30 days after completion of drilling the well.

Title III – Oil and Gas Royalty Reform

Sec. 301. Amendments to Definitions.—This section would add additional detail to the definition of “mineral leasing law” in the Federal Oil and Gas Royalty Management Act of 1982, as amended (FOGRMA) (30 U.S.C. 1701 et seq.); would clarify the definition of “designee” under FOGRMA in order to allow the Secretary to correspond with a designee only, as opposed to having to contact each individual lessee (that has designated a designee) in writing as is required under current law; would allow penalties to be assessed for permit violations as opposed to just lease violations as is currently the case; would include a definition of “compliance review” (increasingly used reviews of royalty payments that are less intensive than audits) in FOGRMA; and would modify a definition of “marketing affiliate” that existed in regulation by no longer requiring that the affiliate’s sole function be the marketing of the lessee’s production.

Sec. 302. Compliance Reviews.—This section would provide statutory authority for the Secretary to conduct compliance reviews of royalty payments, and require any uncovered discrepancies to be referred to an auditor. The Secretary would have to provide notice to payors that a compliance review was being conducted.

Sec. 303. Clarification of Liability for Royalty Payments.—This section would clarify that designees would be liable for royalty payments under a lease, and that lease owners and operators would be liable for their pro-rated share of payment obligations under a lease.

Sec. 304. Required Recordkeeping.—This section would require oil and gas records to be kept by payors for seven years instead of the current six, which would align that timeframe with the statute of limitations for the government established under the Royalty Fairness and Simplification Act of 1995 (P.L. 104-185) to collect unpaid royalties.

Sec. 305. Fines and Penalties.—This section would amend FOGRMA to double fines for underpayment or late payment of royalties, and would also double the penalty for theft. These

penalties have not been increased since 1983. The section would also extend the statute of limitations for oil and gas leases held by violators.

Sec. 306. Interest on Overpayments.—This section would eliminate the requirement, under current law, that the Federal government pay interest on royalty overpayments made by operators. This would eliminate the incentive that operators have to make errors in their favor on their royalty calculation and receive a guaranteed return of the payment made in error plus interest.

Sec. 307. Adjustments and Refunds.—This section would eliminate the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question, and would limit the ability to make adjustments to four years after the date royalties were initially due. Currently, lessees are allowed to make adjustments for a full six years even after MMS has already completely a compliance review or audit.

Sec. 308. Conforming Amendment.—This section would repeal a section of FOGRMA that related to a study on noncompetitive leases that was due in 1983.

Sec. 309. Obligation Period.—This section would establish that in the case of an adjustment made by a lessee that results in an underpayment, the lessee would be obligated to repay that amount (plus interest) from the date the lessee makes the adjustment, thus extending the statute of limitations on that royalty payment. This would enable OFEML to audit such lease during the ensuing six-year cycle.

Sec. 310. Notice Regarding Tolling Agreements and Subpoenas.—This section would allow the Secretary to correspond only with the lease designee in the case of subpoenas or agreements to pause the statute of limitations.

Sec. 311. Appeals and Final Agency Action.—This section would extend the timeframe for the Secretary to issue final decisions on any appeals on demands or orders to pay royalties or penalties to 48 months, from the current 33 months.

Sec. 312. Assessments.—This section would repeal a section of FOGRMA that prohibits the Secretary from imposing assessments on payors who chronically submit erroneous royalty reports.

Sec. 313. Collection and Production Accountability.—This section would establish a pilot project for the automated transmission of electronic data from offshore wellheads and meters to the federal government, in order to improve the accuracy and efficiency of data and royalty collection.

Sec. 314. Natural Gas Reporting.—This section would require the Secretary to implement the steps necessary to ensure accurate reporting of heat content values of natural gas, which is a key component to determining the amount of royalties owed..

Sec. 315. Penalty for Late or Incorrect Reporting of Data.—This section would establish a penalty for companies that file late or incorrect data, to be set at a level the Secretary would determine is sufficient to ensure that companies file correct data on time, but no less than \$10 per incorrect line of data. The filing of late or inaccurate reports creates considerable administrative difficulties for the government, and charging a penalty for faulty reporting has shown in the past to incentivize the filing of fully accurate and on-time data. A similar penalty was previously imposed by regulation, but was repealed last year.

Sec. 316. Required Recordkeeping.—Section 103 of FOGRMA currently gives the Secretary of the Interior the authority to require lessees, operators, or anyone involved in developing, producing, transporting, purchasing, or selling oil or natural gas from federal lands to provide records to the federal government upon request, if the Secretary implements such authority by rule. The current regulations promulgated under section 103, however, apply only to lessees and operators, ignoring the federal government’s authority to audit natural gas *purchasers*. Section 216 would require the Secretary to amend existing regulations to encompass the full authority granted under FOGRMA.

Sec. 317. Limitation on Royalty-In-Kind Program.—This section would eliminate the ability for the Secretary of the Interior to run a regular program for taking oil or gas royalties in kind..

Sec. 318. Shared Civil Penalties.—This section would eliminate a disincentive for states and tribes to diligently pursue royalty violators. Under current law, any civil penalties that are collected under FOGRMA due to the work of State or Tribal auditors are divided evenly between the states or tribes and the Federal government. The amount the state or tribe receives from the civil penalty is then subtracted from the amount of money they would have received under their cooperative agreements with MMS. This means that, currently, state and tribal auditors receive no benefit for any work they do in identifying royalty violators.

Sec. 319. Applicability to Other Minerals.—This section would extend the civil and criminal enforcement authority in FOGRMA, as amended to coal and other solid minerals on federal lands, as well as to solid mineral mining or alternative energy development on the Outer Continental Shelf.

Sec. 320. Entitlements.—This section would require the Secretary to publish final regulations regarding procedures for reporting royalties on entitled shares of production from unitized leases when lessees do not actually sell their share of production from that lease.

Title IV – Full Funding for the Land and Water Conservation Fund

Subtitle A – Land and Water Conservation Fund

Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965.—This section would establish that all language in this subtitle would amend the Land and Water Conservation Fund (LWCF) Act of 1965 (16 U.S.C. 4601-4 et seq.).

Sec. 402. Extension of the Land and Water Conservation Fund.—This section would extend the authorization of the LWCF until 2040.

Sec. 403 Permanent Funding.—This section would provide for \$900 million to be available to the LWCF each year out of OCS receipts without further appropriations.

Subtitle B – National Historic Preservation Fund

Sec. 411. Permanent Funding.—This section would provide for \$150 million to be available to the Historic Preservation Fund (HPF) each year out of OCS receipts without further appropriations, and would extend the authorization of the HPF until 2040.

Title V – Alternative Energy Development

Sec. 501. Commercial Wind and Solar Leasing Program.—This section would establish a leasing program for wind and solar projects on Federal lands, in contrast to the special-use permits and rights-of-way authorizations that are used now. The Secretary would not be allowed to lease Forest Service lands for renewable energy over the objections of the Secretary of Agriculture. Final regulations establishing a leasing program would be required to be published within 18 months after the date of enactment, and leasing would be required to commence no later than 90 days after issuance of the regulations. Subsection (d) would eliminate the ability to site commercial solar or wind projects on BLM or Forest Service land using a right-of-way or special use permit, although subsection (f) would allow rights-of-way or special use permits to be issued for projects that have submitted a plan of development or installed a data collection device prior to the date of enactment of the bill. Subsection (e) would allow for the issuance of noncompetitive leases for noncommercial testing purposes, and the Secretary would have the authority to award preference to holders of noncompetitive leases during a commercial lease sale. Subsection (g) would require the Secretary to promulgate diligent development requirements for solar and wind leases.

Sec. 502. Land Management.—This section would require the Secretary to issue regulations for solar and wind leasing, establishing the lease terms, bonding requirements, and land reclamation requirements.

Sec. 503. Revenues.—This section would require the Secretary to set rates for rentals, royalties, etc., at a level to ensure a fair return to the United States and encourage development of wind and solar energy on federal lands.

Sec. 504. Recordkeeping and Reporting Requirements.—In order to allow for future audits or compliance reviews of renewable energy production on federal lands, this section would require lessees, permit holders, or renewable energy operators to maintain records for seven years.

Sec. 505. Audits.—This section would provide authority for the Secretary to conduct audits of onshore wind and solar leases.

Sec. 506. Trade Secrets.—This section would allow confidential or proprietary information to be made available by the Secretary to other federal agencies if necessary to carry out the provisions of this Act or other federal law.

Sec. 507. Interest and Substantial Underreporting Assessments.—This section would allow interest to be charged on late royalty payments for wind and solar leases, and also would establish a civil penalty of up to 25% for underpayments, in addition to making royalty violators subject to the civil penalty provisions of FOGRMA. The Secretary would have the authority to waive penalties if the underpayment is corrected before the payor receives a notice from the Secretary of that underpayment, and for other reasons. This section would also establish joint and several liability for royalty payments on a lease.

Sec. 508. Indian Savings Provision.—This section would ensure that the rights and interests of Indian tribes are not affected by this Subtitle.

Title VI – Outer Continental Shelf Coordination and Planning

Sec. 601. Regional Outer Continental Shelf coordination.—This section would address the need for long-term, coordinated planning to guide OCS energy development within the context of other activities occurring in OCS regions established in the Atlantic, Pacific, Gulf of Mexico and Alaska.

Sec. 602. Regional Outer Continental Shelf Councils.—This section would establish Regional OCS Councils (Councils). Council membership would include representatives of relevant Federal agencies, coastal State Governors, affected Tribes, and representatives from stakeholder groups such as the relevant Regional Ocean Partnership, Regional Fishery Management Council, and interstate marine fisheries commission.

Sec. 603. Regional Outer Continental Shelf strategic plans.—Strategic Plans would be prepared and completed by each of the Councils within 2 years after completion of an initial OCS Region assessment and would be used by the Department in developing 5-year OCS leasing plans under the OCS Lands Act.

Sec. 604. Regulations.—This section would direct the Secretaries to promulgate regulations to administer this Title.

Sec. 605. Ocean Resources Conservation and Assistance Fund. A percentage of all OCS revenues would be deposited into an Ocean Resources Conservation and Assistance (ORCA) Fund, established by this section, which would provide grants to coastal states and Regional Ocean Partnerships for activities that contribute to the protection, maintenance, and restoration of ocean, coastal and Great Lakes ecosystems including: the development and implementation of comprehensive, science-based plans for monitoring and managing the wide variety of uses affecting the oceans, coasts and Great Lakes ecosystems; activities to improve the ability of those ecosystems to become more resilient and adapt to and withstand the impacts of climate

change and ocean acidification; planning for and managing coastal development to minimize the loss of life and property associated with sea-level rise and the coastal hazards resulting from it; research, assessment and monitoring that contribute to these purposes; strengthened planning for coastal State oil spill response; and the implementation and operation of an integrated ocean observation system.

Sec. 606. Waiver.—This section would exempt the Councils from the Federal Advisory Committee Act.

Sec. 607. Transition Period.—To ensure uninterrupted leasing and development of our nation’s OCS resources while the Strategic Plans are being prepared, this section would allow the Secretary to continue the preparation and execution of 5-year plans under the OCS Lands Act, and the leasing of areas for offshore alternative energy under the existing alternative energy rule, until the Strategic Plans are approved.

Sec. 608. Alternative Energy on the Outer Continental Shelf.—Prior to approval of a strategic plan, the Secretary of the Interior would continue to implement the rule for Renewable Energy and Alternate Uses of Existing Facilities on the OCS. Approval of strategic plans would not affect projects for leases approved under that rule, nor tracts of the OCS for which competitive alternative energy leasing process under that rule has been initiated prior to submittal of the Plan for approval.

Title VII – Miscellaneous Provisions

Sec. 701. Repeal of Certain Taxpayer Subsidized Royalty Relief for the Oil and Gas Industry.—This section would repeal the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAct) (P.L. 109-58). Subsection (c) would repeal language from EPAct that provided for lease extensions and royalty relief in the National Petroleum Reserve-Alaska.

Sec. 702. Conservation Fee.—This section would impose a fee of \$2 per barrel of oil, or 20 cents per million Btu of natural gas, for production from existing federal onshore and offshore leases. This fee would expire on December 31, 2021.

Sec. 703. Leasing on Indian Lands.—This section would ensure that nothing in the bill would amend or modify leasing as it is currently carried out on Indian lands by the Bureau of Indian Affairs.

Sec. 704. Offshore Aquaculture Clarification.—This section clarifies that the Secretary of Commerce and the Regional Fishery Management Councils do not have the authority to develop or approve fishery management plans for the purposes of permitting or regulating aquaculture in the Exclusive Economic Zone of the United States.

Sec. 705. State Moratoria.— This section would prohibit the Secretary from issuing a lease on OCS lands that are seaward or adjacent to a coastal State which has a moratorium on offshore oil, gas, and mining activities.

Sec. 706. Liability for National Wildlife Refuges.— This section would amend the National Wildlife Refuge System Administration Act of 1966 to hold any person or instrumentality which destroys, causes the loss of, or injures a refuge resource, or any living or nonliving resource of the refuge system or marine national monument, liable to the United States. This section authorizes the Secretary to use the amounts recovered for costs of response actions and damage assessments.

Sec. 707. Strengthening Coastal State Oil Spill Planning and Response.—This section would amend Section 306 of the Coastal Zone Management Act of 1972 to provide grants, not to exceed \$750,000, to eligible coastal States to revise relevant plans of management programs to ensure sufficient oil spill response capabilities.

Sec. 708. Federal Coordination and Collaboration—This section would direct the President to establish policies and processes to promote better coordination and collaboration between Federal agencies with ocean and coastal related functions, to ensure adequate public comment and to support Regional Ocean Partnerships.

Sec. 709. Information Sharing.—This section would amend Section 388(b) of the Energy Policy Act of 2005 (Public Law 109-58) to require other federal agencies to provide data and information to the Secretary of the Interior in support of the Coordinated OCS Mapping Initiative.

Sec. 710. Savings Clause.—This section would ensure that no funds from this Act would be able to pay any cost that any responsible party under the Oil Pollution Act of 1990 is liable for.

Title VIII – Gulf of Mexico Restoration

Sec. 801. Gulf of Mexico Restoration Program.—This section would establish a Gulf of Mexico Restoration Task Force, composed of the heads of the relevant Federal agencies and the Governors of the Gulf Coast States, to develop and publish a long-term restoration plan within one year after the date of enactment. The Plan would identify processes and strategies for coordinating and implementing Federal, State, and local restoration programs and projects, using the best-available science.

Sec. 802. Gulf of Mexico Long-Term Environmental Monitoring and Research program.— This section would direct the Secretary through NOAA to establish a long-term, comprehensive marine environmental monitoring and research program on the impacts of the Deepwater Horizon oil spill on the marine and coastal environment of the Gulf of Mexico, to remain in effect for a minimum of 10 years. The program would be developed in cooperation with the USGS and in consultation with the National Oceanographic Leadership Council, the Gulf Coast

States, academic institutions, and other monitoring experts. Data from the program would be available to governmental and non-governmental personnel and the public.

Sec. 803. Gulf of Mexico Emergency Migratory Species Alternative Habitat Program.—

This section would establish an emergency migratory species alternative habitat program to support projects along the Northern coast of the Gulf of Mexico to ensure that migratory species have alternative habitat available for use outside of areas impacted by the oil spill.