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**OVERVIEW OF TAX ISSUES AND OTHER INCENTIVES FOR PRODUCTION OF *OIL* AND GAS, COAL, AND GEOTHERMAL RESOURCES**

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Selections from Energy Policy Act of 2005, Pub. L. 109-58:

Sec. 342. PROGRAM ON ***OIL*** AND GAS ROYALTIES IN-KIND.

(a) Applicability of Section.--Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal ***oil*** or gas lease or permit under--

(1) section 36 of the Mineral Leasing Act (*30 U.S.C. 192*);

(2) section 27 of the Outer Continental Shelf Lands Act (*43 U.S.C. 1353*); or

(3) any other Federal law governing leasing of Federal land for ***oil*** and gas development.

(b) Terms and Conditions.--All royalty accruing to the United States shall, on the demand of the Secretary, be paid in-kind. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) Satisfaction of royalty obligation.-- Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Marketable condition.--

(A) Definition of marketable condition.--In this paragraph, the term "in marketable condition" means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(B) Requirement.--Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) Disposition by the secretary.-- The Secretary may--

(A) sell or otherwise dispose of any royalty production taken in-kind (other than ***oil*** or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (*43 U.S.C. 1353(a)(3)*) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) Retention by the secretary.-- The Secretary may, notwithstanding *section 3302 of title 31, United States Code*, retain and use a portion of the revenues from the sale of ***oil*** and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use ***oil*** or gas received as royalty taken in-kind (referred to in this paragraph as "royalty production") to pay the cost of--

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) Limitation.--

(A) In general.--Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of ***oil*** and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) Exception.--Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) Reimbursement of Cost.--If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty ***oil*** or gas at a point not on or adjacent to the lease area, the Secretary shall--

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal ***oil*** and gas leases.

(d) Benefit to the United States Required.--The Secretary may receive ***oil*** or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) Reports.--

(1) In general.-- Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses--

(A) actions taken to develop business processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal ***oil*** and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) Reports on ***oil*** or gas royalties taken in-kind.-- For each of fiscal years 2006 through 2015 in which the United States takes ***oil*** or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes--

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) Deduction of Expenses.--

(1) In general.-- Before making payments under section 35 of the Mineral Leasing Act (*30 U.S.C. 191*) or section 8(g) of the Outer Continental Shelf Lands Act (*43 U.S.C. 1337(g)*) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) Accounting for deductions.-- When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal ***oil*** and gas lease as a consequence of that deduction.

(g) Consultation With States.--The Secretary--

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal ***oil*** or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(h) Small Refineries.--

(1) Preference.-- If the Secretary finds that sufficient supplies of crude ***oil*** are not available in the open market to refineries that do not have their own source of supply for crude ***oil***, the Secretary may grant preference to those refineries in the sale of any royalty ***oil*** accruing or reserved to the United States under Federal ***oil*** and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) Proration among refineries in production area.-- In disposing of ***oil*** under this subsection, the Secretary may, at the discretion of the Secretary, prorate the ***oil*** among refineries described in paragraph (1) in the area in which the ***oil*** is produced.

(i) Disposition to Federal Agencies.--

(1) Onshore royalty.-- Any royalty ***oil*** or gas taken by the Secretary in-kind from onshore ***oil*** and gas leases may be sold at not less than the market price to any Federal agency.

(2) Offshore royalty.-- Any royalty ***oil*** or gas taken in-kind from a Federal ***oil*** or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (*43 U.S.C. 1353*).

(j) Federal Low-Income Energy Assistance Programs.--

(1) Preference.-- In disposing of royalty ***oil*** or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) Report.-- Not later than 3 years after the date of enactment of this Act, the Secretary shall submit a report to Congress--

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

Sec. 343. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) Definition of Marginal Property.--Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of ***oil*** per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) Conditions for Reduction of Royalty Rate.--Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on--

(1) ***oil*** production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude ***oil*** at Cushing, Oklahoma, is, on average, less than $ 15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $ 2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) Reduced Royalty Rate.--

(1) In general.-- When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of--

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) Period of effectiveness.-- The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) Termination of Reduced Royalty Rate.--A royalty rate prescribed in subsection (c)(1) shall terminate--

(1) with respect to ***oil*** production from a marginal property, on the first day of the production month following the date on which--

(A) the spot price of West Texas Intermediate crude ***oil*** at Cushing, Oklahoma, on average, exceeds $ 15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which--

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $ 2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) Regulations Prescribing Different Relief.--

(1) Discretionary regulations.-- The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) Mandatory regulations.-- Unless a determination is made under paragraph (3), not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation--

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for ***oil*** and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) Report.-- To the extent the Secretary determines that it is not practicable to issue the regulations referred to in paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after the date of enactment of this Act.

(4) Considerations.-- In issuing regulations under this subsection, the Secretary may consider--

(A) ***oil*** and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) Savings Provision.--Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

Sec. 331. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, ***KERN*** COUNTY, CALIFORNIA.

(a) Administration Jurisdiction Transfer to Secretary of the Interior.--Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in ***Kern*** County, California (other than the lands specified in subsection (b)), are transferred from the Secretary to the Secretary of the Interior for management, subject to subsection (c), in accordance with the laws governing management of the public lands, and the regulations promulgated under such laws, including the Mineral Leasing Act (*30 U.S.C. 181* et seq.) and the Federal Land Policy and Management Act of 1976 (*43 U.S.C. 1701* et seq.).

(b) Exclusion of Certain Reserve Lands.--The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; *10 U.S.C. 7420* note).

(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 333.

(c) Purpose of Transfer.--

(1) Production of hydrocarbon resources.-- Notwithstanding any other provision of law, the principal purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(2) Disposal authority and surface use.-- The Secretary of the Interior may make disposals of lands subject to transfer under subsection (a), or allow commercial or non-profit surface use of such lands, not to exceed 10 acres each, so long as the disposals or surface uses do not materially interfere with the ultimate economic recovery of the hydrocarbon resources of such lands. All revenues received from the disposal of lands under this paragraph or from allowing the surface use of such lands shall be deposited in the Naval Petroleum Reserve Numbered 2 Lease Revenue Account established by section 332.

(d) Conforming Amendment.--Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; *10 U.S.C. 7420* note) is amended by striking subsection (b).

Sec. 349. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) In General.--The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled ***oil*** and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) Activities.--The program under subsection (a) shall--

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an ***oil*** or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) Cooperation and Consultations.--In carrying out the program under subsection (a), the Secretary shall--

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate ***Oil*** and Gas Compact Commission.

(d) Plan.--Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) Idled Well.--For the purposes of this section, a well is idled if--

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) Federal Reimbursement for Orphaned Well Reclamation Pilot Program.--

(1) Reimbursement for remediating, reclaiming, and closing wells on land subject to a new lease.-- The Secretary shall carry out a pilot program under which, in issuing a new ***oil*** and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary--

(A) may require, other than as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that requirement.

(2) Reimbursement for reclaiming orphaned wells on other land.-- In carrying out this subsection, the Secretary--

(A) may authorize any lessee under an ***oil*** and gas lease on federally owned land to reclaim in accordance with the Secretary's standards--

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 100 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) Regulations.-- The Secretary may issue such regulations as are appropriate to carry out this subsection.

(g) Technical Assistance Program for Non-Federal Land.--

(1) In general.-- The Secretary of Energy shall establish a program to provide technical and financial assistance to ***oil*** and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned ***oil*** and gas exploration or production well sites on State or private land.

(2) Assistance.-- The Secretary of Energy shall work with the States, through the Interstate ***Oil*** and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned ***oil*** or gas wells on State and private land.

(3) Activities.-- The program under paragraph (1) shall include--

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an ***oil*** or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(h) Authorization of Appropriations.--

(1) In general.-- There are authorized to be appropriated to carry out this section $ 25,000,000 for each of fiscal years 2006 through 2010.

(2) Use.-- Of the amounts authorized under paragraph (1), $ 5,000,000 are authorized for each fiscal year for activities under subsection (f).

Sec. 354. ENHANCED ***OIL*** AND NATURAL GAS PRODUCTION THROUGH CARBON DIOXIDE INJECTION.

(a) Production Incentive.--

(1) Findings.-- Congress finds the following:

(A) Approximately two-thirds of the original ***oil*** in place in the United States remains unproduced.

(B) Enhanced ***oil*** and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase ***oil*** and natural gas production.

(C) Capturing and productively using carbon dioxide would help reduce the carbon intensity of the economy.

(2) Purpose.-- The purpose of this section is--

(A) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases or other matter for sequestration into ***oil*** and gas fields; and

(B) to promote ***oil*** and natural gas production from the other Continental Shelf and onshore Federal lands under lease by providing royalty incentives to use enhanced recovery techniques using injection of the substances referred to in subparagraph (A).

(b) Suspension of Royalties.--

(1) In general.-- If the Secretary determines that reduction of the royalty under a Federal ***oil*** and gas lease that is an eligible lease is in the public interest and promotes the purposes of this section, the Secretary shall undertake a rulemaking to provide for such reduction for an eligible lease.

(2) Rulemakings.-- The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this section within 365 days after the date of enactment of this Act.

(3) Eligible leases.-- A lease shall be an eligible lease for purposes of this section if--

(A) it is a lease for production of ***oil*** and gas from the outer Continental Shelf or Federal onshore lands;

(B) the injection of the substances referred to in subsection (a)(2)(A) will be used as an enhanced recovery technique on such lease; and

(C) the Secretary determines that the lease contains ***oil*** or gas that would not likely be produced without the royalty reduction provided under this section.

(4) Amount of relief.-- The rulemaking shall provide for a suspension volume, which shall not exceed 5,000,000 barrels of ***oil*** equivalent for each eligible lease. Such suspension volume shall be applied to any production from an eligible lease occurring on or after the date of publication of any advanced notice of proposed rulemaking under this subsection.

(5) Limitation.-- The Secretary may place limitations on the royalty reduction granted under this section based on market price.

(6) Application.-- This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(c) Demonstration Program.--

(1) Establishment.--

(A) In general.--The Secretary of Energy shall establish a competitive grant program to provide grants to producers of ***oil*** and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of ***oil*** or natural gas while increasing the sequestration of carbon dioxide.

(B) Projects.--The demonstration program shall provide for--

(i) not more than 10 projects in the Willistin Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) Requirements.--

(A) In general.--The Secretary of Energy shall issue requirements relating to applications for grants under paragraph (1).

(B) Rulemaking.--The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) Minimum requirements.--At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include--

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) Partners.-- An applicant for a grant under paragraph (1) may carry out a project under a pilot program in partnership with 1 or more other public or private entities.

(4) Selection criteria.-- In evaluating applications under this subsection, the Secretary of Energy shall--

(A) consider the previous experience with similar projects of each applicant; and

(B) give priority consideration to applications that--

(i) are most likely to maximize production of ***oil*** and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) Demonstration program requirements.--

(A) Maximum amount.--The Secretary of Energy shall not provide more than $ 3,000,000 in Federal assistance under this subsection to any applicant.

(B) Cost sharing.--The Secretary of Energy shall require cost-sharing under this subsection in accordance with section 988.

(C) Period of grants.--

(i) In general.--A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) Term.--The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) Transfer of information and knowledge.-- The Secretary of Energy shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested persons, including other applicants that submitted applications for a grant under this subsection.

(7) Schedule.--

(A) Publication.--Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) Date for applications.--An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) Selection.--After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary of Energy, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as are necessary to carry out this section.

Sec. 347. ***OIL*** AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) Transfer of Authority.--

(1) Redesignation.-- The Naval Petroleum Reserves Production Act of 1976 (*42 U.S.C. 6501* et seq.) is amended by redesignating section 107 (*42 U.S.C. 6507*) as section 108.

(2) Transfer.-- The matter under the heading "G3exploration of national petroleum reserve in alaska" under the heading "G3energy and minerals" of title I of Public Law 96-514 (*42 U.S.C. 6508*) is--

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (*42 U.S.C. 6501* et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (*42 U.S.C. 6506*).

(b) Competitive Leasing.--Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a)(2)) is amended--

(1) by striking the heading and all that follows through "Provided, That (1) activities" and inserting the following:

"Sec. 107. COMPETITIVE LEASING OF ***OIL*** AND GAS.

"(a) In General.--The Secretary shall conduct an expeditious program of competitive leasing of ***oil*** and gas in the Reserve in accordance with this Act.

"(b) Mitigation of Adverse Effects.--Activities";

(2) by striking "Alaska (the Reserve); (2) the" and inserting "Alaska".

"(c) Land Use Planning; BLM Wilderness Study.--The";

(3) by striking "Reserve; (3) the" and inserting "Reserve".

"(d) First Lease Sale.--The;";

(4) by striking "4332); (4) the" and inserting "4321 et seq.)".

"(e) Withdrawals.--The";

(5) by striking "herein; (5) bidding" and inserting "under this section".

"(f) Bidding Systems.--Bidding";

(6) by striking "629); (6) lease" and inserting "629)".

"(g) Geological Structures.--Lease";

(7) by striking "structures; (7) the" and inserting "structures".

"(h) Size of Lease Tracts.--The";

(8) by striking "Secretary; (8)" and all that follows through "Drilling, production," and inserting "Secretary".

"(i) Terms.--

"(1) In general.-- Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as ***oil*** or gas is produced from the lease in paying quantities, ***oil*** or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

"(2) Renewal of leases with discoveries.-- At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

"(3) Renewal of leases without discoveries.-- At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of $ 100 per acre of leased land, and--

"(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

"(B) all or part of the lease--

"(i) is part of a unit agreement covering a lease described in subparagraph (A); and

"(ii) has not been previously contracted out of the unit.

"(4) Applicability.-- This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

"(5) Expiration for failure to produce.-- Notwithstanding any other provision of this Act, if no ***oil*** or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

"(6) Termination.-- No lease issued under this section covering lands capable of producing ***oil*** or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

"(j) Unit Agreements.--

"(1) In general.-- For the purpose of conservation of the natural resources of all or part of any ***oil*** or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the ***oil*** or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

"(2) Consultation.-- In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (*43 U.S.C. 1602*)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

"(3) Production allocation methodology.-- (A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

"(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific ***oil*** or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

"(4) Benefit of operations.-- Drilling, production,";

(9) by striking "When separate" and inserting the following:

"(5) Pooling.-- If separate";

(10) by inserting "(in consultation with the owners of the other land)" after "determined by the Secretary of the Interior";

(11) by striking "thereto; (10) to" and all that follows through "the terms provided therein" and inserting "to the agreement.

"(k) Exploration Incentives.--

"(1) In general.--

"(A) Waiver, suspension, or reduction.--To encourage the greatest ultimate recovery of ***oil*** or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (*16 U.S.C. 3101* et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

"(B) Applicability.--This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.";

(12) by striking "The Secretary is authorized to" and inserting the following:

"(2) Suspension of operations and production.-- The Secretary may";

(13) by striking "In the event" and inserting the following:

"(3) Suspension of payments.-- If";

(14) by striking "thereto; and (11) all" and inserting "to the lease.

"(l) Receipts.--All";

(15) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(16) by striking "Any agency" and inserting the following:

"(m) Explorations.--Any agency";

(17) by striking "Any action" and inserting the following:

"(n) Environmental Impact Statements.--

"(1) Judicial review.-- Any action";

(18) by striking "The detailed" and inserting the following:

"(2) Initial lease sales.-- The detailed";

(19) by striking "section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; *42 U.S.C. 6504*)" and inserting "section 104(a)"; and

(20) by adding at the end the following:

"(o) Regulations.--As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

"(p) Waiver of Administration for Conveyed Lands.--

"(1) In general.-- Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (*43 U.S.C. 1613(g)*)--

"(A) the Secretary of the Interior shall waive administration of any ***oil*** and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the 'Corporation');"(B)

(i) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the ***oil*** and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to ***oil*** or gas produced from or allocated to that portion;

"(ii) in a case described in clause (i), the Secretary of the Interior shall--

"(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

"(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

"(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

"(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.".

(c) Conforming Amendments.--Section 104 of the Naval Petroleum Reserves Production Act of 1976 (*42 U.S.C. 6504*) is amended--

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

Subtitle B--Geothermal Energy

Sec. 221. SHORT TITLE.

This subtitle may be cited as the "John Rishel Geothermal Steam Act Amendments of 2005".

Sec. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1003*) is amended to read as follows:

"Sec. 4. LEASING PROCEDURES.

"(a) Nominations.--The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

"(b) Competitive Lease Sale Required.--

"(1) In general.-- Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

"(2) Competitive lease sales.-- The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

"(3) Lands subject to mining claims.-- Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

"(c) Noncompetitive Leasing.--The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

"(d) Pending Lease Applications.--

"(1) In general.-- It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

"(2) Administration.-- An application described in paragraph (1) and any lease issued pursuant to the application--

"(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

"(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

"(e) Leases Sold as a Block.--If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.".

Sec. 223. DIRECT USE.

(a) Fees for Direct Use.--Section 5 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1004*) is amended--

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting "(a) In General.--" after "Sec. 5."; and

(4) by adding at the end the following:

"(b) Direct Use.--

"(1) In general.-- Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate--

"(A) uses for a purpose other than the commercial generation of electricity; and

"(B) does not sell.

"(2) Schedule of fees.-- The schedule of fees--

"(A) may be based on the quantity or thermal content, or both, of geothermal resources used;

"(B) shall ensure a fair return to the United States for use of the resource; and

"(C) shall encourage development of the resource.

"(3) State, tribal, or local governments.-- If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.

"(4) Final regulation.-- In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek--

"(A) to provide lessees with a simplified administrative system;

"(B) to facilitate development of direct use of geothermal resources; and

"(C) to contribute to sustainable economic development opportunities in the area.".

(b) Leasing for Direct Use.--Section 4 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1003*) (as amended by section 222) is further amended by adding at the end the following:

"(f) Leasing for Direct Use of Geothermal Resources.--Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources, without sale for purposes other than commercial generation of electricity, may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary--

"(1) publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;

"(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

"(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

"(g) Area Subject to Lease for Direct Use.--

"(1) In general.-- Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

"(2) Limitations.-- The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.".

(c) Application of New Lease Terms.--The schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing, and have been paid, on or after July 16, 2003. This subsection shall not require the refund of royalties paid to a State under section 20 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1019*) prior to the date of enactment of this Act.

Sec. 224. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) Royalty.--Section 5 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1004*) is further amended--

(1) in subsection (a) by striking paragraph (1) and inserting the following:

"(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be--

"(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

"(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;"; and

(2) by adding at the end the following:

"(c) Final Regulation Establishing Royalty Rates.--In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek--

"(1) to provide lessees a simplified administrative system;

"(2) to encourage new development; and

"(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on the date of enactment of this subsection.

"(d) Credits for In-Kind Payments of Electricity.--The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (*30 U.S.C. 191*), except as otherwise provided by this section, or section 6 of the Mineral Leasing Act for Acquired Lands (*30 U.S.C. 355*), if--

"(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

"(2) the contract establishes a specific methodology to determine the value of such credits; and

"(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.".

(b) Disposal of Moneys From Sales, Bonuses, Royalties, and Rents.--Section 20 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1019*) is amended to read as follows:

"Sec. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

"(a) In General.--Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (*30 U.S.C. 191(b)*) and section 5(a)(2) of this Act--

"(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

"(2) 25 percent shall be paid to the county within the boundaries of which the leased lands or geothermal resources are or were located.

"(b) Use of Payments.--Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (*30 U.S.C. 191*).".

(c) Near-Term Production Incentive for Existing Leases.--

(1) In general.-- Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)--

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) K4-year application.-- Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) Definition of Qualified Expansion Geothermal Energy.--In this section, the term "qualified expansion geothermal energy" means geothermal energy produced from a generation facility for which--

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend in changes in production during that period).

(e) Royalty Under Existing Leases.--

(1) In general.-- Any lessee under a lease issued under the Geothermal Steam Act of 1970 (*30 U.S.C. 1001* et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide--

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1004*) (as amended by section 223), that royalties be based on the schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be computed on a percentage of the gross proceeds from the sale of electricity, at a royalty rate that is expected to yield total royalty payments equivalent to payments that would have been received for comparable production under the royalty rate in effect for the lease before the date of enactment of this subsection.

(2) Timing.-- A request for a modification under paragraph (1) shall be submitted to the Secretary of the Interior by the date that is not later than--

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under section 5 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1004*); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) Application of modification.-- If the lessee requests modification of a lease under paragraph (1)--

(A) the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with--

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (*30 U.S.C. 1004*); or

(ii) in the case of any other lease, the royalty for the lease established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) Consultation.-- The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

Sec. 225. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) In General.--Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and Permit Applications.--The memorandum of understanding shall--

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

(c) Data Retrieval System.--The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

Sec. 350. COMBINED HYDROCARBON LEASING.

(a) Special Provisions Regarding Leasing.--Section 17(b)(2) of the Mineral Leasing Act (*30 U.S.C. 226(b)(2)*) is amended--

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) For any area that contains any combination of tar sand and ***oil*** or gas (or both), the Secretary may issue under this Act, separately--

"(i) a lease for exploration for and extraction of tar sand; and

"(ii) a lease for exploration for and development of ***oil*** and gas.

"(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for ***oil*** and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $ 2 per acre.

"(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.".

(b) Conforming Amendment.--Section 17(b)(1)(B) of the Mineral Leasing Act (*30 U.S.C. 226(b)(1)(B)*) is amended in the second sentence by inserting ", subject to paragraph (2)(B)," after "Secretary".

(c) Regulations.--Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

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