

H.R.6

Energy Policy Act of 2005 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 369. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC UNCONVENTIONAL FUELS.

(a) Short Title- This section may be cited as the 'Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005'.

(b) Declaration of Policy- Congress declares that it is the policy of the United States that--

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(3) development of those strategic unconventional fuels should occur, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(c) Leasing Program for Research and Development of Oil Shale and Tar Sands- In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 180 days after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the 'Secretary') shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) Programmatic Environmental Impact Statement and Commercial Leasing Program for Oil Shale and Tar Sands-

(1) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT- Not later than 18 months after the date of enactment of this Act, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with an emphasis on the most

geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) FINAL REGULATION- Not later than 6 months after the completion of the programmatic environmental impact statement under this subsection, the Secretary shall publish a final regulation establishing such program.

(e) Commencement of Commercial Leasing of Oil Shale and Tar Sands- Not later than 180 days after publication of the final regulation required by subsection (d), the Secretary shall consult with the Governors of States with significant oil shale and tar sands resources on public lands, representatives of local governments in such States, interested Indian tribes, and other interested persons, to determine the level of support and interest in the States in the development of tar sands and oil shale resources. If the Secretary finds sufficient support and interest exists in a State, the Secretary may conduct a lease sale in that State under the commercial leasing program regulations. Evidence of interest in a lease sale under this subsection shall include, but not be limited to, appropriate areas nominated for leasing by potential lessees and other interested parties.

(f) Diligent Development Requirements- The Secretary shall, by regulation, designate work requirements and milestones to ensure the diligent development of the lease.

(g) Initial Report by the Secretary of the Interior- Within 90 days after the date of enactment of this Act, the Secretary of the Interior shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on--

(1) the interim actions necessary to--

- (A) develop the program, complete the programmatic environmental impact statement, and promulgate the final regulation as required by subsection (d); and
- (B) conduct the first lease sales under the program as required by subsection (e); and

(2) a schedule to complete such actions within the time limits mandated by this section.

(h) Task Force-

(1) ESTABLISHMENT- The Secretary of Energy, in cooperation with the Secretary of the Interior and the Secretary of Defense, shall establish a task force to develop a program to coordinate and accelerate the commercial development of strategic unconventional fuels, including but not limited to oil shale and tar sands resources within the United States, in an integrated manner.

(2) COMPOSITION- The Task Force shall be composed of--

- (A) the Secretary of Energy (or the designee of the Secretary);
- (B) the Secretary of the Interior (or the designee of the Secretary of the Interior);

- (C) the Secretary of Defense (or the designee of the Secretary of Defense);
- (D) the Governors of affected States; and
- (E) representatives of local governments in affected areas.

(3) RECOMMENDATIONS- The Task Force shall make such recommendations regarding promoting the development of the strategic unconventional fuels resources within the United States as it may deem appropriate.

(4) PARTNERSHIPS- The Task Force shall make recommendations with respect to initiating a partnership with the Province of Alberta, Canada, for purposes of sharing information relating to the development and production of oil from tar sands, and similar partnerships with other nations that contain significant oil shale resources.

(5) REPORTS-

(A) INITIAL REPORT- Not later than 180 days after the date of enactment of this Act, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force.

(B) SUBSEQUENT REPORTS- The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the 5 years following submission of the report provided for in subparagraph (A).

(i) Office of Petroleum Reserves-

(1) IN GENERAL- The Office of Petroleum Reserves of the Department of Energy shall--

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States;

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote and coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationships between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) CONSULTATION AND COORDINATION- The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(3) ANNUAL REPORTS- Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection.

(j) Mineral Leasing Act Amendments-

(1) SECTION 17- Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)), as amended by section 350, is further amended--

(A) in subparagraph (A) (as designated by the amendment made by subsection (a)(1) of that section) by designating the first, second, and third sentences as clauses (i), (ii), and (iii), respectively;

(B) by moving clause (ii), as so designated, so as to begin immediately after and below clause (i);

(C) by moving clause (iii), as so designated, so as to begin immediately after and below clause (ii);

(D) in clause (i) of subparagraph (A) (as designated by subparagraph (A) of this paragraph) by striking ' five thousand one hundred and twenty' and inserting ' 5,760'; and

(E) by adding at the end the following:

' (iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.'

(2) SECTION 21- Section 21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is amended--

(A) by striking ' (a) That the Secretary' and inserting the following:

' (a)(1) The Secretary';

(B) by striking ' ; that no lease' and inserting a period, followed by the following:

' (2) No lease';

(C) by striking ' Leases may be for' and inserting the following:

' (3) Leases may be for';

(D) by striking ' For the privilege' and inserting the following:

' (4) For the privilege';

(E) in paragraph (2) (as designated by subparagraph (B) of this paragraph) by striking ' five thousand one hundred and twenty' and inserting ' 5,760';

(F) in paragraph (4) (as designated by subparagraph (D) of this paragraph) by striking ' rate of 50 cents per acre' and inserting ' rate of \$2.00 per acre';

(G)(i) by striking ` : *Provided further*, That not more than one lease shall be granted under this section to any' and inserting ` : *Provided further*, That no'; and
(ii) by striking `except that with respect to leases for' and inserting `shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For'; and
(H) by adding at the end the following:

` (5) No lease issued under this section shall be included in any chargeability limitation associated with oil and gas leases.'.

(k) Interagency Coordination and Expeditious Review of Permitting Process-

(1) DEPARTMENT OF THE INTERIOR AS LEAD AGENCY- Upon written request of a prospective applicant for Federal authorization to develop a proposed oil shale or tar sands project, the Department of the Interior shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews.

(2) IMPLEMENTING REGULATIONS- Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subsection.

(l) Cost-shared Demonstration Technologies-

(1) IDENTIFICATION- The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that-

(A) are ready for demonstration at a commercially-representative scale; and

(B) have a high probability of leading to commercial production.

(2) ASSISTANCE- For each technology identified under paragraph (1), the Secretary of Energy may provide--

(A) technical assistance;

(B) assistance in meeting environmental and regulatory requirements; and

(C) cost-sharing assistance.

(m) National Oil Shale and Tar Sands Assessment-

(1) ASSESSMENT-

(A) IN GENERAL- The Secretary shall carry out a national assessment of oil shale and tar sands resources for the purposes of evaluating and mapping oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological

assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) GEOGRAPHIC AREAS- The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are--

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of 'shale' located east of the Mississippi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES- In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(n) Land Exchanges-

(1) IN GENERAL- To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are intermingled, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(2) IDENTIFICATION AND PRIORITY OF PUBLIC LANDS- The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uintah, and Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary shall consider the geology of the respective basin in determining the optimum size of the lands to be consolidated.

(3) COMPLIANCE WITH SECTION 206 OF FLPMA- A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(o) Royalty Rates for Leases- The Secretary shall establish royalties, fees, rentals, bonus, or other payments for leases under this section that shall--

(1) encourage development of the oil shale and tar sands resource; and

(2) ensure a fair return to the United States.

(p) Heavy Oil Technical and Economic Assessment- The Secretary of Energy shall update the 1987 technical and economic assessment of domestic heavy oil resources that was prepared by the Interstate Oil and Gas Compact Commission. Such an update should include all of North America and cover all unconventional oil, including heavy oil, tar sands (oil sands), and oil shale.

(q) Procurement of Unconventional Fuels by the Department of Defense-

(1) IN GENERAL- Chapter 141 of title 10, United States Code, is amended by inserting after section 2398 the following:

Sec. 2398a. Procurement of fuel derived from coal, oil shale, and tar sands

(a) Use of Fuel to Meet Department of Defense Needs- The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a 'covered fuel') that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) Authority to Procure- The Secretary of Defense may enter into 1 or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet 1 or more fuel requirements of the Department of Defense.

(c) Clean Fuel Requirements- A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) Multiyear Contract Authority- Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

(e) Fuel Source Analysis- In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.'

(2) CLERICAL AMENDMENT- The table of sections for chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2398 the following:

' 2398a. Procurement of fuel derived from coal, oil shale, and tar sands.'

(r) State Water Rights- Nothing in this section preempts or affects any State water law or interstate compact relating to water.

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