

112TH CONGRESS
2D SESSION

S. 2365

To promote the economic and energy security of the United States, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2012

Mr. HATCH (for himself, Mr. BARRASSO, Mr. MORAN, Mr. CRAPO, and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote the economic and energy security of the United
States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Western Economic Security Today Act” or the “WEST
6 Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PUTTING THE GULF OF MEXICO BACK TO WORK

- Sec. 101. Short title.
- Sec. 102. Definitions.

Subtitle A—Outer Continental Shelf Land

- Sec. 111. Drilling permits.

Subtitle B—Judicial Review of Agency Actions Relating to Outer Continental Shelf Activities in Gulf of Mexico

- Sec. 122. Exclusive venue for certain civil actions relating to covered energy projects in Gulf of Mexico.
- Sec. 123. Time limitation on filing.
- Sec. 124. Expedition in hearing and determining action.
- Sec. 125. Standard of review.
- Sec. 126. Limitation on prospective relief.
- Sec. 127. Limitation on attorneys' fees.

TITLE II—RESTARTING AMERICAN OFFSHORE LEASING NOW

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. Requirement to conduct proposed oil and gas Lease Sale 216 in Central Gulf of Mexico.
- Sec. 204. Requirement to conduct proposed oil and gas Lease Sale 220 on Outer Continental Shelf offshore Virginia.
- Sec. 205. Requirement to conduct proposed oil and gas Lease Sale 222 in Central Gulf of Mexico.

TITLE III—REVERSING PRESIDENT OBAMA'S OFFSHORE MORATORIUM

- Sec. 301. Short title.
- Sec. 302. Outer Continental Shelf leasing program.
- Sec. 303. Domestic oil and natural gas production goal.

TITLE IV—JOBS AND ENERGY PERMITTING

- Sec. 401. Short title.
- Sec. 402. Air quality measurement.
- Sec. 403. OCS source.
- Sec. 404. Permits.

TITLE V—SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY

- Sec. 501. Short title.

Subtitle A—Central Valley Project Water Reliability

- Sec. 511. Amendment to purposes.
- Sec. 512. Amendment to definition.
- Sec. 513. Contracts.
- Sec. 514. Water transfers, improved water management, and conservation.
- Sec. 515. Fish, wildlife, and habitat restoration.
- Sec. 516. Restoration Fund.
- Sec. 517. Additional authorities.
- Sec. 518. Bay-Delta Accord.

- Sec. 519. Natural and artificially spawned species.
- Sec. 520. Authorized service area.
- Sec. 521. Regulatory streamlining.

Subtitle B—San Joaquin River Restoration

- Sec. 531. Repeal of the San Joaquin River settlement.
- Sec. 532. Purpose.
- Sec. 533. Definitions.
- Sec. 534. Implementation of restoration.
- Sec. 535. Disposal of property; title to facilities.
- Sec. 536. Compliance with applicable law.
- Sec. 537. Compliance with Central Valley Project Improvement Act.
- Sec. 538. No private right of action.
- Sec. 539. Implementation.
- Sec. 540. Repayment contracts and acceleration of repayment of construction costs.
- Sec. 541. Repeal.
- Sec. 542. Water supply mitigation.
- Sec. 543. Additional authorities.

Subtitle C—Repayment Contracts and Acceleration of Repayment of Construction Costs

- Sec. 551. Repayment contracts and acceleration of repayment of construction costs.

Subtitle D—Bay-Delta Watershed Water Rights Preservation and Protection

- Sec. 561. Water rights and area-of-origin protections.
- Sec. 562. Sacramento River settlement contracts.
- Sec. 563. Sacramento River Watershed water service contractors.
- Sec. 564. No redirected adverse impacts.

Subtitle E—Miscellaneous

- Sec. 571. Precedent.

TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Short title.
- Sec. 602. Use of authorized pesticides.
- Sec. 603. Discharges of pesticides.

TITLE VII—FARM DUST REGULATION PREVENTION

- Sec. 701. Short title.
- Sec. 702. Temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter.
- Sec. 703. Nuisance dust.
- Sec. 704. Sense of Congress.
- Sec. 705. Impacts of EPA regulatory activity on employment and economic activity in agriculture community.

TITLE VIII—ENERGY TAX PREVENTION

- Sec. 801. Short title.

Sec. 802. No regulation of emissions of greenhouse gases.

Sec. 803. Preserving one national standard for automobiles.

1 **TITLE I—PUTTING THE GULF OF**
 2 **MEXICO BACK TO WORK**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Putting the Gulf of
 5 Mexico Back to Work Act”.

6 **SEC. 102. DEFINITIONS.**

7 In this title:

8 (1) **COVERED CIVIL ACTION.**—The term “cov-
 9 ered civil action” means a civil action containing a
 10 claim under section 702 of title 5, United States
 11 Code, regarding agency action (as defined for the
 12 purposes of that section) affecting a covered energy
 13 project in the Gulf of Mexico.

14 (2) **COVERED ENERGY PROJECT.**—

15 (A) **IN GENERAL.**—The term “covered en-
 16 ergy project” means the leasing of Federal land
 17 of the outer Continental Shelf for the explo-
 18 ration, development, production, processing, or
 19 transmission of oil, natural gas, wind, or any
 20 other source of energy in the Gulf of Mexico,
 21 and any action under a lease.

22 (B) **EXCLUSION.**—The term “covered en-
 23 ergy project” does not include any dispute be-
 24 tween the parties to a lease regarding the obli-

1 gations under the lease, including any alleged
2 breach of the lease.

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

5 **Subtitle A—Outer Continental**
6 **Shelf Land**

7 **SEC. 111. DRILLING PERMITS.**

8 Section 11 of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1340) is amended by striking subsection (d)
10 and inserting the following:

11 “(d) DRILLING PERMITS.—

12 “(1) IN GENERAL.—The Secretary shall by reg-
13 ulation require that any lessee operating under an
14 approved exploration plan—

15 “(A) obtain a permit before drilling any
16 well in accordance with the plan; and

17 “(B) obtain a new permit before drilling
18 any well of a design that is significantly dif-
19 ferent than the design for which the existing
20 permit was issued.

21 “(2) SAFETY REVIEW REQUIRED.—The Sec-
22 retary shall not issue a permit under paragraph (1)
23 without ensuring that the proposed drilling oper-
24 ations meet all—

1 “(A) critical safety system requirements,
2 including blowout prevention; and

3 “(B) oil spill response and containment re-
4 quirements.

5 “(3) TIMELINE.—

6 “(A) IN GENERAL.—The Secretary shall
7 determine whether to issue a permit under
8 paragraph (1) not later than 30 days after the
9 date on which the Secretary receives the appli-
10 cation for a permit.

11 “(B) EXTENSION OF TIME.—

12 “(i) IN GENERAL.—The Secretary
13 may extend the period in which to consider
14 an application for a permit for up to 2 pe-
15 riods of 15 days each if the Secretary has
16 given written notice of the delay to the ap-
17 plicant.

18 “(ii) NOTICE.—The notice described
19 in clause (i) shall—

20 “(I) be in the form of a letter
21 from the Secretary or a designee of
22 the Secretary; and

23 “(II) include—

1 “(aa) the name and title of
2 each individual processing the ap-
3 plication;

4 “(bb) the reason for the
5 delay; and

6 “(cc) the date on which the
7 Secretary expects to make a final
8 decision on the application.

9 “(4) DENIAL OF APPLICATION.—If the Sec-
10 retary denies the application, the Secretary shall
11 provide the applicant—

12 “(A) a written statement that provides
13 clear and comprehensive reasons why the appli-
14 cation was not accepted and detailed informa-
15 tion concerning any deficiency; and

16 “(B) an opportunity to remedy any defi-
17 ciencies.

18 “(5) FAILURE TO MAKE DECISION WITHIN 60
19 DAYS.—If the Secretary does not make a decision on
20 the application by the date that is 60 days from the
21 date on which the Secretary receives the application,
22 the application shall be considered approved.”.

1 **Subtitle B—Judicial Review of**
2 **Agency Actions Relating to**
3 **Outer Continental Shelf Activi-**
4 **ties in Gulf of Mexico**

5 **SEC. 122. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
6 **RELATING TO COVERED ENERGY PROJECTS**
7 **IN GULF OF MEXICO.**

8 A covered civil action shall be brought only in a judi-
9 cial district in the Fifth Circuit unless there is no district
10 in that circuit in which the action may be brought.

11 **SEC. 123. TIME LIMITATION ON FILING.**

12 A covered civil action is barred unless the action is
13 filed not later than the date that is 60 days after the date
14 of the final Federal agency action.

15 **SEC. 124. EXPEDITION IN HEARING AND DETERMINING AC-**
16 **TION.**

17 A court shall endeavor to hear and determine any
18 covered civil action as expeditiously as practicable.

19 **SEC. 125. STANDARD OF REVIEW.**

20 (a) IN GENERAL.—In any judicial review of a covered
21 civil action, administrative findings and conclusions relat-
22 ing to the challenged Federal action or decision shall be
23 presumed to be correct.

1 (b) STANDARD.—The presumption described in sub-
2 section (a) may be rebutted only by a preponderance of
3 the evidence contained in the administrative record.

4 **SEC. 126. LIMITATION ON PROSPECTIVE RELIEF.**

5 In a covered civil action, a court shall not grant or
6 approve any prospective relief unless the court finds that
7 the relief is narrowly drawn, extends no further than nec-
8 essary to correct the violation of a legal requirement, and
9 is the least intrusive means necessary to correct that viola-
10 tion.

11 **SEC. 127. LIMITATION ON ATTORNEYS' FEES.**

12 (a) IN GENERAL.—Sections 504 of title 5 and 2412
13 of title 28, United States Code, do not apply to a covered
14 civil action.

15 (b) PAYMENT FROM FEDERAL GOVERNMENT.—No
16 party to a covered civil action shall receive from the Fed-
17 eral Government payment for attorneys' fees, expenses,
18 and other court costs.

19 **TITLE II—RESTARTING AMER-**
20 **ICAN OFFSHORE LEASING**
21 **NOW**

22 **SEC. 201. SHORT TITLE.**

23 This title may be cited as the “Restarting American
24 Offshore Leasing Now Act”.

1 **SEC. 202. DEFINITIONS.**

2 In this title:

3 (1) ENVIRONMENTAL IMPACT STATEMENT FOR
4 THE 2007–2012 5-YEAR OCS PLAN.—The term “envi-
5 ronmental impact statement for the 2007–2012 5-
6 Year OCS plan” means the final environmental im-
7 pact statement prepared by the Secretary entitled
8 “Outer Continental Shelf Oil and Gas Leasing Pro-
9 gram: 2007–2012”, and dated April 2007.

10 (2) MULTISALE ENVIRONMENTAL IMPACT
11 STATEMENT.—The term “multisale environmental
12 impact statement” means the environmental impact
13 statement prepared by the Secretary relating to pro-
14 posed Western Gulf of Mexico OCS Oil and Gas
15 Lease Sales 204, 207, 210, 215, and 218, and pro-
16 posed Central Gulf of Mexico OCS Oil and Gas
17 Lease Sales 205, 206, 208, 213, 216, and 222, and
18 dated September 2008.

19 (3) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior.

21 **SEC. 203. REQUIREMENT TO CONDUCT PROPOSED OIL AND**
22 **GAS LEASE SALE 216 IN CENTRAL GULF OF**
23 **MEXICO.**

24 (a) IN GENERAL.—As soon as practicable, but not
25 later than 60 days after the date of enactment of this Act,
26 the Secretary shall conduct offshore oil and gas Lease Sale

1 216 under section 8 of the Outer Continental Shelf Lands
2 Act (33 U.S.C. 1337).

3 (b) ENVIRONMENTAL REVIEW.—For the purposes of
4 the lease sale described in subsection (a), the environ-
5 mental impact statement for the 2007–2012 5-Year OCS
6 plan and the multisale environmental impact statement
7 shall be considered to satisfy the requirements of the Na-
8 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
9 et seq.).

10 **SEC. 204. REQUIREMENT TO CONDUCT PROPOSED OIL AND**
11 **GAS LEASE SALE 220 ON OUTER CONTI-**
12 **NENTAL SHELF OFFSHORE VIRGINIA.**

13 (a) IN GENERAL.—As soon as practicable, but not
14 later than 1 year after the date of enactment of this Act,
15 the Secretary shall conduct offshore oil and gas Lease Sale
16 220 under section 8 of the Outer Continental Shelf Lands
17 Act (33 U.S.C. 1337).

18 (b) ENVIRONMENTAL REVIEW.—For the purposes of
19 the lease sale described in subsection (a), the environ-
20 mental impact statement for the 2007–2012 5-Year OCS
21 plan and the multisale environmental impact statement
22 shall be considered to satisfy the requirements of the Na-
23 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.).

1 **SEC. 205. REQUIREMENT TO CONDUCT PROPOSED OIL AND**
2 **GAS LEASE SALE 222 IN CENTRAL GULF OF**
3 **MEXICO.**

4 (a) IN GENERAL.—As soon as practicable, but not
5 later than 60 days after the date of enactment of this Act,
6 the Secretary shall conduct offshore oil and gas Lease Sale
7 222 under section 8 of the Outer Continental Shelf Lands
8 Act (33 U.S.C. 1337).

9 (b) ENVIRONMENTAL REVIEW.—For the purposes of
10 the lease sale described in subsection (a), the environ-
11 mental impact statement for the 2007–2012 5-Year OCS
12 plan and the multisale environmental impact statement
13 shall be considered to satisfy the requirements of the Na-
14 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
15 et seq.).

16 **TITLE III—REVERSING PRESI-**
17 **DENT OBAMA’S OFFSHORE**
18 **MORATORIUM**

19 **SEC. 301. SHORT TITLE.**

20 This title may be cited as the “Reversing President
21 Obama’s Offshore Moratorium Act”.

22 **SEC. 302. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

23 Section 18(a) of the Outer Continental Shelf Lands
24 Act (43 U.S.C. 1344(a)) is amended by adding at the end
25 the following:

1 “(5)(A) In each oil and gas leasing program
2 under this section, the Secretary shall make avail-
3 able for leasing and conduct lease sales that in-
4 clude—

5 “(i) at least 50 percent of the available un-
6 leased acreage within each outer Continental
7 Shelf planning area considered to have the larg-
8 est undiscovered, technically recoverable oil and
9 gas resources (on a total btu basis) based upon
10 the most recent national geological assessment
11 of the outer Continental Shelf, with an empha-
12 sis on offering the most geologically prospective
13 parts of the planning area; and

14 “(ii) any State subdivision of an outer
15 Continental Shelf planning area that the Gov-
16 ernor of the State that represents that subdivi-
17 sion requests be made available for leasing.

18 “(B) In this paragraph, the term ‘available un-
19 leased acreage’ means that portion of the outer Con-
20 tinental Shelf that is not under lease at the time of
21 a proposed lease sale, and that has not otherwise
22 been made unavailable for leasing by law.

23 “(6)(A) For the 2012–2017 5-year oil and gas
24 leasing program, the Secretary shall make available

1 for leasing any outer Continental Shelf planning
2 areas that are estimated to contain more than—

3 “(i) 2,500,000,000 barrels of oil; or

4 “(ii) 7,500,000,000,000 cubic feet of nat-
5 ural gas.

6 “(B) To determine the planning areas described
7 in subparagraph (A), the Secretary shall use the
8 document entitled ‘Minerals Management Service
9 Assessment of Undiscovered Technically Recoverable
10 Oil and Gas Resources of the Nation’s Outer Conti-
11 nental Shelf, 2006’.”.

12 **SEC. 303. DOMESTIC OIL AND NATURAL GAS PRODUCTION**

13 **GOAL.**

14 Section 18 of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1344) is amended by striking subsection (b)
16 and inserting the following:

17 “(b) DOMESTIC OIL AND NATURAL GAS PRODUC-
18 TION GOAL.—

19 “(1) IN GENERAL.—In developing a 5-year oil
20 and gas leasing program, subject to paragraph (2),
21 the Secretary shall determine a domestic strategic
22 production goal for the development of oil and nat-
23 ural gas as a result of that program, which goal
24 shall be—

1 “(A) the best estimate of the practicable
2 increase in domestic production of oil and nat-
3 ural gas from the outer Continental Shelf;

4 “(B) focused on meeting domestic demand
5 for oil and natural gas and reducing the de-
6 pendence of the United States on foreign en-
7 ergy; and

8 “(C) focused on the production increases
9 achieved by the leasing program at the end of
10 the 15-year period beginning on the effective
11 date of the program.

12 “(2) 2012–2017 PROGRAM GOAL.—For pur-
13 poses of the 2012–2017 5-year oil and gas leasing
14 program, the production goal referred to in para-
15 graph (1) shall be an increase by 2027 of not less
16 than—

17 “(A) 3,000,000 barrels in the quantity of
18 oil produced per day; and

19 “(B) 10,000,000,000 cubic feet in the
20 quantity of natural gas produced per day.

21 “(3) REPORTING.—Beginning at the end of the
22 5-year period for which the program applies and an-
23 nually thereafter, the Secretary shall submit to the
24 Committee on Natural Resources of the House of
25 Representatives and the Committee on Energy and

1 Natural Resources of the Senate a report on the
2 progress of the program in meeting the production
3 goal that includes an identification of projections for
4 production and any problems with leasing, permit-
5 ting, or production that will prevent meeting the
6 goal.”.

7 **TITLE IV—JOBS AND ENERGY** 8 **PERMITTING**

9 **SEC. 401. SHORT TITLE.**

10 This title may be cited as the “Jobs and Energy Per-
11 mitting Act of 2012”.

12 **SEC. 402. AIR QUALITY MEASUREMENT.**

13 Section 328(a)(1) of the Clean Air Act (42 U.S.C.
14 7627(a)(1)) is amended in the second sentence by insert-
15 ing before the period at the end the following: “, except
16 that any air quality impact of any OCS source shall be
17 measured or modeled, as appropriate, and determined
18 solely with respect to the impacts in the corresponding on-
19 shore area”.

20 **SEC. 403. OCS SOURCE.**

21 Section 328(a)(4)(C) of the Clean Air Act (42 U.S.C.
22 7627(a)(4)(C)) is amended in the second sentence of the
23 matter following clause (iii) by striking “shall be consid-
24 ered direct emissions from the OCS source” and inserting
25 “shall be considered direct emissions from the OCS source

1 but shall not be subject to any emission control require-
2 ment applicable to the source under subpart 1 of part C
3 of title I of this Act. For platform or drill ship exploration,
4 an OCS source is established at the point in time when
5 drilling commences at a location and ceases to exist when
6 drilling activity ends at the location or is temporarily in-
7 terrupted because the platform or drill ship relocates for
8 weather or other reasons”.

9 **SEC. 404. PERMITS.**

10 (a) PERMITS.—Section 328 of the Clean Air Act (42
11 U.S.C. 7627) is amended by adding at the end the fol-
12 lowing:

13 “(d) PERMIT APPLICATION.—In the case of a com-
14 pleted application for a permit under this Act for platform
15 or drill ship exploration for an OCS source—

16 “(1) final agency action (including any recon-
17 sideration of the issuance or denial of such a permit)
18 shall be taken not later than 180 days after the date
19 on which the completed application is filed;

20 “(2) the Environmental Appeals Board of the
21 Environmental Protection Agency shall have no au-
22 thority to consider any matter regarding the consid-
23 eration, issuance, or denial of the permit;

24 “(3) no administrative stay of the effectiveness
25 of the permit may extend beyond the date that is

1 180 days after the date on which the completed ap-
 2 plication is filed;

3 “(4) that final agency action shall be considered
 4 to be nationally applicable under section 307(b); and

5 “(5) judicial review of that final agency action
 6 shall be available only in accordance with section
 7 307(b) without additional administrative review or
 8 adjudication.”.

9 (b) CONFORMING AMENDMENT.—Section 328(a)(4)
 10 of the Clean Air Act (42 U.S.C. 7627(a)(4)) is amended
 11 by striking “For purposes of subsections (a) and (b) of
 12 this section—” and inserting “For purposes of subsections
 13 (a), (b), and (d):”.

14 **TITLE V—SACRAMENTO-SAN**
 15 **JOAQUIN VALLEY WATER RE-**
 16 **LIABILITY**

17 **SEC. 501. SHORT TITLE.**

18 This title may be cited as the “Sacramento-San Joa-
 19 quin Valley Water Reliability Act”.

20 **Subtitle A—Central Valley Project**
 21 **Water Reliability**

22 **SEC. 511. AMENDMENT TO PURPOSES.**

23 Section 3402 of the Central Valley Project Improve-
 24 ment Act (Public Law 102–575; 106 Stat. 4706) is
 25 amended—

1 (1) in subsection (f), by striking the period at
2 the end; and

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

4 “(g) to ensure that water dedicated to fish and wild-
5 life purposes by this title is replaced and provided to Cen-
6 tral Valley Project water contractors not later than De-
7 cember 31, 2016, at the lowest cost reasonably achievable;
8 and

9 “(h) to facilitate and expedite water transfers in ac-
10 cordance with this title.”.

11 **SEC. 512. AMENDMENT TO DEFINITION.**

12 Section 3403 of the Central Valley Project Improve-
13 ment Act (Public Law 102–575; 106 Stat. 4707) is
14 amended—

15 (1) by striking subsection (a) and inserting the
16 following:

17 “(a) the term ‘anadromous fish’ means those native
18 stocks of salmon (including steelhead) and sturgeon
19 that—

20 “(1) as of October 30, 1992, were present in
21 the Sacramento and San Joaquin Rivers and the
22 tributaries of the Sacramento and San Joaquin Riv-
23 ers; and

1 “(2) ascend those rivers and tributaries to re-
2 produce after maturing in San Francisco Bay or the
3 Pacific Ocean;”;

4 (2) by redesignating subsections (i) through
5 (m) as subsections (j) through (n), respectively; and

6 (3) by inserting after subsection (h) the fol-
7 lowing:

8 “(i) the term ‘reasonable flows’ means water flows
9 capable of being maintained taking into account com-
10 peting consumptive uses of water and economic, environ-
11 mental, and social factors.”.

12 **SEC. 513. CONTRACTS.**

13 Section 3404 of the Central Valley Project Improve-
14 ment Act (Public Law 102–575; 106 Stat. 4708) is
15 amended to read as follows:

16 **“SEC. 3404. CONTRACTS.**

17 “(a) RENEWAL OF EXISTING LONG-TERM CON-
18 TRACTS.—On request of the contractor, the Secretary
19 shall renew any existing long-term repayment or water
20 service contract that provides for the delivery of water
21 from the Central Valley Project for a period of 40 years.

22 “(b) ADMINISTRATION OF CONTRACTS.—Except as
23 expressly provided by this title, any existing long-term re-
24 payment or water service contract for the delivery of water
25 from the Central Valley Project shall be administered pur-

1 suant to the Act of July 2, 1956 (chapter 492; 70 Stat.
2 483).

3 “(c) DELIVERY CHARGE.—Beginning on the date of
4 enactment of this Act, a contract entered into or renewed
5 pursuant to this section shall include a provision that re-
6 quires the Secretary to charge any other party to the con-
7 tract only for water actually delivered by the Secretary.”.

8 **SEC. 514. WATER TRANSFERS, IMPROVED WATER MANAGE-
9 MENT, AND CONSERVATION.**

10 Section 3405 of the Central Valley Project Improve-
11 ment Act (Public Law 102–575; 106 Stat. 4709) is
12 amended—

13 (1) in subsection (a)—

14 (A) in the second sentence, by striking
15 “Except as provided herein” and inserting “The
16 Secretary shall take all actions necessary to fa-
17 cilitate and expedite transfers of Central Valley
18 Project water in accordance with this title or
19 any other provision of Federal reclamation law
20 and the National Environmental Policy Act of
21 1969 (42 U.S.C. 4321 et seq.). Except as pro-
22 vided in this subsection,”;

23 (B) in paragraph (1)(A), by striking “to
24 combination” and inserting “or combination”;

1 (C) in paragraph (2), by adding at the end
2 the following:

3 “(E) WRITTEN TRANSFER PROPOSALS.—

4 “(i) IN GENERAL.—The contracting
5 district from which the water is supplied,
6 the agency, or the Secretary, as applicable,
7 shall determine whether a written transfer
8 proposal is complete not later than 45 days
9 after the date on which the proposal is
10 submitted.

11 “(ii) DETERMINATION.—If the con-
12 tracting district, the agency, or the Sec-
13 retary determines that the proposal de-
14 scribed in clause (i) is incomplete, the con-
15 tracting district, agency, or Secretary shall
16 state, in writing and with specificity, the
17 conditions under which the proposal would
18 be considered complete.

19 “(F) NO MITIGATION REQUIREMENTS.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in this section, the Secretary shall
22 not impose mitigation or other require-
23 ments on a proposed transfer.

24 “(ii) APPLICABILITY.—This section
25 shall have no effect on the authority of the

1 contracting district from which the water
2 is supplied or the agency under State law
3 to approve or condition a proposed trans-
4 fer.”; and

5 (D) by adding at the end the following:

6 “(4) APPLICABILITY.—Notwithstanding any
7 other provision of Federal reclamation law—

8 “(A) the authority to transfer, exchange,
9 bank, or make recharging arrangements using
10 Central Valley Project water that could have
11 been carried out before October 30, 1992, is
12 valid, and those transfers, exchanges, or ar-
13 rangements shall not be subject to, limited, or
14 conditioned by this title; and

15 “(B) this title does not supersede or revoke
16 the authority to transfer, exchange, bank, or re-
17 charge Central Valley Project water in effect
18 before October 30, 1992.”;

19 (2) in subsection (b)—

20 (A) in the heading, by striking “METER-
21 ING” and inserting “MEASUREMENT”;

22 (B) in the first sentence, by striking “All
23 Central Valley” and inserting the following:

24 “(1) IN GENERAL.—All Central Valley”;

1 (C) in the second sentence, by striking
2 “The contracting district” and inserting the fol-
3 lowing:

4 “(3) ANNUAL REPORT.—The contracting dis-
5 trict”; and

6 (D) by inserting after paragraph (1) (as
7 designated by subparagraph (B)) the following:

8 “(2) MEASUREMENT REQUIREMENTS.—The
9 contracting district or agency, not including con-
10 tracting districts serving multiple agencies with sep-
11 arate governing boards, shall ensure that all con-
12 tractor-owned water delivery systems within the
13 boundaries of the contracting district or agency
14 measure surface water at the facilities of the con-
15 tracting district or agency up to the point at which
16 the surface water is commingled with other water
17 supplies.”;

18 (3) by striking subsection (d);

19 (4) by redesignating subsections (e) and (f) as
20 subsections (d) and (e), respectively; and

21 (5) by striking subsection (e) (as redesignated
22 by paragraph (4)) and inserting the following:

23 “(e) INCREASED REVENUES.—All revenues received
24 by the Secretary that exceed the cost-of-service rates ap-
25 plicable to the delivery of water transferred from irrigation

1 use to municipal and industrial use under subsection (a)
2 shall be covered to the Restoration Fund.”.

3 **SEC. 515. FISH, WILDLIFE, AND HABITAT RESTORATION.**

4 Section 3406 of the Central Valley Project Improve-
5 ment Act (Public Law 102–575; 106 Stat. 4714) is
6 amended—

7 (1) in subsection (b)—

8 (A) by striking paragraph (1)(B) and in-
9 serting the following:

10 “(B) ADMINISTRATION.—

11 “(i) IN GENERAL.—As needed to
12 carry out the goals of the Central Valley
13 Project, the Secretary may modify Central
14 Valley Project operations to provide rea-
15 sonable flows of suitable quality, quantity,
16 and timing to protect all life stages of
17 anadromous fish.

18 “(ii) REQUIREMENTS.—The flows
19 under clause (i) shall be provided from the
20 quantity of water dedicated to fish, wild-
21 life, and habitat restoration purposes
22 under paragraph (2) from the water sup-
23 plies acquired pursuant to paragraph (3)
24 and from other sources which do not con-
25 flict with fulfillment of the remaining con-

1 tractual obligations of the Secretary to
2 provide Central Valley Project water for
3 other authorized purposes.

4 “(iii) DETERMINATION OF NEEDS.—

5 The Secretary shall determine the instream
6 reasonable flow needs for all Central Valley
7 Project controlled streams and rivers based
8 on recommendations of the United States
9 Fish and Wildlife Service and the National
10 Marine Fisheries Service after consultation
11 with the United States Geological Sur-
12 vey.”; and

13 (B) in paragraph (2)—

14 (i) in the matter preceding subpara-
15 graph (A)—

16 (I) in the first sentence, by strik-
17 ing “primary purpose” and inserting
18 “purposes”;

19 (II) by striking “but not limited
20 to additional obligations under the
21 Federal Endangered Species Act” and
22 inserting “additional obligations under
23 the Endangered Species Act of 1973
24 (16 U.S.C. 1531 et seq.)”; and

1 (III) by adding at the end the
2 following: “All Central Valley Project
3 water used for the purposes specified
4 in this paragraph shall be credited to
5 the quantity of Central Valley Project
6 yield dedicated and managed under
7 this paragraph by determining how
8 the dedication and management of
9 that water would affect the delivery
10 capability of the Central Valley
11 Project yield. To the maximum extent
12 practicable and in accordance with
13 section 3411, Central Valley Project
14 water dedicated and managed pursu-
15 ant to this paragraph shall be reused
16 to fulfill the remaining contractual ob-
17 ligations of the Secretary to provide
18 Central Valley Project water for agri-
19 cultural or municipal and industrial
20 purposes.”; and

21 (ii) by striking subparagraph (C) and
22 inserting the following:

23 “(C) MANDATORY REDUCTION.—If on
24 March 15 of a given year, the quantity of Cen-
25 tral Valley Project water forecasted to be made

1 available to water service or repayment contrac-
 2 tors in the Delta Division of the Central Valley
 3 Project is less than 75 percent of the total
 4 quantity of water to be made available under
 5 those contracts, the quantity of Central Valley
 6 Project yield dedicated and managed for that
 7 year under this paragraph shall be reduced by
 8 25 percent.”; and

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

10 “(i) SATISFACTION OF PURPOSES.—In carrying out
 11 this section, the Secretary shall be considered to have met
 12 the mitigation, protection, restoration, and enhancement
 13 purposes of this title.”.

14 **SEC. 516. RESTORATION FUND.**

15 (a) IN GENERAL.—Section 3407(a) of the Central
 16 Valley Project Improvement Act (Public Law 102–575;
 17 106 Stat. 4726) is amended—

18 (1) by striking “There is hereby” and inserting
 19 the following:

20 “(1) ESTABLISHMENT.—

21 “(A) IN GENERAL.—There is”;

22 (2) in paragraph (1)(A) (as designated by para-
 23 graph (1)), by striking “Not less than 67 percent”
 24 and all that follows through “Monies” and inserting
 25 the following:

1 “(B) USE OF DONATED AMOUNTS.—
2 Amounts”; and

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

4 “(2) RESTRICTIONS.—The Secretary may not
5 directly or indirectly require a donation or other
6 payment (including environmental restoration or
7 mitigation fees not otherwise provided by law) to the
8 Restoration Fund—

9 “(A) as a condition of—

10 “(i) providing for the storage or con-
11 veyance of non-Central Valley Project
12 water pursuant to Federal reclamation
13 laws; or

14 “(ii) the delivery of water pursuant to
15 section 215 of the Reclamation Reform Act
16 of 1982 (Public Law 97–293; 96 Stat.
17 1270); or

18 “(B) for any water that is delivered with
19 the sole intent of groundwater recharge.”.

20 (b) CERTAIN PAYMENTS.—Section 3407(c)(1) of the
21 Central Valley Project Improvement Act (Public Law
22 102–575; 106 Stat. 4726) is amended—

23 (1) by striking “mitigation and restoration pay-
24 ments, in addition to charges provided for or” and
25 inserting “payments, in addition to charges”; and

1 (2) by striking “of fish, wildlife” and all that
2 follows through the period and inserting “of carrying
3 out this title.”.

4 (c) ADJUSTMENT AND ASSESSMENT OF MITIGATION
5 AND RESTORATION PAYMENTS.—Section 3407(d) of the
6 Central Valley Project Improvement Act (Public Law
7 102–575; 106 Stat. 4727) is amended—

8 (1) in paragraph (2)(A)—

9 (A) by striking “, and \$12 per acre-foot
10 (October 1992 price levels) for municipal and
11 industrial water sold and delivered by the Cen-
12 tral Valley Project” and inserting “\$12 per
13 acre-foot (October 1992 price levels) for munic-
14 ipal and industrial water sold and delivered by
15 the Central Valley Project, and after October 1,
16 2013, \$4 per megawatt-hour for Central Valley
17 Project power sold to power contractors (Octo-
18 ber 2013 price levels)”;

19 (B) by inserting “ but not later than De-
20 cember 31, 2020,” after “That upon the com-
21 pletion of the fish, wildlife, and habitat mitiga-
22 tion and restoration actions mandated under
23 section 3406 of this title,”; and

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

25 “(g) REPORT ON EXPENDITURE OF FUNDS.—

1 “(1) IN GENERAL.—For each fiscal year, the
2 Secretary, in consultation with the Advisory Board,
3 shall submit to Congress a plan for the expenditure
4 of all of the funds deposited in the Restoration Fund
5 during the preceding fiscal year.

6 “(2) CONTENTS.—The plan shall include an
7 analysis of the cost-effectiveness of each expenditure.

8 “(h) ADVISORY BOARD.—

9 “(1) ESTABLISHMENT.—There is established
10 the Restoration Fund Advisory Board (referred to in
11 this section as the ‘Advisory Board’), which shall be
12 composed of 12 members appointed by the Sec-
13 retary.

14 “(2) MEMBERSHIP.—

15 “(A) IN GENERAL.—The Secretary shall
16 appoint members to the Advisory Board that
17 represent the various Central Valley Project
18 stakeholders, of whom—

19 “(i) 4 members shall be agricultural
20 users of the Central Valley Project;

21 “(ii) 3 members shall be municipal
22 and industrial users of the Central Valley
23 Project;

24 “(iii) 3 members shall be power con-
25 tractors of the Central Valley Project; and

1 “(iv) 2 members shall be appointed at
2 the discretion of the Secretary.

3 “(B) OBSERVERS.—The Secretary and the
4 Secretary of Commerce may each designate a
5 representative to act as an observer of the Advi-
6 sory Board.

7 “(C) CHAIRMAN.—The Secretary shall ap-
8 point 1 of the members described in subpara-
9 graph (A) to serve as Chairman of the Advisory
10 Board.

11 “(3) TERMS.—The term of each member of the
12 Advisory Board shall be for a period of 4 years.

13 “(4) DUTIES.—The duties of the Advisory
14 Board are—

15 “(A) to meet not less frequently than semi-
16 annually to develop and make recommendations
17 to the Secretary regarding priorities and spend-
18 ing levels on projects and programs carried out
19 under this title;

20 “(B) to ensure that any advice given or
21 recommendation made by the Advisory Board
22 reflects the independent judgment of the Advi-
23 sory Board;

24 “(C) not later than December 31, 2013,
25 and annually thereafter, to submit to the Sec-

1 retary and Congress the recommendations
2 under subparagraph (A); and

3 “(D) not later than December 31, 2013,
4 and biennially thereafter, to submit to Congress
5 a report that details the progress made in
6 achieving the actions required under section
7 3406.

8 “(5) ADMINISTRATION.—With the consent of
9 the appropriate agency head, the Advisory Board
10 may use the facilities and services of any Federal
11 agency.”.

12 **SEC. 517. ADDITIONAL AUTHORITIES.**

13 (a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section
14 3408 of the Central Valley Project Improvement Act
15 (Public Law 102–575; 106 Stat. 4728) is amended by
16 striking subsection (c) and inserting the following:

17 “(c) CONTRACTS FOR ADDITIONAL STORAGE AND
18 DELIVERY OF WATER.—

19 “(1) IN GENERAL.—The Secretary may enter
20 into contracts under the reclamation laws and this
21 title with any Federal agency, California water user
22 or water agency, State agency, or private organiza-
23 tion for the exchange, impoundment, storage, car-
24 riage, and delivery of nonproject water for domestic,

1 municipal, industrial, fish and wildlife, and any
2 other beneficial purpose.

3 “(2) LIMITATION.—Nothing in this subsection
4 supersedes section 2(d) of the Act of August 26,
5 1937 (chapter 832; 50 Stat. 850; 100 Stat. 3051).

6 “(3) AUTHORITY FOR CERTAIN ACTIVITIES.—
7 The Secretary shall use the authority granted by
8 this subsection in connection with requests to ex-
9 change, impound, store, carry, or deliver nonproject
10 water using Central Valley Project facilities for any
11 beneficial purpose.

12 “(4) RATES.—

13 “(A) IN GENERAL.—The Secretary shall
14 develop rates not to exceed the amount required
15 to recover the reasonable costs incurred by the
16 Secretary in connection with a beneficial pur-
17 pose under this subsection.

18 “(B) ADMINISTRATION.—The rates shall
19 be charged to a party using Central Valley
20 Project facilities for a beneficial purpose, but
21 the costs described in subparagraph (A) shall
22 not include any donation or other payment to
23 the Restoration Fund.

24 “(5) CONSTRUCTION.—This subsection shall be
25 construed and implemented to facilitate and encour-

1 age the use of Central Valley Project facilities to ex-
2 change, impound, store, carry, or deliver nonproject
3 water for any beneficial purpose.”.

4 (b) REPORTING REQUIREMENTS.—Section 3408(f) of
5 the Central Valley Project Improvement Act (Public Law
6 102–575; 106 Stat. 4729) is amended—

7 (1) in the first sentence, by striking “Interior
8 and Insular Affairs and the Committee on Merchant
9 Marine and Fisheries” and inserting “Natural Re-
10 sources”;

11 (2) in the second sentence, by inserting “, in-
12 cluding progress on the plan under subsection (j)”
13 before the period at the end; and

14 (3) by adding at the end the following: “The fil-
15 ing and adequacy of the report shall be personally
16 certified to the Committees by the Regional Director
17 of the Mid-Pacific Region of the Bureau of Reclama-
18 tion.”.

19 (c) PROJECT YIELD INCREASE.—Section 3408(j) of
20 the Central Valley Project Improvement Act (Public Law
21 102–575; 106 Stat. 4730) is amended—

22 (1) by redesignating paragraphs (1) through
23 (7) as subparagraphs (A) through (G), respectively,
24 and indenting appropriately;

1 (2) by striking “In order to minimize adverse
2 effects, if any, upon” and inserting the following:

3 “(1) IN GENERAL.—In order to minimize ad-
4 verse effects upon”;

5 (3) in the second sentence, by striking “The
6 plan” and all that follows through “options:” and in-
7 serting the following:

8 “(2) CONTENTS.—The plan shall include rec-
9 ommendations on appropriate cost-sharing arrange-
10 ments and authorizing legislation or other measures
11 needed to implement the intent, purposes, and provi-
12 sions of this subsection, as well as a description of
13 how the Secretary intends to use—”;

14 (4) in paragraph (1) (as designated by para-
15 graph (2))—

16 (A) by striking “needs, the Secretary,
17 shall” and all that follows through “to the Con-
18 gress,” and inserting “needs, the Secretary, on
19 a priority basis and not later than September
20 30, 2013, shall submit to Congress”; and

21 (B) by striking “increase,” and all that fol-
22 lows through “under this title” and inserting
23 “increase, as soon as practicable, but not later
24 than September 30, 2016 (except that the con-
25 struction of new facilities shall not be limited by

1 that deadline), the water of the Central Valley
2 Project by the quantity dedicated and managed
3 for fish and wildlife purposes under this title
4 and otherwise required to meet the purposes of
5 the Central Valley Project, including satisfying
6 contractual obligations”;

7 (5) in paragraph (2)(A) (as designated by para-
8 graph (1)), by inserting “and construction of new
9 water storage facilities” before the semicolon;

10 (6) in paragraph (2)(F) (as designated by para-
11 graph (1)), by striking “and” at the end;

12 (7) in paragraph (2)(G) (as designated by para-
13 graph (1)), by striking the period and all that fol-
14 lows through the end of the subsection and inserting
15 “; and”; and

16 (8) by adding after paragraph (2)(G) the fol-
17 lowing:

18 “(H) water banking and recharge.

19 “(3) IMPLEMENTATION OF PLAN.—

20 “(A) IN GENERAL.—The Secretary shall
21 implement the plan under paragraph (1) begin-
22 ning on October 1, 2013.

23 “(B) COORDINATION.—In carrying out this
24 subsection, the Secretary shall coordinate with
25 the State of California in implementing meas-

1 ures for the long-term resolution of problems in
2 the San Francisco Bay/Sacramento-San Joa-
3 quin Delta Estuary.

4 “(4) FAILURE OF PLAN.—Notwithstanding any
5 other provision of the reclamation laws, if by Sep-
6 tember 30, 2016, the plan under paragraph (1) fails
7 to increase the annual delivery capability of the Cen-
8 tral Valley Project by 800,000 acre-feet, implemen-
9 tation of any nonmandatory action under section
10 3406(b)(2) shall be suspended until the date on
11 which the plan achieves an increase in the annual
12 delivery capability of the Central Valley Project of
13 800,000 acre-feet.”.

14 (d) TECHNICAL CORRECTIONS.—Section 3408(h) of
15 the Central Valley Project Improvement Act (Public Law
16 102–575; 106 Stat. 4729) is amended—

17 (1) in paragraph (1), by striking “paragraph
18 (h)(2)” and inserting “paragraph (2)”; and

19 (2) in paragraph (2), by striking “paragraph
20 (h)(i)” and inserting “paragraph (1)”.

21 (e) WATER STORAGE PROJECT CONSTRUCTION.—

22 (1) IN GENERAL.—The Secretary of the Inte-
23 rior, acting through the Commissioner of Reclama-
24 tion, may partner or enter into an agreement relat-
25 ing to the water storage projects described in section

1 103(d)(1) of the Water Supply, Reliability, and En-
2 vironmental Improvement Act (Public Law 108–361;
3 118 Stat. 1684) with local joint powers authorities
4 formed under State law by irrigation districts and
5 other local governments or water districts within the
6 applicable hydrological region to advance those water
7 storage projects.

8 (2) NO ADDITIONAL FEDERAL AMOUNTS.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), no additional Federal amounts are
11 authorized to be appropriated to carry out the
12 activities described in clauses (i) through (iii) of
13 sections 103(d)(1)(A) of the Water Supply, Re-
14 liability, and Environmental Improvement Act
15 (Public Law 108–361; 118 Stat. 1684) Public
16 Law 108–361.

17 (B) EXCEPTION.—Additional Federal
18 amounts may be appropriated for construction
19 of a project described in subparagraph (A) if
20 non-Federal amounts are used to finance and
21 construct the project.

22 **SEC. 518. BAY-DELTA ACCORD.**

23 (a) CONGRESSIONAL DIRECTION REGARDING CEN-
24 TRAL VALLEY PROJECT AND CALIFORNIA STATE WATER
25 PROJECT OPERATIONS.—

1 (1) IN GENERAL.—The Central Valley Project
2 and the California State Water Project shall be op-
3 erated strictly in accordance with the water quality
4 standards and operational constraints described in
5 the “Principles for Agreement on the Bay-Delta
6 Standards Between the State of California and the
7 Federal Government” dated December 15, 1994.

8 (2) APPLICABILITY OF OTHER LAW.—The En-
9 dangered Species Act of 1973 (16 U.S.C. 1531 et
10 seq.) and other applicable law shall not apply to op-
11 erations described in paragraph (1).

12 (3) IMPLEMENTATION.—Implementation of the
13 “Principles for Agreement on the Bay-Delta Stand-
14 ards Between the State of California and the Fed-
15 eral Government” dated December 15, 1994, shall
16 be in strict compliance with the water rights priority
17 system and statutory protections for areas of origin.

18 (b) APPLICATION OF LAWS TO OTHERS.—

19 (1) IN GENERAL.—As a condition of the receipt
20 of Federal amounts for the Central Valley Project
21 and the California State Water Project, the State of
22 California (including any agency or board of the
23 State of California), on any water right obtained
24 pursuant to State law, including a pre-1914 appro-
25 priative right, shall not—

1 (A) impose any condition that restricts the
2 exercise of that water right that is affected by
3 operations of the Central Valley Project or Cali-
4 fornia State Water Project; or

5 (B) restrict under the Public Trust Doc-
6 trine any public trust value imposed in order to
7 conserve, enhance, recover, or otherwise protect
8 any species.

9 (2) FEDERAL AGENCIES.—The prohibition
10 under paragraph (1)(A) shall apply to Federal agen-
11 cies.

12 (c) COSTS.—No cost associated with the implementa-
13 tion of this section shall be imposed directly or indirectly
14 on any Central Valley Project contractor, or any other per-
15 son or entity, unless those costs are incurred on a vol-
16 untary basis.

17 (d) NATIVE SPECIES PROTECTION.—This section
18 preempts any law of the State California law restricting
19 the quantity or size of a nonnative fish that is taken or
20 harvested that preys on 1 or more native fish species that
21 occupy the Sacramento and San Joaquin Rivers and the
22 tributaries of those rivers or the Sacramento-San Joaquin
23 Rivers Delta.

1 **SEC. 519. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

2 After the date of enactment of this Act, and regard-
3 less of the date of listing, the Secretaries of the Interior
4 and Commerce shall not distinguish between natural-
5 spawned and hatchery-spawned (or otherwise artificially
6 propagated strains of a species) in making any determina-
7 tion under the Endangered Species Act of 1973 (16
8 U.S.C. 1531 et seq.) that relates to an anadromous fish
9 species present in the Sacramento and San Joaquin Rivers
10 or the tributaries of those rivers and that ascends those
11 rivers and tributaries to reproduce after maturing in San
12 Francisco Bay or the Pacific Ocean.

13 **SEC. 520. AUTHORIZED SERVICE AREA.**

14 (a) IN GENERAL.—The Secretary of the Interior, act-
15 ing through the Commissioner of Reclamation, shall in-
16 clude in the service area of the Central Valley Project au-
17 thorized under the Central Valley Project Improvement
18 Act (Public Law 102–575; 106 Stat. 4706) the area with-
19 in the boundaries of the Kettleman City Community Serv-
20 ices District, California, as those boundaries are defined
21 as of the date of enactment of this Act.

22 (b) LONG-TERM CONTRACT.—

23 (1) IN GENERAL.—Notwithstanding the Central
24 Valley Project Improvement Act (Public Law 102–
25 575; 106 Stat. 4706) and subject to paragraph (2),
26 the Secretary, in accordance with the reclamation

1 laws, shall enter into a long-term contract with the
2 Kettleman City Community Services District or the
3 delivery of not more than 900 acre-feet of Central
4 Valley Project water for municipal and industrial
5 use.

6 (2) REDUCTION IN CONTRACT.—The Secretary
7 may temporarily reduce deliveries of the quantity of
8 water made available under paragraph (1) by not
9 more than 25 percent of the total whenever reduc-
10 tions due to hydrologic circumstances are imposed
11 on agricultural deliveries of Central Valley Project
12 water.

13 (c) ADDITIONAL COST.—If any additional infrastruc-
14 ture or related costs are needed to implement this section,
15 those costs shall be the responsibility of the non-Federal
16 entity.

17 **SEC. 521. REGULATORY STREAMLINING.**

18 (a) DEFINITIONS.—In this section:

19 (1) CVP.—The term “CVP” means the Central
20 Valley Project.

21 (2) PROJECT.—The term “project”—

22 (A) means an activity that—

23 (i) is undertaken by a public agency,
24 funded by a public agency, or requires the
25 issuance of a permit by a public agency;

1 (ii) has a potential to result in a phys-
2 ical change to the environment; and

3 (iii) may be subject to several discre-
4 tionary approvals by governmental agen-
5 cies;

6 (B) may include construction activities,
7 clearing or grading of land, improvements to
8 existing structures, and activities or equipment
9 involving the issuance of a permit; or

10 (C) has the meaning given the term de-
11 fined in section 21065 of the California Public
12 Resource Code.

13 (b) APPLICABILITY OF CERTAIN LAWS.—The filing
14 of a notice of determination or a notice of exemption for
15 any project, including the issuance of a permit under State
16 law, for any project of the CVP or the delivery of water
17 from the CVP in accordance with the California Environ-
18 mental Quality Act shall be considered to meet the re-
19 quirements for that project or permit under section
20 102(2)(C) of the National Environmental Protection Act
21 of 1969 (42 U.S.C. 4332(2)(C)).

22 (c) CONTINUATION OF PROJECT.—The Bureau of
23 Reclamation shall not be required to cease or modify any
24 major Federal action or other activity for any project of
25 the CVP or the delivery of water from the CVP pending

1 completion of judicial review of any determination made
2 under the National Environmental Protection Act of 1969
3 (42 U.S.C. 4321 et seq.).

4 **Subtitle B—San Joaquin River** 5 **Restoration**

6 **SEC. 531. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-** 7 **MENT.**

8 As of the date of enactment of this Act, the Secretary
9 shall cease any action to implement the Stipulation of Set-
10 tlement, Natural Resources Defense Council, Inc. v. Rod-
11 gers, No. Civ. S–88–1658 LKK/GGH (E.D. Cal. Sept. 13,
12 2006).

13 **SEC. 532. PURPOSE.**

14 Section 10002 of the San Joaquin River Restoration
15 Settlement Act (Public Law 111–11; 123 Stat. 1349) is
16 amended by striking “implementation of the Settlement”
17 and inserting “restoration of the San Joaquin River”.

18 **SEC. 533. DEFINITIONS.**

19 Section 10003 of the San Joaquin River Restoration
20 Settlement Act (Public Law 111–11; 123 Stat. 1349) is
21 amended—

22 (1) by redesignating paragraphs (2) and (3) as
23 paragraphs (3) and (4), respectively;

24 (2) by striking paragraph (1) and inserting the
25 following:

1 “(1) CRITICAL WATER YEAR.—The term ‘crit-
 2 ical water year’ means a year in which the total
 3 unimpaired runoff at Friant Dam is less than
 4 400,000 acre-feet, as forecasted as of March 1 of
 5 that water year by the California Department of
 6 Water Resources.

7 “(2) RESTORATION FLOWS.—The term ‘Res-
 8 toration Flows’ means the additional water released
 9 or bypassed from Friant Dam to ensure that the
 10 target flow entering Mendota Pool, located approxi-
 11 mately 62 river miles downstream from Friant Dam,
 12 does not fall below a speed of 50 cubic feet per sec-
 13 ond.”; and

14 (3) by striking paragraph (4) (as redesignated
 15 by paragraph (1)) and inserting the following:

16 “(4) WATER YEAR.—The term ‘water year’
 17 means the period beginning March 1 of a given year
 18 and ending on the last day of February of the fol-
 19 lowing calendar year.”.

20 **SEC. 534. IMPLEMENTATION OF RESTORATION.**

21 Section 10004 of the San Joaquin River Restoration
 22 Settlement Act (Public Law 111–11; 123 Stat. 1350) is
 23 amended—

24 (1) in subsection (a)—

1 (A) by striking “hereby authorized and di-
2 rected” and all that follows through “in the
3 Settlement:” and inserting “may carry out the
4 following:”;

5 (B) by striking paragraphs (1), (2), (4),
6 and (5);

7 (C) by redesignating paragraph (3) as
8 paragraph (1);

9 (D) in paragraph (1) (as redesignated by
10 subparagraph (C)), by striking “paragraph 13
11 of the Settlement” and inserting “this part”;
12 and

13 (E) by adding at the end the following :

14 “(2) In each water year, beginning in the water
15 year commencing on March 1, 2013, the Secretary—

16 “(A) shall modify Friant Dam operations
17 to release the Restoration Flows for that water
18 year, unless the year is a critical water year;

19 “(B) shall ensure that—

20 “(i) the release of Restoration Flows
21 are maintained at the level prescribed by
22 this part; and

23 “(ii) Restoration Flows do not reach
24 downstream of Mendota Pool;

1 “(C) shall release the Restoration Flows in
2 a manner that improves the fishery in the San
3 Joaquin River below Friant Dam and upstream
4 of Gravelly Ford, Nevada, as in existence on the
5 date of the enactment of the Sacramento and
6 San Joaquin Valleys Water Reliability Act, in-
7 cluding the associated riparian habitat; and

8 “(D) may, without limiting the actions re-
9 quired under subparagraphs (A) and (C) and
10 subject to paragraph (3) and subsection (l), use
11 the Restoration Flows to enhance or restore a
12 warm water fishery downstream of Gravelly
13 Ford, Nevada, including to Mendota Pool, if the
14 Secretary determines that the action is reason-
15 able, prudent, and feasible.

16 “(3) Not later than 1 year after the date of en-
17 actment of the Sacramento and San Joaquin Valleys
18 Water Reliability Act, the Secretary shall develop
19 and implement, in cooperation with the State of
20 California, a reasonable plan—

21 “(A) to fully recirculate, recapture, reuse,
22 exchange, or transfer all Restoration Flows;
23 and

24 “(B) to provide the recirculated, recap-
25 tured, reused, exchanged, or transferred flows

1 to those contractors within the Friant Division,
2 Hidden Unit, and Buchanan Unit of the Cen-
3 tral Valley Project that relinquished the Res-
4 toration Flows that were recirculated, recap-
5 tured, reused, exchanged, or transferred.

6 “(4) The plan described in paragraph (3)
7 shall—

8 “(A) address any impact on groundwater
9 resources within the service area of the Friant
10 Division, Hidden Unit, and Buchanan Unit of
11 the Central Valley Project and mitigation may
12 include groundwater banking and recharge
13 projects;

14 “(B) not impact the water supply or water
15 rights of any entity outside the Friant Division,
16 Hidden Unit, and Buchanan Unit of the Cen-
17 tral Valley Project; and

18 “(C) be subject to applicable provisions of
19 California water law and the use by the Sec-
20 retary of the Interior of Central Valley Project
21 facilities to make Project water (other than
22 water released from Friant Dam under this
23 part) and water acquired through transfers
24 available to existing south of Delta Central Val-
25 ley Project contractors.”;

1 (2) in subsection (b)—

2 (A) in paragraph (1), by striking “the Set-
3 tlement” and inserting “this part”; and

4 (B) in paragraph (2), by striking “the Set-
5 tlement” and inserting “this part”;

6 (3) in subsection (c), by striking “the Settle-
7 ment” and inserting “this part”;

8 (4) by striking subsection (d) and inserting the
9 following:

10 “(d) MITIGATION OF IMPACTS.—

11 “(1) IN GENERAL.—Not later than October 1,
12 2013 and subject to paragraph (2), the Secretary
13 shall identify—

14 “(A) the impacts associated with the re-
15 lease of Restoration Flows prescribed in this
16 part; and

17 “(B) the measures to be implemented to
18 mitigate impacts on adjacent and downstream
19 water users, landowners, and agencies as a re-
20 sult of Restoration Flows.

21 “(2) MITIGATION MEASURES.—Before imple-
22 menting a decision or agreement to construct, im-
23 prove, operate, or maintain a facility that the Sec-
24 retary determines is necessary to implement this
25 part, the Secretary shall implement all mitigation

1 measures identified in paragraph (1)(B) before the
2 date on which Restoration Flows are commenced.”;

3 (5) in subsection (e), by striking “the Settle-
4 ment” and inserting “this part”;

5 (6) in subsection (f), by striking “the Settle-
6 ment and section 10011” and inserting “this part”;

7 (7) in subsection (g)—

8 (A) by striking “the Settlement and”; and

9 (B) by striking “or exchange contract” and
10 inserting “exchange contract, water rights set-
11 tlement, or holding contract”;

12 (8) in subsection (h)—

13 (A) by striking “INTERIM” in the header;

14 (B) in paragraph (1)—

15 (i) in the matter preceding subpara-
16 graph (A), by striking “Interim Flows
17 under the Settlement” and inserting “Res-
18 toration Flows under this part”;

19 (ii) in subparagraph (C)—

20 (I) in clause (i), by striking “In-
21 terim” and inserting “Restoration”;

22 and

23 (II) in clause (ii), by inserting
24 “and” after the semicolon;

1 (iii) in subparagraph (D), by striking
2 “and” at the end; and

3 (iv) by striking subparagraph (E);
4 (C) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) CONDITIONS FOR RELEASE.—The Sec-
7 retary may release Restoration Flows to the extent
8 that the flows would not exceed existing downstream
9 channel capacities.”;

10 (D) in paragraph (3), by striking “In-
11 terim” and inserting “Restoration”; and

12 (E) by striking paragraph (4) and insert-
13 ing the following:

14 “(4) CLAIMS.—Not later than 60 days after the
15 date of enactment of the Sacramento and San Joa-
16 quin Valleys Water Reliability Act, the Secretary
17 shall issue, by regulation, a claims process to ad-
18 dress claims, including groundwater seepage, flood-
19 ing, or levee instability damages caused as a result
20 of, arising out of, or related to implementation of
21 this subtitle.”;

22 (9) in subsection (i)—

23 (A) in paragraph (1)—

- 1 (i) in the matter preceding subpara-
 2 graph (A), by striking “the Settlement and
 3 parts I and III” and inserting “this part”;
- 4 (ii) in subparagraph (A), by inserting
 5 “and” after the semicolon;
- 6 (iii) in subparagraph (B)—
- 7 (I) by striking “additional
 8 amounts authorized to be appro-
 9 priated, including the”; and
- 10 (II) by striking “; and” and in-
 11 serting a period; and
- 12 (iv) by striking subparagraph (C); and
- 13 (B) by striking paragraph (3); and
- 14 (10) by adding at the end the following:
- 15 “(k) NO IMPACTS ON OTHER INTERESTS.—
- 16 “(1) IN GENERAL.—No Central Valley Project
 17 or other water (other than San Joaquin River water
 18 impounded by or bypassed from Friant Dam) shall
 19 be used to implement subsection (a)(2) unless the
 20 use is on a voluntary basis.
- 21 “(2) INVOLUNTARY COSTS.—No cost associated
 22 with the implementation of this section shall be im-
 23 posed directly or indirectly on any Central Valley
 24 Project contractor, or any other person or entity,
 25 outside the Friant Division, the Hidden Unit, or the

1 Buchanan Unit, unless the cost is incurred on a vol-
2 untary basis.

3 “(3) REDUCTION IN WATER SUPPLIES.—The
4 implementation of this part shall not directly or indi-
5 rectly reduce any water supply or water reliability on
6 any Central Valley Project contractor, any State
7 Water Project contractor, or any other person or en-
8 tity, outside the Friant Division, the Hidden Unit,
9 or the Buchanan Unit, unless the reduction or cost
10 is incurred on a voluntary basis.

11 “(1) PRIORITY.—Each action taken under this part
12 shall be subordinate to the use by the Secretary of Central
13 Valley Project facilities to make Project water available
14 to Project contractors, other than water released from the
15 Friant Dam under this part.

16 “(m) APPLICABILITY.—

17 “(1) IN GENERAL.—Notwithstanding section 8
18 of the Act of June 17, 1902 (32 Stat. 390, chapter
19 1093), except as provided in this part and subtitle
20 D of the Sacramento and San Joaquin Valleys
21 Water Reliability Act, this part—

22 “(A) preempts and supersedes any State
23 law, regulation, or requirement that imposes
24 more restrictive requirements or regulations on
25 the activities authorized under this part; and

1 “(B) does not alter or modify any obliga-
2 tion of the Friant Division, Hidden Unit, and
3 Buchanan Unit of the Central Valley Project,
4 or other water users on the San Joaquin River,
5 or tributaries of the San Joaquin River, under
6 any order issued by the State Water Resources
7 Control Board under the Porter-Cologne Water
8 Quality Control Act (California Water Code sec-
9 tion 13000 et seq.).

10 “(2) APPLICABILITY.—An order described in
11 paragraph (1)(B) shall be consistent with any con-
12 gressional authorization for any affected Federal fa-
13 cility relating to the Central Valley Project.

14 “(n) PROJECT IMPLEMENTATION.—Any project to
15 implement this part shall be phased such that each project
16 shall include—

17 “(1) the project purpose and need;

18 “(2) identification of mitigation measures;

19 “(3) appropriate environmental review; and

20 “(4) prior to releasing Restoration Flows under
21 this part the completion of the any required mitiga-
22 tion measures and the completion of the project.”.

1 **SEC. 535. DISPOSAL OF PROPERTY; TITLE TO FACILITIES.**

2 Section 10005 of the San Joaquin River Restoration
3 Settlement Act (Public Law 111–11; 123 Stat. 1353) is
4 amended—

5 (1) in subsection (a), by striking “the Settle-
6 ment authorized by this part” and inserting “this
7 part”;

8 (2) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) by striking “(1) IN GENERAL.—
11 The Secretary” and inserting “The Sec-
12 retary”; and

13 (ii) by striking “the Settlement au-
14 thorized by this part” and inserting “this
15 part”; and

16 (B) by striking paragraph (2); and

17 (3) in subsection (c)—

18 (A) in paragraph (1), by striking “the Set-
19 tlement” and inserting “this part”;

20 (B) in paragraph (2)—

21 (i) by striking “through the exercise
22 of its eminent domain authority”; and

23 (ii) by striking “the Settlement” and
24 inserting “this part”; and

25 (C) in paragraph (3), by striking “section
26 10009(c)” and inserting “section 10009”.

1 **SEC. 536. COMPLIANCE WITH APPLICABLE LAW.**

2 Section 10006 of the San Joaquin River Restoration
3 Settlement Act (Public Law 111–11; 123 Stat. 1354) is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting “, un-
7 less otherwise provided by this part” before the
8 period at the end; and

9 (B) in paragraph (2), by striking “the Set-
10 tlement” and inserting “this part”;

11 (2) in subsection (b), by inserting “, unless oth-
12 erwise provided by this part” before the period at
13 the end;

14 (3) in subsection (c)—

15 (A) in paragraph (2), by striking “section
16 10004” and inserting “this part”; and

17 (B) in paragraph (3), by striking “the Set-
18 tlement” and inserting “this part”; and

19 (4) in subsection (d)—

20 (A) by inserting “, including, without limi-
21 tation, the costs of implementing subsections
22 (d) and (h)(4) of section 10004,” after “imple-
23 menting this part”; and

24 (B) by striking “for implementation of the
25 Settlement,”.

1 **SEC. 537. COMPLIANCE WITH CENTRAL VALLEY PROJECT**
2 **IMPROVEMENT ACT.**

3 Section 10007 of the San Joaquin River Restoration
4 Settlement Act (Public Law 111–11; 123 Stat. 1354) is
5 amended—

6 (1) in the matter preceding paragraph (1)—

7 (A) by striking “the Settlement” and in-
8 serting “the enactment of this part”; and

9 (B) by inserting: “and the obligations of
10 the Secretary and all other parties to protect
11 and keep in good condition any fish that may
12 be planted or exist below Friant Dam, including
13 any obligations under section 5937 of the Cali-
14 fornia Fish and Game Code and the public
15 trust doctrine, and those of the Secretary and
16 all other parties under the Endangered Species
17 Act of 1973 (16 U.S.C. 1531 et seq.)” before
18 “, provided”; and

19 (2) in paragraph (1), by striking “, as provided
20 in the Settlement”.

21 **SEC. 538. NO PRIVATE RIGHT OF ACTION.**

22 Section 10008(a) of the San Joaquin River Restora-
23 tion Settlement Act (Public Law 111–11; 123 Stat. 1355)
24 is amended—

25 (1) by striking “not a party to the Settlement”;
26 and

1 (2) by striking “or the Settlement” and insert-
 2 ing “unless otherwise provided by this part, but any
 3 Central Valley Project long-term water service or re-
 4 payment contractor within the Friant Division, Hid-
 5 den unit, or Buchanan unit adversely affected by the
 6 failure of the Secretary to comply with section
 7 10004(a)(3) may bring an action against the Sec-
 8 retary for injunctive relief, damages, or both.”.

9 **SEC. 539. IMPLEMENTATION.**

10 Section 10009 of the San Joaquin River Restoration
 11 Settlement Act (Public Law 111–11; 123 Stat. 1355) is
 12 amended—

13 (1) in the section heading, by striking “; **SET-**
 14 **TLEMENT FUND**”;

15 (2) in subsection (a)—

16 (A) in paragraph (1)—

17 (i) by striking “the Settlement” the
 18 first place it appears and inserting “this
 19 part”;

20 (ii) by striking “, estimated to total”
 21 and all that follows through “subsection
 22 (b)(1),”; and

23 (iii) by striking “; provided however,”
 24 and all that follows through
 25 “\$110,000,000 of State funds”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A), by striking
3 “(A) IN GENERAL.—The Secretary” and
4 inserting “The Secretary”; and

5 (ii) by striking subparagraph (B); and
6 (C) in paragraph (3)—

7 (i) by striking “Except as provided in
8 the Settlement, to” and inserting “To”;
9 and

10 (ii) by striking “this Settlement” and
11 inserting “this part”;

12 (3) in subsection (b)(1)—

13 (A) by striking “In addition” and all that
14 follows through “however, that the” and insert-
15 ing “The”;

16 (B) by striking “such additional appropria-
17 tions only in amounts equal to”; and

18 (C) by striking “or the Settlement”;

19 (4) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) in the matter preceding subpara-
22 graph (A), by striking “the Settlement”
23 and inserting “this part”;

1 (ii) in subparagraph (C), by striking
 2 “from the sale of water pursuant to the
 3 Settlement, or”; and

4 (iii) in subparagraph (D), by striking
 5 “the Settlement” and inserting “this
 6 part”; and

7 (B) in paragraph (2), by striking “the Set-
 8 tlement and”; and
 9 (5) by striking subsections (d) through (f).

10 **SEC. 540. REPAYMENT CONTRACTS AND ACCELERATION OF**
 11 **REPAYMENT OF CONSTRUCTION COSTS.**

12 Section 10010 of the San Joaquin River Restoration
 13 Settlement Act (Public Law 111–11; 123 Stat. 1358) is
 14 amended—

15 (1) in paragraphs (3)(D) and (4)(C) of sub-
 16 section (a), by striking “the Settlement and” each
 17 place it appears;

18 (2) in subsection (c), by striking paragraph (3);

19 (3) in subsection (d)(1), by striking “the Settle-
 20 ment” each place it appears and inserting “this
 21 part”; and

22 (4) in subsection (e)—

23 (A) in paragraph (1)—

24 (i) by striking “Interim Flows or Res-
 25 toration Flows, pursuant to paragraphs 13

1 or 15 of the Settlement” and inserting
2 “Restoration Flows, pursuant to this
3 part”;

4 (ii) by striking “Interim Flows or” be-
5 fore “Restoration Flows”; and

6 (iii) by striking “the Interim Flows or
7 Restoration Flows or is intended to other-
8 wise facilitate the Water Management
9 Goal, as described in the Settlement” and
10 inserting “Restoration Flows”; and

11 (B) in paragraph (2)—

12 (i) by striking “except as provided in
13 paragraph 16(b) of the Settlement”; and

14 (ii) by striking “the Interim Flows or
15 Restoration Flows or to facilitate the
16 Water Management Goal” and inserting
17 “Restoration Flows”.

18 **SEC. 541. REPEAL.**

19 Section 10011 of the San Joaquin River Restoration
20 Settlement Act (Public Law 111–11; 123 Stat. 1362) is
21 repealed.

22 **SEC. 542. WATER SUPPLY MITIGATION.**

23 Section 10202(b) of the San Joaquin River Restora-
24 tion Settlement Act (Public Law 111–11; 123 Stat. 1365)
25 is amended—

1 (1) in paragraph (1), by striking “the Interim
2 or Restoration Flows authorized in part I of this
3 subtitle” and inserting “Restoration Flows author-
4 ized in this part”;

5 (2) in paragraph (2), by striking “the Interim
6 or Restoration Flows authorized in part I of this
7 subtitle” and inserting “Restoration Flows author-
8 ized in this part”; and

9 (3) in paragraph (3)—

10 (A) in subparagraph (A), by striking
11 “meet the Restoration Goal as described in part
12 I of this subtitle” and inserting “recover Res-
13 toration Flows as described in this part”; and

14 (B) in subparagraph (C)—

15 (i) by striking “the Interim or Res-
16 toration Flows authorized in part I of this
17 subtitle” and inserting “Restoration Flows
18 authorized in this part”; and

19 (ii) by striking “, and for ensuring ap-
20 propriate adjustment in the recovered
21 water account pursuant to section
22 10004(a)(5)”.

1 **SEC. 543. ADDITIONAL AUTHORITIES.**

2 Section 10203 of the San Joaquin River Restoration
3 Settlement Act (Public Law 111–11; 123 Stat. 1367) is
4 amended—

5 (1) in subsection (b)—

6 (A) by striking “section 10004(a)(4)” and
7 inserting “section 10004(a)(3)”; and

8 (B) by striking “, provided” and all that
9 follows through “section 10009(f)(2)”; and

10 (2) by striking subsection (c).

11 **Subtitle C—Repayment Contracts**
12 **and Acceleration of Repayment**
13 **of Construction Costs**

14 **SEC. 551. REPAYMENT CONTRACTS AND ACCELERATION OF**
15 **REPAYMENT OF CONSTRUCTION COSTS.**

16 (a) **CONVERSION OF CONTRACTS.—**

17 (1) **CERTAIN CONTRACTS.—**

18 (A) **IN GENERAL.—**Not later than 1 year
19 after the date enactment of this Act, the Sec-
20 retary of the Interior, on the request of a con-
21 tractor, shall convert all existing long-term Cen-
22 tral Valley Project contracts entered into under
23 section 9(e) of the Act of August 4, 1939 (53
24 Stat. 1196, chapter 418), to a contract under
25 section 9(d) of that Act (53 Stat. 1195), under
26 mutually agreeable terms and conditions.

1 (B) RESTRICTIONS.—A contract converted
2 under subparagraph (A) shall—

3 (i) require the repayment, either in
4 lump sum or by accelerated prepayment, of
5 the remaining amount of construction costs
6 identified in the most current version of
7 the Central Valley Project Schedule of Irriga-
8 tion Capital Allocations by Contractor,
9 as adjusted to reflect payments not re-
10 flected in that schedule and properly as-
11 signable for ultimate return by the con-
12 tractor, not later than January 31, 2013
13 (or if made in approximately equal annual
14 installments, not later than January 31,
15 2016), which amount shall be discounted
16 by the Treasury rate (defined as the 20-
17 year Constant Maturity Treasury rate pub-
18 lished by the Department of the Treasury
19 as of October 1, 2012);

20 (ii) require that, notwithstanding sub-
21 section (c)(2), construction costs or other
22 capitalized costs incurred after the effec-
23 tive date of the converted contract or not
24 reflected in the schedule described in

1 clause (i) and properly assignable to that
2 contractor, shall be repaid—

3 (I) in not more than 5 years
4 after the date on which the contractor
5 is notified of the allocation if that
6 amount is a result of a collective an-
7 nual allocation of capital costs to the
8 contractors exercising contract conver-
9 sions under this subsection of less
10 than \$5,000,000; or

11 (II) if the allocation of capital
12 costs described in subclause (I) equal
13 \$5,000,000 or more, as provided by
14 applicable reclamation law, subject to
15 the condition that the reference to the
16 amount of \$5,000,000 shall not be a
17 precedent in any other context; and

18 (iii) provide that power revenues will
19 not be available to aid in the repayment of
20 construction costs allocated to irrigation
21 under the contract.

22 (C) ESTIMATE.—Not later than 180 days
23 after the date of enactment of this Act, the Sec-
24 retary of the Interior shall provide to each con-
25 tractor an estimate of the remaining amount of

1 construction costs under subparagraph (B)(i) as
2 of January 31, 2013, as adjusted.

3 (2) OTHER CONTRACTS.—

4 (A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of this Act, on the
6 request of a contractor, the Secretary may con-
7 vert any Central Valley Project long-term con-
8 tract entered into under section 9(c)(2) of the
9 Act of August 4, 1939 (chapter 418; 53 Stat.
10 1194) to a contract under section 9(c)(1) of
11 that Act, under mutually agreeable terms and
12 conditions.

13 (B) RESTRICTIONS.—A contract converted
14 under subparagraph (A) shall—

15 (i) require the repayment in lump sum
16 of the remaining amount of construction
17 costs identified in the most current version
18 of the Central Valley Project Schedule of
19 Municipal and Industrial Water Rates, as
20 adjusted to reflect payments not reflected
21 in that schedule and properly assignable
22 for ultimate return by the contractor, not
23 later than January 31, 2016; and

24 (ii) require that, notwithstanding sub-
25 section (c)(2), construction costs or other

1 capitalized costs incurred after the effec-
2 tive date of the contract or not reflected in
3 the Schedule described in clause (i), and
4 properly assignable to that contractor,
5 shall be repaid—

6 (I) in not more than 5 years
7 after the date on which the contractor
8 is notified of the allocation if the
9 amount is a result of a collective an-
10 nual allocation of capital costs to the
11 contractors exercising contract conver-
12 sions under this subsection of less
13 than \$5,000,000; or

14 (II) if the allocation of capital
15 costs described in subclause (I) equal
16 \$5,000,000 or more, as provided by
17 applicable reclamation law, subject to
18 the condition that the reference to the
19 amount of \$5,000,000 shall not be a
20 precedent in any other context.

21 (C) ESTIMATE.—Not later than 180 days
22 after the date of enactment of this Act, the Sec-
23 retary of the Interior shall provide to each con-
24 tractor an estimate of the remaining amount of

1 construction costs under subparagraph (B)(i) as
2 of January 31, 2016, as adjusted.

3 (b) FINAL ADJUSTMENT.—

4 (1) IN GENERAL.—The amounts paid pursuant
5 to subsection (a) shall be subject to adjustment fol-
6 lowing a final cost allocation by the Secretary of the
7 Interior on completion of the construction of the
8 Central Valley Project.

9 (2) REPAYMENT OBLIGATION.—

10 (A) IN GENERAL.—If the final cost alloca-
11 tion indicates that the costs properly assignable
12 to the contractor are greater than the amount
13 that has been paid by the contractor, the con-
14 tractor shall pay the remaining allocated costs.

15 (B) TERMS.—The term of an additional
16 repayment contract described in subparagraph
17 (A) shall be—

18 (i) for not less than 1 year and not
19 more than 10 years; and

20 (ii) based on mutually agreeable provi-
21 sions regarding the rate of repayment of
22 the amount developed by the parties.

23 (3) CREDITS.—If the final cost allocation indi-
24 cates that the costs properly assignable to the con-
25 tractor are less than the amount that the contractor

1 has paid, the Secretary of the Interior shall credit
2 the amount of the overpayment as an offset against
3 any outstanding or future obligation of the con-
4 tractor.

5 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

6 (1) IN GENERAL.—Notwithstanding any repay-
7 ment obligation under subsection (a)(1)(B)(ii) or
8 subsection (b), on the compliance of a contractor
9 with and discharge of the obligation of repayment of
10 the construction costs under that subsection, the
11 ownership and full-cost pricing limitations of any
12 provision of the reclamation laws shall not apply to
13 land in that district.

14 (2) OTHER CONTRACTS.—Notwithstanding any
15 repayment obligation under paragraph (1)(B)(ii) or
16 (2)(B)(ii) of subsection (a) or subsection (b), on the
17 compliance of a contractor with and discharge of the
18 obligation of repayment of the construction costs
19 under that subsection, the contractor shall continue
20 to pay applicable operation and maintenance costs
21 and other charges applicable to the repayment con-
22 tracts pursuant to then-current rate-setting policy
23 and applicable law.

24 (d) CERTAIN REPAYMENT OBLIGATIONS NOT AL-
25 TERED.—This section does not—

1 (1) alter the repayment obligation of any other
2 long-term water service or repayment contractor re-
3 ceiving water from the Central Valley Project; or

4 (2) shift any costs that would otherwise have
5 been properly assignable to a contractor absent this
6 section, including operations and maintenance costs,
7 construction costs, or other capitalized costs in-
8 curred after the date of enactment of this Act, to
9 other contractors.

10 (e) STATUTORY INTERPRETATION.—Nothing in this
11 subtitle affects the right of any long-term contractor to
12 use a particular type of financing to make the payments
13 required in paragraph (1)(B)(i) or (2)(B)(i) of subsection
14 (a).

15 **Subtitle D—Bay-Delta Watershed**
16 **Water Rights Preservation and**
17 **Protection**

18 **SEC. 561. WATER RIGHTS AND AREA-OF-ORIGIN PROTEC-**
19 **TIONS.**

20 Notwithstanding the provisions of this title, Federal
21 reclamation law, or the Endangered Species Act of 1973
22 (16 U.S.C. 1531 et seq.)—

23 (1) the Secretary of the Interior shall, in the
24 operation of the Central Valley Project—

1 (A) strictly adhere to State water rights
2 law governing water rights priorities by hon-
3 oring water rights senior to those belonging to
4 the Central Valley Project, regardless of the
5 source of priority; and

6 (B) strictly adhere to and honor water
7 rights and other priorities that are obtained or
8 exist pursuant to the California Water Code, in-
9 cluding sections 10505, 10505:5, 11128,
10 11460, 11463, and 12220; and

11 (2) any action that affects the diversion of
12 water or involves the release of water from any Cen-
13 tral Valley Project water storage facility taken by
14 the Secretary of the Interior or the Secretary of
15 Commerce to conserve, enhance, recover, or other-
16 wise protect any species listed under the Endangered
17 Species Act of 1973 (16 U.S.C. 1531 et seq.) shall
18 be applied in a manner that is consistent with water
19 right priorities established by State law.

20 **SEC. 562. SACRAMENTO RIVER SETTLEMENT CONTRACTS.**

21 (a) IN GENERAL.—In carrying out the Endangered
22 Species Act of 1973 (16 U.S.C. 1531 et seq.) in the Bay-
23 Delta and on the Sacramento River, the Secretary of the
24 Interior and the Secretary of Commerce shall apply any
25 limitations on the operation of the Central Valley Project

1 or relating to the formulation of any reasonable prudent
2 alternative associated with the operation of the Central
3 Valley Project in a manner that strictly adheres to and
4 applies the water rights priorities for project water and
5 base supply as provided in the Sacramento River Settle-
6 ment Contracts.

7 (b) APPLICABILITY.—Article 3(i) of the Sacramento
8 River Settlement Contracts shall not be used by the Sec-
9 retary of the Interior or any other Federal agency head
10 as means to provide shortages that are different from
11 those provided for in Article 5(a) of the Sacramento River
12 Settlement Contracts.

13 **SEC. 563. SACRAMENTO RIVER WATERSHED WATER SERV-**
14 **ICE CONTRACTORS.**

15 (a) EXISTING CENTRAL VALLEY PROJECT AGRICUL-
16 TURAL WATER SERVICE CONTRACTORS WITHIN SAC-
17 RAMENTO RIVER WATERSHED.—In this section, the term
18 “existing Central Valley Project agricultural water service
19 contractors within the Sacramento River Watershed”
20 means water service contractors within the Shasta, Trin-
21 ity, and Sacramento River Divisions of the Central Valley
22 Project that have a water service contract in effect on the
23 date of enactment of this Act that provides water for irri-
24 gation.

1 (b) ALLOCATION OF WATER.—Subject to subsection
2 (c) and the absolute priority of the Sacramento River Set-
3 tlement Contractors to Sacramento River supplies over
4 Central Valley Project diversions and deliveries to other
5 contractors, the Secretary of the Interior shall, in the op-
6 eration of the Central Valley Project, allocate water pro-
7 vided for irrigation purposes to existing Central Valley
8 Project agricultural water service contractors within the
9 Sacramento River Watershed as follows:

10 (1) Not less than 100 percent of the contract
11 quantities in a “Wet” year (as that term is defined
12 in the Sacramento Valley Water Year Type (40–30–
13 30) Index).

14 (2) Not less than 100 percent of the contract
15 quantities in an “Above Normal” year (as that term
16 is defined in the Sacramento Valley Water Year
17 Type (40–30–30) Index).

18 (3) Not less than 100 percent of the contract
19 quantities in a “Below Normal” year (as that term
20 is defined in the Sacramento Valley Water Year
21 Type (40–30–30) Index).

22 (4) Not less than 75 percent of the contract
23 quantities in a “Dry” year (as that term is defined
24 in the Sacramento Valley Water Year Type (40–30–
25 30) Index).

1 (5) Not less than 50 percent of the contract
 2 quantities in a “Critically Dry” year (as that term
 3 is defined in the Sacramento Valley Water Year
 4 Type (40–30–30) Index).

5 (c) PROTECTION OF MUNICIPAL AND INDUSTRIAL
 6 SUPPLIES.—

7 (1) IN GENERAL.—Nothing in this section—

8 (A) modifies any provision of a water serv-
 9 ice contract that addresses municipal and in-
 10 dustrial water shortage policies of the Secretary
 11 of the Interior;

12 (B) affects or limits the authority of the
 13 Secretary of the Interior—

14 (i) to adopt or modify municipal and
 15 industrial water shortage policies; or

16 (ii) to implement municipal and indus-
 17 trial water shortage policies; or

18 (C) affects allocations to Central Valley
 19 Project municipal and industrial contractors
 20 pursuant to the water shortage policies of the
 21 Secretary of the Interior.

22 (2) APPLICABILITY.—This section does not con-
 23 strain, govern, or affect, directly or indirectly, the
 24 operations of the American River Division of the
 25 Central Valley Project or any deliveries from that

1 Division, including the units and facilities of that
2 Division.

3 **SEC. 564. NO REDIRECTED ADVERSE IMPACTS.**

4 The Secretary of the Interior shall ensure that there
5 are no redirected adverse water supply or fiscal impacts
6 to the State Water Project or to individuals within the
7 Sacramento River or San Joaquin River watershed arising
8 from the operation of the Secretary of the Central Valley
9 Project to meet legal obligations imposed by or through
10 any Federal or State agency, including—

11 (1) the Endangered Species Act of 1973 (16
12 U.S.C. 1531 et seq.);

13 (2) this title; and

14 (3) actions or activities implemented to meet
15 the twin goals of improving water supply and ad-
16 dressing the environmental needs of the Bay-Delta.

17 **Subtitle E—Miscellaneous**

18 **SEC. 571. PRECEDENT.**

19 Congress finds that—

20 (1) coordinated operations between the Central
21 Valley Project and the State Water Project, as con-
22 sented to and requested by the State of California
23 and the Federal Government, require the assertion
24 of Federal supremacy to protect existing water

1 rights throughout the system, a circumstance that is
2 unique to the State of California; and

3 (2) this title should not serve as precedent for
4 similar operations in any other State.

5 **TITLE VI—REDUCING**
6 **REGULATORY BURDENS**

7 **SEC. 601. SHORT TITLE.**

8 This title may be cited as the “Reducing Regulatory
9 Burdens Act of 2012”.

10 **SEC. 602. USE OF AUTHORIZED PESTICIDES.**

11 Section 3(f) of the Federal Insecticide, Fungicide,
12 and Rodenticide Act (7 U.S.C. 136a(f)) is amended by
13 adding at the end the following:

14 “(5) USE OF AUTHORIZED PESTICIDES.—Ex-
15 cept as provided in section 402(s) of the Federal
16 Water Pollution Control Act (33 U.S.C. 1342(s)),
17 the Administrator or a State may not require a per-
18 mit under that Act for a discharge from a point
19 source into navigable waters of a pesticide author-
20 ized for sale, distribution, or use under this Act, or
21 the residue of the pesticide, resulting from the appli-
22 cation of the pesticide.”.

1 **SEC. 603. DISCHARGES OF PESTICIDES.**

2 Section 402 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1342) is amended by adding at the end
4 the following:

5 “(s) DISCHARGES OF PESTICIDES.—

6 “(1) NO PERMIT REQUIREMENT.—Except as
7 provided in paragraph (2), a permit shall not be re-
8 quired by the Administrator or a State under this
9 Act for a discharge from a point source into navi-
10 gable waters of a pesticide authorized for sale, dis-
11 tribution, or use under the Federal Insecticide, Fun-
12 gicide, and Rodenticide Act (7 U.S.C. 136 et seq.),
13 or the residue of the pesticide, resulting from the ap-
14 plication of the pesticide.

15 “(2) EXCEPTIONS.—Paragraph (1) shall not
16 apply to the following discharges of a pesticide or
17 pesticide residue:

18 “(A) A discharge resulting from the appli-
19 cation of a pesticide in violation of a provision
20 of the Federal Insecticide, Fungicide, and
21 Rodenticide Act (7 U.S.C. 136 et seq.) that is
22 relevant to protecting water quality, if—

23 “(i) the discharge would not have oc-
24 curred but for the violation; or

25 “(ii) the quantity of a pesticide or
26 pesticide residue in the discharge is greater

1 than would have occurred without the vio-
2 lation.

3 “(B) Stormwater discharges subject to reg-
4 ulation under subsection (p).

5 “(C) The following discharges subject to
6 regulation under this section:

7 “(i) Manufacturing or industrial efflu-
8 ent.

9 “(ii) Treatment works effluent.

10 “(iii) Discharges incidental to the nor-
11 mal operation of a vessel, including a dis-
12 charge resulting from ballasting operations
13 or vessel biofouling prevention.”.

14 **TITLE VII—FARM DUST**
15 **REGULATION PREVENTION**

16 **SEC. 701. SHORT TITLE.**

17 This title may be cited as the “Farm Dust Regulation
18 Prevention Act of 2012”.

19 **SEC. 702. TEMPORARY PROHIBITION AGAINST REVISING**
20 **ANY NATIONAL AMBIENT AIR QUALITY**
21 **STANDARD APPLICABLE TO COARSE PARTIC-**
22 **ULATE MATTER.**

23 Before the date that is 1 year after the date of enact-
24 ment of this Act, the Administrator of the Environmental
25 Protection Agency (referred to in this title as the “Admin-

1 istrator”) may not propose, finalize, implement, or enforce
 2 any regulation revising the national primary ambient air
 3 quality standard or the national secondary ambient air
 4 quality standard applicable to particulate matter with an
 5 aerodynamic diameter greater than 2.5 micrometers under
 6 section 109 of the Clean Air Act (42 U.S.C. 7409).

7 **SEC. 703. NUISANCE DUST.**

8 Part A of title I of the Clean Air Act (42 U.S.C. 7401
 9 et seq.) is amended by adding at the end the following:
 10 **“SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY**
 11 **STATE, TRIBAL, AND LOCAL GOVERNMENTS.**

12 “(a) DEFINITION OF NUISANCE DUST.—In this sec-
 13 tion:

14 “(1) IN GENERAL.—The term ‘nuisance dust’
 15 means particulate matter that—

16 “(A) is generated primarily from natural
 17 sources, unpaved roads, agricultural activities,
 18 earth moving, or other activities typically con-
 19 ducted in rural areas;

20 “(B) consists primarily of soil, other nat-
 21 ural or biological materials, or some combina-
 22 tion of those materials;

23 “(C) is not emitted directly into the ambi-
 24 ent air from combustion, such as exhaust from

1 combustion engines and emissions from sta-
2 tionary combustion processes; and

3 “(D) is not comprised of residuals from
4 the combustion of coal.

5 “(2) EXCLUSION.—The term ‘nuisance dust’
6 does not include radioactive particulate matter pro-
7 duced from uranium mining or processing.

8 “(b) APPLICABILITY.—Except as provided in sub-
9 section (c), this Act does not apply to, and references in
10 this Act to particulate matter are deemed to exclude, nui-
11 sance dust.

12 “(c) EXCEPTION.—Subsection (a) does not apply
13 with respect to any geographical area in which nuisance
14 dust is not regulated under State, tribal, or local law inso-
15 far as the Administrator, in consultation with the Sec-
16 retary of Agriculture, finds that—

17 “(1) nuisance dust (or any subcategory of nui-
18 sance dust) causes substantial adverse public health
19 and welfare effects at ambient concentrations; and

20 “(2) the benefits of applying standards and
21 other requirements of this Act to nuisance dust (or
22 a subcategory of nuisance dust) outweigh the costs
23 (including local and regional economic and employ-
24 ment impacts) of applying those standards and other
25 requirements to nuisance dust (or a subcategory).”.

1 **SEC. 704. SENSE OF CONGRESS.**

2 It is the sense of Congress that the Administrator
3 should implement an approach to excluding so-called “ex-
4 ceptional events”, or events that are not reasonably con-
5 trollable or preventable, from determinations of whether
6 an area is in compliance with any national ambient air
7 quality standard applicable to coarse particulate matter
8 that—

9 (1) maximizes transparency and predictability
10 for States, Indian tribes, and local governments; and

11 (2) minimizes the regulatory and cost burdens
12 States, Indian tribes, and local governments bear in
13 excluding those events.

14 **SEC. 705. IMPACTS OF EPA REGULATORY ACTIVITY ON EM-**
15 **PLOYMENT AND ECONOMIC ACTIVITY IN AG-**
16 **RICULTURE COMMUNITY.**

17 (a) DEFINITIONS.—In this section:

18 (1) COVERED ACTION.—The term “covered ac-
19 tion” means any of the following actions taken by
20 the Administrator under the Clean Air Act (42
21 U.S.C. 7401 et seq.) relating to agriculture and the
22 national primary ambient air quality standard or the
23 national secondary ambient air quality standard for
24 particulate matter:

1 (A) Promulgating or issuing a regulation,
2 policy statement, guidance, response to a peti-
3 tion, or other requirement.

4 (B) Implementing a new or substantially
5 altered program.

6 (2) MORE THAN A DE MINIMIS NEGATIVE IM-
7 PACT.—The term “more than a de minimis negative
8 impact” means—

9 (A) with respect to employment levels, a
10 loss of more than 100 jobs relating to the agri-
11 culture industry, as calculated by excluding con-
12 sideration of any offsetting job gains that result
13 from the hypothetical creation of new jobs
14 through new technologies or government em-
15 ployment; and

16 (B) with respect to economic activity, a de-
17 crease in agricultural economic activity of more
18 than \$1,000,000 over any calendar year, as cal-
19 culated by excluding consideration of any offset-
20 ting economic activity that results from the hy-
21 pothetical creation of new economic activity
22 through new technologies or government em-
23 ployment.

1 (b) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOY-
2 MENT AND ECONOMIC ACTIVITY IN THE AGRICULTURE
3 COMMUNITY.—

4 (1) ANALYSIS.—Before taking a covered action,
5 the Administrator shall analyze the impact,
6 disaggregated by State, of the covered action on—

7 (A) employment levels in the agriculture
8 industry; and

9 (B) agricultural economic activity, includ-
10 ing estimated job losses and decreased economic
11 activity relating to agriculture.

12 (2) ECONOMIC MODELS.—

13 (A) IN GENERAL.—In carrying out para-
14 graph (1), the Administrator shall use the best
15 available economic models.

16 (B) ANNUAL GAO REPORT.—Not later
17 than December 31 of each year, the Comp-
18 troller General of the United States shall sub-
19 mit to Congress a report on the economic mod-
20 els used by the Administrator to carry out this
21 subsection.

22 (3) AVAILABILITY OF INFORMATION.—With re-
23 spect to any covered action, the Administrator
24 shall—

1 (A) post the analysis under paragraph (1)
2 as a link on the main page of the public Inter-
3 net website of the Environmental Protection
4 Agency;

5 (B) request the Secretary of Agriculture to
6 post the analysis under paragraph (1) as a link
7 on the main page of the public Internet website
8 of the Department of Agriculture; and

9 (C) request that the Governor of any State
10 experiencing more than a de minimis negative
11 impact post the analysis on the main page of
12 the public Interest website of the State.

13 (c) PUBLIC HEARINGS.—

14 (1) IN GENERAL.—If the Administrator con-
15 cludes under subsection (a)(1) that a covered action
16 will have more than a de minimis negative impact on
17 agricultural employment levels or agricultural eco-
18 nomic activity in a State, the Administrator shall
19 hold a public hearing in each such State at least 30
20 days before the effective date of the covered action.

21 (2) TIME, LOCATION, AND SELECTION.—A pub-
22 lic hearing required under paragraph (1) shall be
23 held at—

24 (A) a convenient time and location for im-
25 pacted residents; and

1 (B) at such location selected by the Ad-
 2 ministrator as shall give priority to locations in
 3 the State that will experience the greatest num-
 4 ber of job losses.

5 (d) NOTIFICATION.—If the Administrator concludes
 6 under subsection (b)(1) that a covered action will have
 7 more than a de minimis negative impact on agricultural
 8 employment levels or agricultural economic activity in any
 9 State, the Administrator shall give notice of the impact
 10 to the congressional delegation, Governor, and legislature
 11 of the State at least 45 days before the effective date of
 12 the covered action.

13 **TITLE VIII—ENERGY TAX** 14 **PREVENTION**

15 **SEC. 801. SHORT TITLE.**

16 This title may be cited as the “Energy Tax Preven-
 17 tion Act of 2012”.

18 **SEC. 802. NO REGULATION OF EMISSIONS OF GREENHOUSE**

19 **GASES.**

20 Title III of the Clean Air Act (42 U.S.C. 7601 et
 21 seq.) is amended by adding at the end the following:

22 **“SEC. 330. NO REGULATION OF EMISSIONS OF GREEN-** 23 **HOUSE GASES.**

24 “(a) DEFINITION.—In this section, the term ‘green-
 25 house gas’ means any of the following:

1 “(1) Water vapor.

2 “(2) Carbon dioxide.

3 “(3) Methane.

4 “(4) Nitrous oxide.

5 “(5) Sulfur hexafluoride.

6 “(6) Hydrofluorocarbons.

7 “(7) Perfluorocarbons.

8 “(8) Any other substance subject to, or pro-
9 posed to be subject to, regulation, action, or consid-
10 eration under this Act to address climate change.

11 “(b) LIMITATION ON AGENCY ACTION.—

12 “(1) LIMITATION.—

13 “(A) IN GENERAL.—The Administrator
14 may not, under this Act, promulgate any regu-
15 lation concerning, take action relating to, or
16 take into consideration the emission of a green-
17 house gas to address climate change.

18 “(B) AIR POLLUTANT DEFINITION.—The
19 definition of the term ‘air pollutant’ in section
20 302(g) does not include a greenhouse gas. Not-
21 withstanding the previous sentence, such defini-
22 tion may include a greenhouse gas for purposes
23 of addressing concerns other than climate
24 change.

1 “(2) EXCEPTIONS.—Paragraph (1) does not
2 prohibit the following:

3 “(A) Notwithstanding paragraph (4)(B),
4 implementation and enforcement of the rule en-
5 titled ‘Light-Duty Vehicle Greenhouse Gas
6 Emission Standards and Corporate Average
7 Fuel Economy Standards’ (75 Fed. Reg. 25324
8 (May 7, 2010) and without further revision)
9 and finalization, implementation, enforcement,
10 and revision of the proposed rule entitled
11 ‘Greenhouse Gas Emissions Standards and
12 Fuel Efficiency Standards for Medium- and
13 Heavy-Duty Engines and Vehicles’ published at
14 75 Fed. Reg. 74152 (November 30, 2010).

15 “(B) Implementation and enforcement of
16 section 211(o).

17 “(C) Statutorily authorized Federal re-
18 search, development, and demonstration pro-
19 grams addressing climate change.

20 “(D) Implementation and enforcement of
21 title VI to the extent such implementation or
22 enforcement only involves one or more class I or
23 class II substances (as such terms are defined
24 in section 601).

1 “(E) Implementation and enforcement of
2 section 821 (42 U.S.C. 7651k note) of Public
3 Law 101–549 (commonly referred to as the
4 ‘Clean Air Act Amendments of 1990’).

5 “(3) INAPPLICABILITY OF PROVISIONS.—Noth-
6 ing listed in paragraph (2) shall cause a greenhouse
7 gas to be subject to part C of title I (relating to pre-
8 vention of significant deterioration of air quality) or
9 considered an air pollutant for purposes of title V
10 (relating to air permits).

11 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
12 following rules, and actions (including any supple-
13 ment or revision to such rules and actions) are re-
14 pealed and shall have no legal effect:

15 “(A) ‘Mandatory Reporting of Greenhouse
16 Gases’, published at 74 Fed. Reg. 56260 (Octo-
17 ber 30, 2009).

18 “(B) ‘Endangerment and Cause or Con-
19 tribute Findings for Greenhouse Gases under
20 section 202(a) of the Clean Air Act’ published
21 at 74 Fed. Reg. 66496 (Dec. 15, 2009).

22 “(C) ‘Reconsideration of the Interpretation
23 of Regulations That Determine Pollutants Cov-
24 ered by Clean Air Act Permitting Programs’
25 published at 75 Fed. Reg. 17004 (April 2,

1 2010) and the memorandum from Stephen L.
2 Johnson, Environmental Protection Agency
3 (EPA) Administrator, to EPA Regional Admin-
4 istrators, concerning ‘EPA’s Interpretation of
5 Regulations that Determine Pollutants Covered
6 by Federal Prevention of Significant Deteriora-
7 tion (PSD) Permit Program’ (Dec. 18, 2008).

8 “(D) ‘Prevention of Significant Deteriora-
9 tion and Title V Greenhouse Gas Tailoring
10 Rule’, published at 75 Fed. Reg. 31514 (June
11 3, 2010).

12 “(E) ‘Action To Ensure Authority To
13 Issue Permits Under the Prevention of Signifi-
14 cant Deterioration Program to Sources of
15 Greenhouse Gas Emissions: Finding of Sub-
16 stantial Inadequacy and SIP Call’, published at
17 75 Fed. Reg. 77698 (December 13, 2010).

18 “(F) ‘Action To Ensure Authority To
19 Issue Permits Under the Prevention of Signifi-
20 cant Deterioration Program to Sources of
21 Greenhouse Gas Emissions: Finding of Failure
22 to Submit State Implementation Plan Revisions
23 Required for Greenhouse Gases’, published at
24 75 Fed. Reg. 81874 (December 29, 2010).

1 “(G) ‘Action To Ensure Authority To
2 Issue Permits Under the Prevention of Signifi-
3 cant Deterioration Program to Sources of
4 Greenhouse Gas Emissions: Federal Implemen-
5 tation Plan’, published at 75 Fed. Reg. 82246
6 (December 30, 2010).

7 “(H) ‘Action To Ensure Authority To Im-
8 plement Title V Permitting Programs Under
9 the Greenhouse Gas Tailoring Rule’, published
10 at 75 Fed. Reg. 82254 (December 30, 2010).

11 “(I) ‘Determinations Concerning Need for
12 Error Correction, Partial Approval and Partial
13 Disapproval, and Federal Implementation Plan
14 Regarding Texas Prevention of Significant De-
15 terioration Program’, published at 75 Fed. Reg.
16 82430 (December 30, 2010).

17 “(J) ‘Limitation of Approval of Prevention
18 of Significant Deterioration Provisions Con-
19 cerning Greenhouse Gas Emitting-Sources in
20 State Implementation Plans; Final Rule’, pub-
21 lished at 75 Fed. Reg. 82536 (December 30,
22 2010).

23 “(K) ‘Determinations Concerning Need for
24 Error Correction, Partial Approval and Partial
25 Disapproval, and Federal Implementation Plan

1 Regarding Texas Prevention of Significant De-
2 terioration Program; Proposed Rule’, published
3 at 75 Fed. Reg. 82365 (December 30, 2010).

4 “(L) Except for action listed in paragraph
5 (2), any other Federal action under this Act oc-
6 curring before the date of enactment of this
7 section that applies a stationary source permit-
8 ting requirement or an emissions standard for
9 a greenhouse gas to address climate change.

10 “(5) STATE ACTION.—

11 “(A) NO LIMITATION.—This section does
12 not limit or otherwise affect the authority of a
13 State to adopt, amend, enforce, or repeal State
14 laws and regulations pertaining to the emission
15 of a greenhouse gas.

16 “(B) EXCEPTION.—

17 “(i) RULE.—Notwithstanding sub-
18 paragraph (A), any provision described in
19 clause (ii)—

20 “(I) is not federally enforceable;

21 “(II) is not deemed to be a part
22 of Federal law; and

23 “(III) is deemed to be stricken
24 from the plan described in clause

1 (ii)(I) or the program or permit de-
 2 scribed in clause (ii)(II), as applicable.

3 “(ii) PROVISIONS DEFINED.—For pur-
 4 poses of clause (i), the term ‘provision’
 5 means any provision that—

6 “(I) is contained in a State im-
 7 plementation plan under section 110
 8 and authorizes or requires a limitation
 9 on, or imposes a permit requirement
 10 for, the emission of a greenhouse gas
 11 to address climate change; or

12 “(II) is part of an operating per-
 13 mit program under title V, or a per-
 14 mit issued pursuant to title V, and
 15 authorizes or requires a limitation on
 16 the emission of a greenhouse gas to
 17 address climate change.

18 “(C) ACTION BY ADMINISTRATOR.—The
 19 Administrator may not approve or make feder-
 20 ally enforceable any provision described in sub-
 21 paragraph (B)(ii).”.

22 **SEC. 803. PRESERVING ONE NATIONAL STANDARD FOR**
 23 **AUTOMOBILES.**

24 Section 209(b) of the Clean Air Act (42 U.S.C. 7543)
 25 is amended by adding at the end the following:

1 “(4) With respect to standards for emissions of
2 greenhouse gases (as defined in section 330) for
3 model year 2017 or any subsequent model year for
4 new motor vehicles and new motor vehicle engines—

5 “(A) the Administrator may not waive ap-
6 plication of subsection (a); and

7 “(B) no waiver granted prior to the date of
8 enactment of this paragraph may be considered
9 to waive the application of subsection (a).”.

○