114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–711

COOPERATIVE MANAGEMENT OF MINERAL RIGHTS ACT OF 2016

SEPTEMBER 6, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 3881]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3881) to amend the Mineral Leasing Act to repeal provisions relating only to the Allegheny National Forest, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Management of Mineral Rights Act of 2016".

SEC. 2. REPEAL OF PROVISIONS REGARDING THE ALLEGHENY NATIONAL FOREST.

(a) REPEAL.—Subsection (o) of section 17 of the Mineral Leasing Act (30 U.S.C. 226) and 2508 of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3108) are repealed.

(b) NOTICE REQUIREMENT NOT AFFECTED.—Nothing in this Act shall be construed or interpreted to (1) limit, modify, or otherwise affect the existing requirement to provide in writing 60-day advance notice of specific activities in accordance with the order dated December 16, 1980 in the case *United States of America v. Minard Run Oil Company*, 1980 U.S. Dist. LEXIS 9570 (W.D. Pa., Dec. 16, 1980); or (2) limit existing authority of the Forest Service under 16 U.S.C. 551.

PURPOSE OF THE BILL

The purpose of H.R. 3881 is to amend the Mineral Leasing Act to repeal provisions relating only to the Allegheny National Forest.

BACKGROUND AND NEED FOR LEGISLATION

The Allegheny National Forest (ANF) is located in northwestern Pennsylvania, encompassing 517,000 acres in Elk, Forest, McKean and Warren counties. The ANF is located roughly 15 miles away from the first commercial oil well in the United States drilled in 1859 by Edwin Drake and sparking our nation's first oil boom. The passage of the Weeks Act (Act of March 1, 1911, chapter 186, 36 Stat. 961) in 1911 authorized and appropriated $9 million dollars for the Department of Agriculture to purchase six million acres of land in the eastern United States to manage as national forests.

Due to the oil boom in the region in the previous century, both the lands and the subsurface mineral rights (which include oil and natural gas) for much of the lands later included in the ANF were privately owned. When the federal government acquired property to establish the ANF in 1923, most of the acquisition by the Department of Agriculture was surface rights for the land, leaving most of the subsurface mineral rights in private ownership. This is often referred to as "split-estate"—when the surface rights and subsurface rights are owned by different parties.

The acquisition by the federal government of surface rights for lands where mineral rights were privately held, or "reserved" was expressly allowed by section 9 of the Weeks Act (16 U.S.C. 518) which states: "Such acquisition by the United States shall in no case be defeated because of located or defined rights of way, easements, and reservations, which, from their nature will, in the opinion of the Secretary of Agriculture, in no manner interfere with the use of the lands so encumbered . . . ."

Ninety-three percent, or 478,283 acres, of the ANF subsurface mineral estate is privately-owned, leaving just 7%, or 35,000 acres federally-owned.

Private mineral rights owners have a property right to develop their interests, including reasonable use of the surface to develop the subsurface minerals, which includes access on the surface in order to develop such minerals. It is important to note that just because the mineral rights are privately held does not mean they are not regulated. In the case of the ANF, the subsurface mineral estate owners are still subject to State regulations.

Prior to 2008, private mineral rights owners worked cooperatively with the U.S. Forest Service to develop oil and natural gas, with mineral rights holders providing the Forest Service a 60-day notification of their drilling plans and the Forest Service issuing a "Notice to Proceed" or NTP.

In 2007, a memorandum originating from the Forest Service's Office of General Counsel concluded that the issuance of an NTP was considered a "major federal action" subject to the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq.). Consequently in 2008, the Sierra Club, Allegheny Defense Project, and the Forest Service Employees for Environmental Ethics filed suit against the Forest Service, arguing that NTPs should not be issued unless NEPA was complied with.

In 2009, the Forest Service settled in court with the environmental groups, agreeing to a moratorium on issuing NTPs until it had conducted a forest-wide environmental analysis, thereby banning oil and gas development in the ANF. In April 2009, Forest Su-

pervisor Leanne Marten issued a statement explaining that all pending and future oil and gas proposals would require full NEPA analysis as a result of the settlement and acknowledging the " . . . impact this will have on families and businesses, especially at a time when our nation is facing such a difficult economic downturn."

In response, industry interests filed suit against the U.S. Forest Service and environmental groups. On December 15, 2009, the U.S. District Court for the Western District of Pennsylvania issued a preliminary injunction enjoining the Forest Service from requiring the preparation of a NEPA document as a precondition to the exercise of private oil and gas rights in the ANF. This action overturned the Forest Service ban on oil and gas development in the ANF. The Forest Service and environmental groups appealed the preliminary injunction. Litigation continued through 2013 with the federal courts repeatedly and definitively ruling that the U.S. Forest Service lacked the regulatory approval authority over the exercise of private mineral estates.

Throughout the litigation, the sole authority claimed by the Forest Service and environmental groups for promulgation of regulations to exercise regulatory authority over private mineral estates was section 2508 of the Energy Policy Act of 1992 (Public Law 102–486), codified at 30 U.S.C. § 226(o). This section applies only to the Allegheny National Forest, and called for the Secretary of Agriculture to follow specific procedures for oil and gas activities in the ANF where the subsurface was not owned by the federal government and allowing the Secretary to promulgate regulations related to the specified procedures.

Despite the law being enacted in 1992, the Department of Agriculture never issued regulations, and instead worked cooperatively with private mineral owners as mentioned above for decades. Nonetheless, this antiquated statute is what the Forest Service used over a decade later in 2008 to promulgate far-reaching regulations that were eventually struck down by the courts—with costly impacts not only to the American taxpayer but also the families and businesses operating in the ANF region. More importantly, the 2008 regulations proposed by the Forest Service would have applied to 11,000,000 acres of split estate on National Forest System lands beyond those located in Pennsylvania—lands in North Dakota, Ohio, Michigan, West Virginia, and Kentucky. According to a report issued on April 15, 2016, by the Energy Information Administration (EIA), U.S. natural gas production reached a record high in 2015—with production from Pennsylvania, Ohio, West Virginia, Oklahoma, and North Dakota accounting for 35% of total U.S. natural gas production. The greatest production growth occurred in Pennsylvania. To date, the United States is now the global leader in natural gas production, surpassing Russia and Saudi Arabia.

Echoing the decisions of the courts, H.R. 3881 definitively repeals this rulemaking authority for the ANF, thus preventing any future possibility for the Forest Service to again liberally interpret statutory authority to infringe upon private property rights.

During debate on H.R. 3881, the issue of the effect of the bill on the existing 60-day notice of oil and gas activities provided to the Forest Service was raised. As discussed above, prior to the Forest Service's failed effort to enforce new regulatory restrictions on these private mineral rights, mineral rights owners and the Forest

Service worked cooperatively to allow for the development of oil and natural gas in the ANF. The oil and natural gas companies provided the Forest Service with a 60-day advance notice in writing of planned exploration and development activities. In response, the Forest Service would issue a NTP, which acknowledged that the proper notification had been received. This arrangement was a result of a court order issued on December 16, 1980, in the case *United States of America v. Minard Run Oil Company,* 1980 U.S. Dist. LEXIS 9570 (W.D. Pa., Dec. 16, 1980).

During the April 19, 2016, legislative hearing on H.R. 3881 before the Subcommittee on Energy and Mineral Resources of the Natural Resources Committee, this issue was raised by Ranking Member Alan Lowenthal (D–CA). Congressman Lowenthal questioned witness Craig Mayer, Secretary of the Pennsylvania Independent Oil and Gas Association, on the underlying text of H.R. 3881: ". . . couldn't it be perceived that it was the intent of the Congress to eliminate the 60-day notice, too?" Craig Mayer responded: "Not at all. The federal district decision remains in full force and effect." Congressman Lowenthal later directed another question to Mr. Mayer: "This wouldn't be an attempt of Congress to overturn that decision?" Mr. Mayer responded: "Absolutely not, sir. Absolutely not." [1]

To further clarify that H.R. 3881 does not in any way contravene the 1980 court order, an amendment was offered during the mark-up of H.R. 3881 specifically stating that nothing in the legislation could be interpreted to limit, modify, or otherwise affect the existing 60-day advance notice. This amendment was adopted unanimously.

COMMITTEE ACTION

H.R. 3881 was introduced on November 3, 2015, by Congressman Glenn Thompson (R–PA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On April 19, 2016, the Subcommittee held a hearing on the bill. On June 14, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Alan Lowenthal (D–CA) offered an amendment designated 002; it was adopted by unanimous consent. No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on June 15, 2016.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

---

[1] See Subcommittee hearing at *http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=400219.*

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 31, 2016.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3881, the Cooperative Management of Mineral Rights Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3881—Cooperative Management of Mineral Rights Act of 2016

H.R. 3881 would repeal provisions in the Energy Policy Act of 1992 related to the development of privately-owned oil and gas resources located under federal land (known as split estates) in the Alleghany National Forest. Based on information provided by the Forest Service, CBO estimates that enacting the bill would affect direct spending by changing the timing of timber receipts; however, we estimate that any such effects would be negligible. Enacting H.R. 3881 would not affect revenues.

The bill would repeal a provision in current law that allows the Forest Service to sell any timber removed to make way for oil and gas development in the Alleghany National Forest directly to the firm developing the resources. Over the last five years, the agency sold timber valued at $3 million using that direct sale authority. Based on information provided by the Forest Service, CBO expects that, under the bill, the sale of certain timber would be delayed because it takes longer to complete a sale under alternative authorities than to conduct a direct sale. However, we expect that any delays would not be significant and that the budgetary effects would be negligible.

The legislation also would repeal a provision in current law dating back to 1992 that required the Forest Service to issue regulations related to the development of oil and gas on split estates in the Alleghany National Forest. Because no regulations have been issued to date and CBO does not expect the agency to issue regulations in the next 10 years, CBO estimates that repealing that provision would not affect the federal budget.

CBO estimates that enacting H.R. 3881 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3881 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Mineral Leasing Act to repeal provisions relating only to the Allegheny National Forest.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

* * * * * * *

SEC. 17. (a) All lands subject to disposition under this Act which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(b)(1)(A) All lands to be leased which are not subject to leasing under paragraphs (2) and (3) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact

as possible. Lease sales shall be conducted by oral bidding, except as provided in subparagraph (C). Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary, subject to paragraph (2)(B), may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

(C) In order to diversify and expand the Nation's onshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and secure the leasing process, the Secretary may conduct onshore lease sales through Internet-based bidding methods. Each individual Internet-based lease sale shall conclude within 7 days.

(2)(A)(i) If the lands to be leased are within a special tar sand area, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 5,760 acres, which shall be as nearly compact as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary.

(ii) Royalty shall be 12½ per centum in amount of value of production removed or sold from the lease subject to section 17(k)(1)(c).

(iii) The Secretary may lease such additional lands in special tar sand areas as may be required in support of any operations necessary for the recovery of tar sands.

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

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

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

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

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

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

(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

(B) An election under this paragraph is effective—

(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).

(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be

issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.

(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(e) Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,* That competitive leases issued in special tar sand areas shall also be for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted with-

out the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.

(i) No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this Act.

(j) Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be ex-

tended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities.

(k) If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of section 7 of the Multiple Mineral Development Act of August 13, 1954 (68 Stat. 708), as amended (30 U.S.C. 527), whether such filing occur prior to enactment of the Mineral Leasing Act Revision of 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

(l) The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than 12½ per centum in amount of value of the production removed or sold from such leases, except that the royalty rate shall be 12½ per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

(m) For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collective adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with ref-

erence to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this Act shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this Act.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this Act which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however,* That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to

such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this Act.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this Act. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(n)(1)(A) The owner of (1) an oil and gas lease issued prior to the date of enactment of the Combined Hydrocarbon Leasing Act of 1981 or (2) a valid claim to any hydrocarbon resources leasable under this section based on a mineral location made prior to January 21, 1926, and located within a special tar sand area shall be entitled to convert such lease or claim to a combined hydrocarbon lease for a primary term of ten years upon the filing of an application within two years from the date of enactment of that Act containing an acceptable plan of operations which assures reasonable protection of the environment and diligent development of those resources requiring enhanced recovery methods of development or mining. For purposes of conversion, no claim shall be deemed invalid solely because it was located as a placer location rather than a lode location or vice versa, notwithstanding any previous adjudication on that issue.

(B) The Secretary shall issue final regulations to implement this section within six months of the effective date of this Act. If any oil and gas lease eligible for conversion under this section would otherwise expire after the date of this Act and before six months following the issuance of implementing regulations, the lessee may preserve his conversion right under such lease for a period ending six months after the issuance of implementing regulations by filing with the Secretary, before the expiration of the lease, a notice of intent to file an application for conversion. Upon submission of a complete plan of operations in substantial compliance with the reg-

ulations promulgated by the Secretary for the filing of such plans, the Secretary shall suspend the running of the term of any oil and gas lease proposed for conversion until the plan is finally approved or disapproved. The Secretary shall act upon a proposed plan of operations within fifteen months of its submittal.

(C) When an existing oil and gas lease is converted to a combined hydrocarbon lease, the royalty shall be that provided for in the original oil and gas lease and for a converted mining claim, 12½ per centum in amount or value of production removed or sold from the lease.

(2) Except as provided in this section, nothing in the Combined Hydrocarbon Leasing Act of 1981 shall be construed to diminish or increase the rights of any lessee under any oil and gas lease issued prior to the enactment of such Act.

[(o) CERTAIN OUTSTANDING OIL AND GAS.—(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

[(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

[(3) Advance notice under paragraph (2) shall include each of the following items of information:

[(A) A designated field representative.

[(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

[(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

[(D) A plan of erosion and sedimentation control.

[(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

[(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

[(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

[(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

[(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its

acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

[(B) This subsection shall only apply in the Allegheny National Forest.]

(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

(1) IN GENERAL.— Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

(2) ISSUANCE OR DEFERRAL.— Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

(A) IN GENERAL.— If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

(B) ISSUANCE OF DECISION ON PERMIT.— If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

(C) DENIAL OF PERMIT.— If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

* * * * * * *

SECTION 2508 OF THE ENERGY POLICY ACT OF 1992

[SEC. 2508. CERTAIN OUTSTANDING OIL AND GAS.

[(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (n):

[“(o) CERTAIN OUTSTANDING OIL AND GAS.—(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

[“(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

[“(3) Advance notice under paragraph (2) shall include each of the following items of information:

[“(A) A designated field representative.

[“(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

[“(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

[“(D) A plan of erosion and sedimentation control.

[“(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

[“(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

[“(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

[“(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (El of paragraph (3) as the Secretary may accept.

[“(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the revisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that ma be present vested with the United States. under such lands in the future but such interest has not yet vested with the United States.

[“(B) This subsection shall only apply in the Allegheny National Forest.”.

[(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).]

○