

Governments) and my memorandum of November 5, 2009 (Tribal Consultation).

(e) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(f) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(g) The Director of OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 15927. Oil shale, tar sands, and other strategic unconventional fuels

(a) Short title

This section may be cited as the “Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005”.

(b) Declaration of policy

Congress declares that it is the policy of the United States that—

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

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

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

(c) Leasing program for research and development of oil shale and tar sands

In accordance with section 241 of title 30 and any other applicable law, except as provided in this section, not later than 180 days after August 8, 2005, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the “Secretary”) shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) Programmatic environmental impact statement and commercial leasing program for oil shale and tar sands

(1) Programmatic environmental impact statement

Not later than 18 months after August 8, 2005, in accordance with section 4332(2)(C) of this title, the Secretary shall complete a pro-

grammatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with an emphasis on the most geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) Final regulation

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

(e) Commencement of commercial leasing of oil shale and tar sands

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

(f) Diligent development requirements

The Secretary shall, by regulation, designate work requirements and milestones to ensure the diligent development of the lease.

(g) Initial report by the Secretary of the Interior

Within 90 days after August 8, 2005, the Secretary of the Interior shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program, complete the programmatic environmental impact statement, and promulgate the final regulation as required by subsection (d); and

(B) conduct the first lease sales under the program as required by subsection (e); and

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

(h) Task Force

(1) Establishment

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

(2) Composition

The Task Force shall be composed of—

(A) the Secretary of Energy (or the designee of the Secretary);

(B) the Secretary of the Interior (or the designee of the Secretary of the Interior);

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

(3) Recommendations

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

(4) Partnerships

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

(5) Reports

(A) Initial report

Not later than 180 days after August 8, 2005, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force.

(B) Subsequent reports

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

(i) Office of Petroleum Reserves

(1) In general

The Office of Petroleum Reserves of the Department of Energy shall—

- (A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States;
- (B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;
- (C) promote and coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;
- (D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and
- (E) coordinate and facilitate appropriate relationships between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) Consultation and coordination

The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(j) Omitted

(k) Interagency coordination and expeditious review of permitting process

(1) Department of the Interior as lead agency

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

(2) Implementing regulations

Not later than 6 months after August 8, 2005, the Secretary shall issue any regulations necessary to implement this subsection.

(l) Cost-shared demonstration technologies

(1) Identification

The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that—

- (A) are ready for demonstration at a commercially-representative scale; and
- (B) have a high probability of leading to commercial production.

(2) Assistance

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

- (A) technical assistance;
- (B) assistance in meeting environmental and regulatory requirements; and
- (C) cost-sharing assistance.

(m) National oil shale and tar sands assessment

(1) Assessment

(A) In general

The Secretary shall carry out a national assessment of oil shale and tar sands resources for the purposes of evaluating and mapping oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) Geographic areas

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

- (i) the Green River Region of the States of Colorado, Utah, and Wyoming;
- (ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of “shale” located east of the Mississippi River; and
- (iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) Use of State surveys and universities

In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(n) Land exchanges**(1) In general**

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

(2) Identification and priority of public lands

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

(3) Compliance with section 1716 of title 43

A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 1716 of title 43.

(o) Royalty rates for leases

The Secretary shall establish royalties, fees, rentals, bonus, or other payments for leases under this section that shall—

- (1) encourage development of the oil shale and tar sands resource; and
- (2) ensure a fair return to the United States.

(p) Heavy oil technical and economic assessment

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

(q) Omitted**(r) State water rights**

Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(s) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title III, §369, Aug. 8, 2005, 119 Stat. 728; Pub. L. 113–188, title VI, §601(b), Nov. 26, 2014, 128 Stat. 2019.)

CODIFICATION

Section is comprised of section 369 of Pub. L. 109–58. Subsecs. (j) and (q) of section 369 of Pub. L. 109–58 enacted section 2398a of Title 10, Armed Forces, and amended the table of sections for chapter 141 of Title 10 and sections 226 and 241 of Title 30, Mineral Lands and Mining.

AMENDMENTS

2014—Subsec. (i)(3). Pub. L. 113–188 struck out par. (3). Text read as follows: “Not later than 180 days after Au-

gust 8, 2005, and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection.”

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 15928. Consultation regarding energy rights-of-way on public land**(a) Memorandum of understanding****(1) In general**

Not later than 6 months after August 8, 2005, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(2) Contents

The memorandum of understanding shall include provisions that—

- (A) establish—
 - (i) a unified right-of-way application form; and
 - (ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;
- (B) provide for coordination of planning relating to the granting of the rights-of-way;
- (C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and
- (D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) Natural gas pipelines**(1) In general**

With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled “Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission” shall constitute compliance with subsection (a).