

119TH CONGRESS
2^D SESSION

S. _____

To amend the Energy Act of 2020 to establish enforceable Federal authorization timelines and expedited judicial remedies, to limit Federal actions halting fully permitted projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Energy Act of 2020 to establish enforceable Federal authorization timelines and expedited judicial remedies, to limit Federal actions halting fully permitted projects, 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 “Fighting for Reliable Energy and Ending Doubt for
6 Open Markets Act” or the “FREEDOM Act”.

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

2

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—AMENDMENT TO ENERGY ACT OF 2020

Sec. 101. Amendment to Energy Act of 2020.

TITLE II—MINING REGULATORY CLARITY

Sec. 201. Hardrock mining mill sites.

TITLE III—GEOTHERMAL ENERGY ADVANCEMENT

Sec. 301. Effect of pending civil actions on processing applications relating to geothermal leasing.

Sec. 302. Cost recovery from geothermal leasing, permitting, and inspections.

Sec. 303. Publication of Gold Book for geothermal operations on Federal land.

Sec. 304. Geothermal Ombudsman and Permitting Task Force.

Sec. 305. Geothermal royalties.

Sec. 306. NEPA review.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1) energy projects face catastrophic financial
4 losses when Federal agencies revoke permits, fail to
5 adhere to deadlines, or take years to process routine
6 applications for those projects, even in cases in
7 which project sponsors have invested millions of dol-
8 lars in reliance on Federal approvals;

9 (2) the regulatory uncertainty described in
10 paragraph (1)—

11 (A) deters critical energy infrastructure in-
12 vestment across all technologies; and

13 (B) undermines United States energy secu-
14 rity and economic competitiveness; and

15 (3) regulatory uncertainty and permitting
16 delays increase the cost of building energy and min-
17 eral infrastructure, which—

1 (A) raises the cost of living for families in
2 the United States; and

3 (B) increases power prices for homes and
4 businesses.

5 **TITLE I—AMENDMENT TO**
6 **ENERGY ACT OF 2020**

7 **SEC. 101. AMENDMENT TO ENERGY ACT OF 2020.**

8 (a) IN GENERAL.—The Energy Act of 2020 (division
9 Z of the Consolidated Appropriations Act, 2021 (Public
10 Law 116–260; 134 Stat. 2418)) is amended by adding at
11 the end the following:

12 **“TITLE XII—FIGHTING FOR RELI-**
13 **ABLE ENERGY AND ENDING**
14 **DOUBT FOR OPEN MARKETS**

15 **“SEC. 12001. DEFINITIONS.**

16 “In this title:

17 “(1) AGENCY.—The term ‘agency’ has the
18 meaning given the term in section 551 of title 5,
19 United States Code.

20 “(2) AUTHORIZATION.—The term ‘authoriza-
21 tion’ means—

22 “(A) any license, permit, approval, finding,
23 determination, or administrative decision issued
24 by an agency; and

1 “(B) any interagency consultation that is
2 authorized or required to be conducted under
3 Federal law—

4 “(i) between or among—

5 “(I) agencies; and

6 “(II) in the case of any State
7 that chooses to participate in the envi-
8 ronmental review of a covered energy
9 project, 1 or more State agencies; and

10 “(ii) in order to site, construct, recon-
11 struct, or commence operation of a covered
12 energy project.

13 “(3) COMPLEX AUTHORIZATION.—The term
14 ‘complex authorization’ means an authorization iden-
15 tified as a complex authorization by a lead agency
16 under section 12101(d).

17 “(4) COVERED ENERGY PROJECT.—The term
18 ‘covered energy project’ means any activity that—

19 “(A) requires an authorization from an
20 agency;

21 “(B) is carried out—

22 “(i) in the United States; or

23 “(ii) on the outer Continental Shelf
24 (as defined in section 2 of the Outer Conti-

1 mental Shelf Lands Act (43 U.S.C. 1331));

2 and

3 “(C) involves the construction of infra-
4 structure—

5 “(i) to develop, produce, generate,
6 store, transport, or distribute energy;

7 “(ii) to capture, remove, transport, or
8 store carbon dioxide; or

9 “(iii) to mine, extract, beneficiate, or
10 process minerals.

11 “(5) ENVIRONMENTAL DOCUMENT.—

12 “(A) IN GENERAL.—The term ‘environ-
13 mental document’ means—

14 “(i) an environmental assessment;

15 “(ii) a finding of no significant im-
16 pact;

17 “(iii) a notice of intent;

18 “(iv) an environmental impact state-
19 ment; and

20 “(v) a record of decision.

21 “(B) INCLUSIONS.—The term ‘environ-
22 mental document’ includes any document that
23 is—

24 “(i) a supplement to a document de-
25 scribed in subparagraph (A); or

1 “(ii)(I) related to a document de-
2 scribed in subparagraph (A); and

3 “(II) prepared pursuant to a court
4 order.

5 “(6) ENVIRONMENTAL IMPACT STATEMENT.—
6 The term ‘environmental impact statement’ means a
7 detailed, written statement required under section
8 102(2)(C) of the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4332(2)(C)).

10 “(7) ENVIRONMENTAL REVIEW.—The term ‘en-
11 vironmental review’ means any agency procedure or
12 process for—

13 “(A) applying a categorical exclusion
14 (within the meaning of the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et
16 seq.) (including regulations promulgated pursu-
17 ant to that Act)); or

18 “(B) preparing an environmental document
19 under the National Environmental Policy Act of
20 1969 (42 U.S.C. 4321 et seq.).

21 “(8) LEAD AGENCY.—The term ‘lead agency’,
22 with respect to a covered energy project, means the
23 agency with principal responsibility for environ-
24 mental review of the covered energy project under
25 the National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) (including regulations promul-
2 gated pursuant to that Act).

3 “(9) PROJECT SPONSOR.—The term ‘project
4 sponsor’ means a private, public, or public-private
5 entity seeking an authorization for a covered energy
6 project.

7 “(10) REVIEWING COURT.—The term ‘review-
8 ing court’ means the court of competent jurisdiction
9 in which a petition under subtitle B is filed.

10 “(11) ROUTINE AUTHORIZATION.—The term
11 ‘routine authorization’ means any authorization that
12 is not a complex authorization.

13 **“Subtitle A—Authorization**
14 **Timelines**

15 **“SEC. 12101. NOTICES OF INITIATION; PROJECT SCHED-**
16 **ULES.**

17 “(a) NOTICES OF INITIATION FOR COVERED ENERGY
18 PROJECTS.—

19 “(1) IN GENERAL.—A project sponsor shall
20 submit a notice of initiation for a covered energy
21 project proposed to be carried out by the project
22 sponsor to the head of each agency from which 1 or
23 more authorizations are anticipated to be required to
24 carry out the covered energy project.

1 “(2) CONTENTS.—A notice of initiation under
2 this subsection shall include—

3 “(A) a statement describing the purposes
4 and objectives of the proposed covered energy
5 project;

6 “(B) a concise description of the proposed
7 covered energy project, including—

8 “(i) the general location of the pro-
9 posed covered energy project; and

10 “(ii) a summary of geospatial infor-
11 mation, if available, illustrating—

12 “(I) the proposed project area;
13 and

14 “(II) the locations of known envi-
15 ronmental, cultural, and historic re-
16 sources, if any; and

17 “(C) a statement identifying all Federal fi-
18 nancing, environmental reviews, and authoriza-
19 tions anticipated to be required to carry out the
20 proposed covered energy project.

21 “(b) DETERMINATION OF COMPLETENESS.—

22 “(1) IN GENERAL.—Not later than 30 days
23 after the date of receipt of a notice of initiation
24 under subsection (a), the applicable lead agency

1 shall determine whether the notice is complete in ac-
2 cordance with paragraph (2).

3 “(2) COMPLETENESS.—A notice of initiation
4 shall be considered to be complete under paragraph
5 (1) if the lead agency determines that the notice
6 meets the requirements described in subsection
7 (a)(2).

8 “(3) STATEMENT.—

9 “(A) IN GENERAL.—A lead agency, on
10 making a determination under paragraph (1)
11 that—

12 “(i) a notice of initiation is complete,
13 shall provide to the project sponsor a state-
14 ment of the determination; or

15 “(ii) a notice of initiation is incom-
16 plete, shall provide to the project sponsor
17 a deficiency statement identifying the in-
18 formation required for the notice to be
19 considered complete.

20 “(B) FAILURE TO ACT.—If a lead agency
21 fails to issue a statement under this paragraph
22 by the applicable deadline described in para-
23 graph (1), the applicable notice of initiation
24 shall be deemed to be complete.

25 “(4) EFFECT OF DEFICIENCY.—

1 “(A) RESPONSE BY PROJECT SPONSOR.—

2 If a lead agency issues a deficiency statement
3 under paragraph (3)(A)(ii), the project sponsor
4 may—

5 “(i) submit to the lead agency a re-
6 vised notice containing the information
7 identified in the deficiency statement not
8 later than 90 days after the date on which
9 the deficiency statement is issued; or

10 “(ii) request an extension of time to
11 prepare such a revised notice.

12 “(B) EXTENSION.—On receipt of a request
13 for an extension under subparagraph (A)(ii), a
14 lead agency shall grant the applicable project
15 sponsor an extension of the applicable deadline
16 under subparagraph (A)(i) for a period of not
17 more than 90 days.

18 “(c) PROJECT SCHEDULE.—Not later than 30 days
19 after the date on which a notice of initiation for a pro-
20 posed covered energy project is determined or deemed to
21 be complete under subsection (b), the applicable lead agen-
22 cy shall publish a schedule for the covered energy project
23 that—

1 “(ii) designated by the lead agency
2 pursuant to paragraph (3)(A); or

3 “(B) a routine authorization if the author-
4 ization is not identified as a complex authoriza-
5 tion under subparagraph (A).

6 “(2) DESCRIPTION OF COMPLEX AUTHORIZA-
7 TIONS.—A complex authorization referred to in
8 paragraph (1)(A)(i) is an authorization that—

9 “(A) requires the issuance of an authoriza-
10 tion or certification of public convenience and
11 necessity under section 3(e) or 7(e) of the Nat-
12 ural Gas Act (15 U.S.C. 717b(e), 717f(e));

13 “(B) requires the issuance of a license or
14 permit under section 4(e) or 216 of the Federal
15 Power Act (16 U.S.C. 797(e), 824p);

16 “(C) requires the issuance of a lease, ease-
17 ment, right-of-way, or other authorization
18 under section 5 or 8(p) of the Outer Conti-
19 nental Shelf Lands Act (43 U.S.C. 1334,
20 1337(p));

21 “(D) requires the preparation of an envi-
22 ronmental assessment or environmental impact
23 statement;

24 “(E) requires formal consultation under
25 section 7 of the Endangered Species Act of

1 1973 (16 U.S.C. 1536) or results in the
2 issuance of a biological opinion;

3 “(F) requires consultation under section
4 306108 of title 54, United States Code, that
5 the lead agency anticipates will take longer
6 than 90 days;

7 “(G) grants a new or expanded right-of-
8 way, easement, lease, or comparable real prop-
9 erty interest exceeding 20 acres of Federal
10 property; or

11 “(H) requires an individual permit under
12 section 404 of the Federal Water Pollution
13 Control Act (33 U.S.C. 1344) or an individual
14 water quality certification under section 401 of
15 that Act (33 U.S.C. 1341).

16 “(3) DESIGNATIONS BY LEAD AGENCY.—

17 “(A) IN GENERAL.—A lead agency may
18 designate an authorization as a complex author-
19 ization based on a written, reasoned determina-
20 tion of the lead agency that identifies factors
21 that—

22 “(i) are specific to the applicable cov-
23 ered energy project; and

24 “(ii) are not described in subpara-
25 graphs (A) through (H) of paragraph (2).

1 “(B) JUDICIAL REVIEW.—The designation
2 by a lead agency of a complex authorization
3 pursuant to subparagraph (A) shall be subject
4 to judicial review by the applicable reviewing
5 court under subtitle B.

6 **“SEC. 12102. AUTHORIZATION DEADLINES.**

7 “(a) DEFINITION OF COMPLETED NOTICE DATE.—
8 In this section, the term ‘completed notice date’, with re-
9 spect to a covered energy project, means the date on which
10 the notice of initiation under section 12101(a) for the cov-
11 ered energy project is—

12 “(1) determined to be complete under section
13 12101(b)(1); or

14 “(2) deemed to be complete under section
15 12101(b)(3)(B).

16 “(b) DEADLINES.—Except as provided in subsections
17 (c) and (d), each agency that receives from a project spon-
18 sor a notice of initiation under section 12101(a) for a cov-
19 ered energy project shall issue a final decision regarding
20 each authorization for the covered energy project that is
21 under the jurisdiction of the agency not later than—

22 “(1) the date that is 90 days after the com-
23 pleted notice date of the covered energy project, if
24 the authorization is a routine authorization; and

1 “(2) the date that is 1 year after the completed
2 notice date of the covered energy project, if the au-
3 thorization is a complex authorization.

4 “(c) EXTENSION FOR ENVIRONMENTAL IMPACT
5 STATEMENTS.—Notwithstanding subsection (b), if the
6 lead agency publishes a notice of intent to prepare an envi-
7 ronmental impact statement for a covered energy project
8 after the completed notice date of the covered energy
9 project, the deadline for completion of the environmental
10 impact statement, and for each final decision regarding
11 an authorization for the covered energy project that de-
12 pends on completion of that environmental impact state-
13 ment, shall be the date that is 2 years after the completed
14 notice date.

15 “(d) EARLIER DEADLINES UNDER OTHER FEDERAL
16 LAW.—If another provision of Federal law requires an
17 agency to issue a final decision regarding an authorization
18 by a date that is earlier than the applicable deadline under
19 subsection (b) or (c), the agency shall issue the final deci-
20 sion not later than that earlier date.

21 “(e) FAILURE TO MEET DEADLINE.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), the failure by an agency to adhere to a
24 deadline under this section or a milestone under sec-
25 tion 12101(c)(3)(A) shall be—

1 “(A) considered to be an agency action un-
2 lawfully withheld or unreasonably delayed under
3 section 706(1) of title 5, United States Code;
4 and

5 “(B) subject to review by a reviewing court
6 under subtitle B.

7 “(2) EXCEPTIONS.—The failure by an agency
8 to adhere to a deadline under this section or a mile-
9 stone under section 12101(c)(3)(A) shall not be con-
10 sidered to be an agency action unlawfully withheld
11 or unreasonably delayed under section 706(1) of title
12 5, United States Code, if—

13 “(A) the project sponsor and the agency
14 agree to a different deadline or milestone; or

15 “(B) a reviewing court determines that—

16 “(i) a natural disaster reasonably im-
17 paired the ability of the agency to adhere
18 to the deadline or milestone; or

19 “(ii) a national emergency or extraor-
20 dinary circumstance exists for which the
21 only available remedy is to delay the dead-
22 line or milestone.

1 **“SEC. 12103. REVIEWING COURT-APPROVED CONTRACTORS.**

2 “(a) DEFINITION OF ELIGIBLE PROJECT.—In this
3 section, the term ‘eligible project’ means a covered energy
4 project with respect to which a reviewing court has—

5 “(1) found that an agency has failed to adhere
6 to a deadline or milestone; and

7 “(2) issued an order described in section
8 12204(b)(2)(C).

9 “(b) PROJECT SPONSOR REQUEST.—

10 “(1) IN GENERAL.—On receipt of a request
11 from the project sponsor of an eligible project, a re-
12 viewing court may authorize the project sponsor to
13 retain a qualified contractor to complete any nec-
14 essary analysis or documentation, in accordance with
15 this subsection.

16 “(2) INCLUSIONS.—A project sponsor request
17 under paragraph (1) shall include—

18 “(A) identifying information for the con-
19 tractor proposed to be hired by the project
20 sponsor; and

21 “(B) the qualifications of that contractor,
22 including—

23 “(i) relevant professional credentials;

24 “(ii) prior experience with environ-
25 mental reviews; and

1 “(iii) disclosure of any potential con-
2 flicts of interest that are material to the
3 work to be performed, including—

4 “(I) any financial interest in the
5 outcome of the applicable eligible
6 project;

7 “(II) any contingent or success-
8 based compensation arrangement;

9 “(III) any prior engagement with
10 the project sponsor;

11 “(IV) any equity ownership with
12 a 10-percent or greater interest;

13 “(V) any contractual relation-
14 ship, during the 2-year period pre-
15 ceding the date of the request, be-
16 tween the contractor and an engineer-
17 ing, procurement, or construction firm
18 acting as a prime contractor for the
19 eligible project; and

20 “(VI) any current engagement
21 relating to the eligible project.

22 “(3) APPROVAL.—

23 “(A) IN GENERAL.—Not later than 30
24 days after the date of receipt of a request of a
25 project sponsor under this subsection, the re-

1 viewing court shall approve or reject the pro-
2 posed contractor that is the subject of the re-
3 quest based on—

4 “(i) the demonstrated technical com-
5 petence of the contractor for the required
6 analyses;

7 “(ii) the absence of disqualifying con-
8 flicts of interest;

9 “(iii) the agreement of the con-
10 tractor—

11 “(I) to operate under the tech-
12 nical guidance of the applicable agen-
13 cy;

14 “(II) to maintain independence
15 in professional judgment; and

16 “(III) to proceed under the direc-
17 tion of the reviewing court if the
18 agency fails to provide technical guid-
19 ance or timely review by an applicable
20 deadline under subsection (g); and

21 “(iv) a determination by the reviewing
22 court regarding whether the contractor
23 meets the qualifications described in sub-
24 paragraph (B).

1 “(B) QUALIFICATIONS.—The qualifications
2 referred to in subparagraph (A)(iv), with re-
3 spect to a contractor, are that the contractor—

4 “(i) holds a recognized professional li-
5 cense or certification applicable to the
6 work, or has demonstrably comparable ex-
7 pertise;

8 “(ii) has demonstrated experience
9 completing similar analyses for agencies
10 during the preceding 5-year period;

11 “(iii) is not debarred or suspended
12 from Federal contracting; and

13 “(iv) maintains professional liability
14 insurance of not less than \$1,000,000.

15 “(C) FORM OF APPROVAL.—The approval
16 of a reviewing court under this paragraph may
17 include any conditions or limitations necessary
18 to ensure compliance with applicable law.

19 “(c) STANDARDS AND OBLIGATIONS.—

20 “(1) IN GENERAL.—A contractor approved by a
21 reviewing court under subsection (b) shall—

22 “(A) follow applicable laws (including regu-
23 lations) and technical standards relevant to the
24 analyses performed by the contractor;

1 “(B) certify under penalty of perjury that
2 the work product of the contractor—

3 “(i) is factually accurate, to the best
4 of the knowledge and belief of the con-
5 tractor;

6 “(ii) was prepared using generally ac-
7 cepted professional methods; and

8 “(iii) complies with applicable profes-
9 sional standards and practices;

10 “(C) maintain professional independence
11 from the applicable project sponsor in all tech-
12 nical determinations and analyses;

13 “(D) remain subject to applicable profes-
14 sional liability and ethical standards; and

15 “(E) execute a sworn conflict of interest
16 and relationship disclosure, as described in sub-
17 section (b)(2)(B)(iii), and maintain a log of ma-
18 terial communications with the project sponsor,
19 which shall be made available to the reviewing
20 court and any applicable agency on request.

21 “(2) STATUS OF WORK PRODUCT.—All work
22 product of a contractor approved under this section
23 shall be—

24 “(A) deemed to be received by the applica-
25 ble agency on submission by the contractor; and

1 “(B) included in the administrative record
2 relating to each relevant authorization.

3 “(d) PAYMENT.—

4 “(1) IN GENERAL.—All reasonable costs of a
5 contractor approved by a reviewing court under this
6 section, including the costs of studies, modeling, and
7 coordination, shall be paid—

8 “(A) by the relevant lead agency from
9 amounts in the Permitting Performance Fund
10 established by section 12104(a); and

11 “(B) at rates not higher than comparable
12 rates on the Federal Supply Schedule of the
13 General Services Administration, or as other-
14 wise determined to be reasonable by the review-
15 ing court.

16 “(2) ADVANCES.—

17 “(A) IN GENERAL.—A project sponsor may
18 advance to a contractor approved under this
19 section payment for any costs described in
20 paragraph (1).

21 “(B) REIMBURSEMENT.—The relevant
22 lead agency shall reimburse a project sponsor
23 that makes an advance payment under subpara-
24 graph (A) not later than 30 days after the date
25 on which the project sponsor submits to the

1 lead agency an invoice relating to the advance
2 payment.

3 “(e) SCOPE OF WORK.—A contractor approved by a
4 reviewing court under this section shall prepare only the
5 documentation necessary to complete the relevant admin-
6 istrative record.

7 “(f) PRODUCTION OF GOVERNMENT INFORMA-
8 TION.—

9 “(1) IN GENERAL.—On a motion of the project
10 sponsor or a contractor approved by a reviewing
11 court under this section, the reviewing court may
12 order any agency, or any State or local agency, iden-
13 tified as a cooperating agency in the project schedule
14 under section 12101(c)(2), to produce, by a date
15 certain, any document, data, or expert input nec-
16 essary to complete the relevant administrative
17 record.

18 “(2) NO TOLLING.—A failure by an agency to
19 produce a document, data, or input by the applicable
20 date under paragraph (1) shall not toll any deadline
21 under this title.

22 “(g) DEADLINES FOR CONTRACTOR WORK.—A re-
23 viewing court shall establish deadlines for deliverables of
24 a contractor approved by the reviewing court under this

1 section, subject to the condition that such a deadline shall
2 not exceed—

3 “(1) 120 days for a complex authorization not
4 requiring an environmental impact statement; and

5 “(2) 240 days for a complex authorization re-
6 quiring an environmental impact statement.

7 “(h) AGENCY DECISIONS ON CONTRACTOR-PRE-
8 PARED RECORD.—

9 “(1) AGENCY ACTION.—Not later than 30 days
10 after the date on which a contractor approved by a
11 reviewing court under this section submits to an ap-
12 plicable agency the completed documentation pre-
13 pared by the contractor, the agency shall—

14 “(A) independently evaluate the docu-
15 mentation, take responsibility for the contents,
16 and issue a final decision regarding the applica-
17 ble authorization, based on the documentation;
18 or

19 “(B) identify, including a citation to the
20 applicable law or regulation, any specific legal
21 deficiency in the documentation that requires
22 correction, subject to paragraph (2)(C).

23 “(2) DEFICIENCIES.—

24 “(A) IN GENERAL.—If an agency identifies
25 a deficiency under paragraph (1)(B), the af-

1 fected contractor shall correct the deficiency not
2 later than 90 days after the date on which the
3 identification occurs.

4 “(B) ACTION BY AGENCY.—Not later than
5 14 days after the date of receipt of corrected
6 documentation under subparagraph (A), an
7 agency shall issue a final decision regarding the
8 applicable authorization.

9 “(C) SINGLE IDENTIFICATION.—An agency
10 may identify deficiencies under paragraph
11 (1)(B) on only 1 occasion, unless the applicable
12 reviewing court approves another identification
13 for good cause based on a legal requirement
14 that was not in effect at the time of the initial
15 identification of deficiencies.

16 “(3) LIMITATION.—An agency may not reject
17 any documentation prepared by a contractor ap-
18 proved by a reviewing court under this section based
19 on a policy disagreement or any other discretionary
20 factor if the documentation satisfies all applicable
21 legal requirements.

22 **“SEC. 12104. PERMITTING PERFORMANCE FUND.**

23 “(a) ESTABLISHMENT.—There is established in the
24 Treasury a fund, to be known as the ‘Permitting Perform-
25 ance Fund’ (referred to in this section as the ‘Fund’), con-

1 sisting of such amounts as are appropriated to the Fund
2 pursuant to subsection (c).

3 “(b) USE OF FUNDS.—Amounts in the Fund shall
4 be available, without further appropriation, to pay the
5 costs of any contractor approved by a reviewing court
6 under section 12103(b).

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Fund—

9 “(1) \$50,000,000 for the initial capitalization
10 of the Fund; and

11 “(2) thereafter, such sums as are necessary to
12 carry out this section.

13 **“SEC. 12105. EFFECTIVE DATE.**

14 “(a) IN GENERAL.—This subtitle shall apply to any
15 notice of initiation submitted under section 12101(a) for
16 a covered energy project on or after the date that is 90
17 days after the date of enactment of this title.

18 “(b) PENDING PROJECTS.—For a covered energy
19 project the notice of initiation for which is pending on the
20 effective date described in subsection (a)—

21 “(1) this subtitle shall apply beginning on the
22 date that is 120 days after the date of enactment of
23 this title; and

24 “(2) as applicable, the completed notice date
25 (as defined in section 12102(a)) shall be deemed to

1 be the date that is 120 days after that date of enact-
2 ment.

3 **“Subtitle B—Judicial Review**

4 **“SEC. 12201. CAUSES OF ACTION.**

5 “(a) IN GENERAL.—Subject to subsection (b), a
6 project sponsor of a covered energy project may file a peti-
7 tion in accordance with section 12202 for judicial review
8 of—

9 “(1) a final agency action relating to the cov-
10 ered energy project;

11 “(2) an alleged failure by an agency—

12 “(A) to act on the covered energy project,
13 including through unlawful withholding or un-
14 reasonable delay; or

15 “(B) to adhere to—

16 “(i) a milestone established for the
17 covered energy project under section
18 12101(c)(3)(A); or

19 “(ii) a deadline applicable to the cov-
20 ered energy project under section 12102;
21 or

22 “(3) an order, directive, suspension, revocation,
23 or other action described in section 12301(b) of an
24 agency relating to the covered energy project.

25 “(b) SINGLE PETITION RULE.—

1 “(1) IN GENERAL.—A project sponsor may file
2 only 1 petition under this subtitle with respect to
3 any single cause of action described in subsection
4 (a).

5 “(2) MULTIPLE GROUNDS.—A project sponsor
6 may file a single petition under this subtitle seeking
7 multiple grounds for relief.

8 “(c) RELIEF SOUGHT.—A petition under this subtitle
9 may seek 1 or more of the following:

10 “(1) Review of an order, directive, or action de-
11 scribed in section 12301(b).

12 “(2) A court order compelling agency action or
13 other relief for an unreasonable delay in the author-
14 ization process, in accordance with this title.

15 “(3) Review of the designation of an authoriza-
16 tion as a complex authorization pursuant to section
17 12101(d)(3).

18 “(d) INTERVENTION.—

19 “(1) IN GENERAL.—Any person that would
20 have standing under article III of the Constitution
21 of the United States to challenge or defend the ap-
22 plicable agency action may move to intervene in a
23 cause of action under this subtitle.

1 “(2) RULING.—The reviewing court shall rule
2 expeditiously on any motion to intervene under para-
3 graph (1).

4 “(e) SAVINGS CLAUSE.—Nothing in this title waives,
5 limits, constitutes an election of remedies against, or es-
6 tablishes an exclusive statutory remedy that precludes,
7 any claim by a project sponsor or other entity for just
8 compensation under the Fifth Amendment to the Con-
9 stitution of the United States.

10 **“SEC. 12202. PETITION REQUIREMENTS.**

11 “(a) CONTENTS.—

12 “(1) REQUIREMENTS.—A petition under this
13 subtitle shall contain an affidavit, together with sup-
14 porting documentation described in paragraph (2),
15 demonstrating the grounds for the petition as fol-
16 lows:

17 “(A) ACTIONS RELATING TO FULLY PER-
18 MITTED PROJECTS.—A petition alleging that an
19 agency violated section 12301 with respect to a
20 covered energy project shall demonstrate that—

21 “(i) the agency issued an order or di-
22 rective, revoked a permit or authorization,
23 or carried out any other action to halt,
24 delay, or otherwise cancel a previously au-

1 “(iv) the petitioner has suffered or
2 will suffer harm as a result of the lapse de-
3 scribed in clause (iii).

4 “(C) DESIGNATIONS AS COMPLEX.—A pe-
5 tition seeking review of the designation of an
6 authorization as a complex authorization shall
7 demonstrate that the written, reasoned deter-
8 mination by the applicable lead agency fails to
9 identify project-specific factors that justify the
10 designation, in accordance with section
11 12101(d)(3).

12 “(2) DOCUMENTS AND OTHER INFORMATION.—

13 “(A) IN GENERAL.—A petition under this
14 subtitle shall include, as applicable to each
15 claim asserted in the petition—

16 “(i) all relevant agency correspond-
17 ence (including any application for an au-
18 thorization), deficiency notices, and deter-
19 minations relating to a notice of initiation
20 or project schedule for the applicable cov-
21 ered energy project, if any;

22 “(ii) a copy of each final agency ac-
23 tion, authorization, record of decision, en-
24 vironmental document, or order that is the
25 subject of the petition; and

1 “(iii) identification, to the maximum
2 extent practicable, of any records similar
3 to the records described in this subpara-
4 graph that are unavailable to the petitioner
5 and the reasons for the unavailability.

6 “(B) ADDITIONAL INFORMATION.—A peti-
7 tion for judicial review under this subtitle may
8 include other available relevant documents, such
9 as expert reports, economic analyses, or affida-
10 vits from personnel, relating to—

11 “(i) the applicable covered energy
12 project;

13 “(ii) action or inaction by an applica-
14 ble agency; or

15 “(iii) harm suffered by the petitioner.

16 “(b) NAMING OF RESPONDENTS.—

17 “(1) IN GENERAL.—In a petition under this
18 subtitle challenging the schedule for a covered en-
19 ergy project under section 12101(c), or the designa-
20 tion of an authorization as a complex authorization
21 under section 12101(d)(3), the head of the applica-
22 ble lead agency shall be named as the respondent.

23 “(2) OTHER CAUSES OF ACTION.—In a petition
24 under this subtitle relating to a cause of action not
25 described in paragraph (1), the head of the agency

1 that carried out the applicable final agency action,
2 issued the applicable order or directive, or is alleged
3 to have unlawfully withheld or unreasonably delayed
4 action shall be named as the respondent.

5 “(c) FILING DATES.—

6 “(1) FINAL AGENCY ACTIONS.—A petition
7 under this subtitle for a cause of action described in
8 section 12201(a)(1) shall be filed not later than 60
9 days after the date on which the applicable agency
10 action becomes final.

11 “(2) FAILURES TO ACT.—A petition under this
12 subtitle for a cause of action described in section
13 12201(a)(2) may be filed beginning on the date that
14 is 30 days after the date of the applicable missed
15 deadline or milestone.

16 “(3) ACTIONS RELATING TO FULLY PERMITTED
17 PROJECTS.—A petition under this subtitle for a
18 cause of action described in section 12201(a)(3)
19 shall be filed not later than 30 days after the date
20 on which the applicable order, directive, suspension,
21 revocation, or other action of an agency is issued or
22 carried out.

23 “(d) SERVICE.—The petitioner shall serve a petition
24 under this subtitle on—

25 “(1) the Attorney General of the United States;

1 “(2) the head of the lead agency with respect
2 to the covered energy project that is the subject of
3 the petition; and

4 “(3) each cooperating agency identified under
5 section 12101(c)(2) in the project schedule for the
6 covered energy project that is the subject of the peti-
7 tion.

8 **“SEC. 12203. REVIEW BY REVIEWING COURTS.**

9 “(a) STANDARD OF REVIEW.—

10 “(1) IN GENERAL.—A reviewing court shall
11 conduct the review of, and reach a decision regard-
12 ing, a petition under this subtitle in accordance with
13 chapter 7 of title 5, United States Code.

14 “(2) ADMINISTRATIVE RECORD.—

15 “(A) IN GENERAL.—Judicial review of a
16 petition under this subtitle shall be based on an
17 administrative record compiled and certified by
18 the head of the agency named in the petition as
19 the respondent under section 12202(b).

20 “(B) MULTIPLE RESPONDENTS.—If mul-
21 tiple agency heads are named in a petition as
22 respondents under section 12202(b)—

23 “(i) each agency head shall compile
24 and certify the portions of the record with-
25 in the custody of that agency; and

1 “(ii) the lead agency, or such other
2 agency as the reviewing court may require,
3 shall assemble a consolidated record.

4 “(C) FAILURES TO ACT.—The administra-
5 tive record relating to a petition under this sub-
6 title for a cause of action described in section
7 12201(a)(2) shall include, as applicable—

8 “(i) the notice of initiation submitted
9 under section 12101(a);

10 “(ii) any completeness or deficiency
11 designation of that notice under section
12 12101(b);

13 “(iii) the project schedule published
14 under section 12101(c); and

15 “(iv) any other materials the review-
16 ing court determines to be necessary to re-
17 solve the petition.

18 “(b) REPRESENTATION OF RESPONDENTS.—A re-
19 spondent named under section 12202(b) shall be rep-
20 resented in accordance with section 518(a) of title 28,
21 United States Code.

22 “(c) ADDITIONAL SUBMISSIONS.—In addition to the
23 documents and information required under section
24 12202(a)(2), a petitioner shall submit to the reviewing
25 court, in accordance with a schedule established by the

1 reviewing court, such other records and documents as are
2 reasonable and necessary for determination of the appro-
3 priate remedy.

4 “(d) DISCOVERY AND RECORD DEVELOPMENT.—

5 “(1) IN GENERAL.—There shall be no discovery
6 in a proceeding relating to a petition under this sub-
7 title other than such discovery as may be ordered by
8 the reviewing court, as the reviewing court deter-
9 mines to be reasonable and necessary to determine
10 the appropriate remedy.

11 “(2) INFORMATION, TESTIMONY, AND DOCU-
12 MENTS.—The reviewing court may require the sub-
13 mission of such information, the testimony of such
14 persons, and the production of such documents as
15 the reviewing court determines to be reasonable and
16 necessary for purposes of this subsection.

17 **“SEC. 12204. EXPEDITED PROCEDURE; RELIEF; APPEALS.**

18 “(a) EXPEDITED PROCEDURE.—A reviewing court
19 shall—

20 “(1) establish an expedited schedule for briefing
21 and disposition relating to a petition under this sub-
22 title; and

23 “(2) absent extraordinary circumstances, issue
24 a decision with respect to a petition under this sub-
25 title as expeditiously as practicable.

1 “(b) AVAILABLE RELIEF.—

2 “(1) IN GENERAL.—On a finding by a review-
3 ing court that a petitioner is entitled to relief under
4 this subtitle, the reviewing court shall grant such
5 legal, equitable, and administrative relief as the re-
6 viewing court determines to be appropriate to effec-
7 tuate the purposes of this title in accordance with
8 paragraph (2).

9 “(2) ACTIONS BY REVIEWING COURT.—A re-
10 viewing court that makes a finding described in
11 paragraph (1) shall, as applicable—

12 “(A) hold unlawful and set aside any final
13 agency action found to be arbitrary, capricious,
14 an abuse of discretion, or otherwise not in ac-
15 cordance with law;

16 “(B) remand each applicable matter to the
17 appropriate agency for further action in accord-
18 ance with the direction of the reviewing court,
19 together with a schedule and deadline for com-
20 pletion of those actions, which deadline shall
21 not exceed—

22 “(i) 180 days after the date on which
23 the judgment is issued; or

24 “(ii) such longer period to which the
25 project sponsor may agree; and

1 “(C) in any case involving unlawful with-
2 holding or unreasonable delay, issue an order
3 that—

4 “(i) compels the appropriate agency to
5 act;

6 “(ii) specifies the date by which each
7 discrete action of the agency shall be com-
8 pleted in order to finalize the agency re-
9 view and issue a final agency decision; and

10 “(iii) retains the jurisdiction of the re-
11 viewing court to ensure compliance with
12 the order.

13 “(c) APPEALS.—Any party aggrieved by a final judg-
14 ment of a reviewing court under this subtitle, other than
15 a judgment of a United States court of appeals, may ob-
16 tain review in the United States court of appeals of com-
17 petent jurisdiction under chapter 83 of title 28, United
18 States Code, subject to the condition that a notice of ap-
19 peal shall be filed not later than 60 days after the date
20 of entry of the judgment.

21 **“Subtitle C—Fully Permitted**
22 **Projects**

23 **“SEC. 12301. TREATMENT OF FULLY PERMITTED PROJECTS.**

24 “(a) DEFINITION OF FULLY PERMITTED
25 PROJECT.—In this section, the term ‘fully permitted

1 project’ means a covered energy project that has received
2 a substantial majority of the authorizations required for
3 the covered energy project.

4 “(b) PROHIBITION.—No agency or Federal official
5 shall issue any order or directive terminating the construc-
6 tion or operation of a fully permitted project, revoke any
7 permit or authorization for a fully permitted project, or
8 take any other action to halt, suspend, delay, or terminate
9 an authorized activity carried out to support a fully per-
10 mitted project unless—

11 “(1) there exists—

12 “(A) a clear, immediate, and substantiated
13 harm for which the Federal order, directive, or
14 action is required to prevent, mitigate, or re-
15 pair; and

16 “(B) no other viable alternative that would
17 allow a previously authorized activity, such as
18 construction, to continue; or

19 “(2)(A) an applicable authorization is illegal
20 under applicable Federal law; and

21 “(B) the Federal order, directive, or action is
22 the only available remedy to address that illegality.

23 “(c) LIMITATION ON PETITIONS.—

24 “(1) IN GENERAL.—No agency may petition a
25 court for voluntary remand of an authorization for

1 a fully permitted project that has received a record
 2 of decision unless the project sponsor consents to the
 3 petition.

4 “(2) IN-CAMERA REVIEW.—As necessary, a
 5 court may review a petition submitted under this
 6 subsection in camera.

7 “(d) EFFECTIVE DATE.—This section shall apply to
 8 any order, directive, suspension, revocation, or other agen-
 9 cy action described in subsection (b) that is issued or car-
 10 ried out on or after the date of enactment of this title.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
 12 contained in section 101(b) of the Energy Act of 2020
 13 (Public Law 116–260; 134 Stat. 2418) is amended by
 14 adding at the end the following:

“TITLE XII—FIGHTING FOR RELIABLE ENERGY AND ENDING
 DOUBT FOR OPEN MARKETS

“Sec. 12001. Definitions.

“Subtitle A—Authorization Timelines

“Sec. 12101. Notices of initiation; project schedules.

“Sec. 12102. Authorization deadlines.

“Sec. 12103. Reviewing court-approved contractors.

“Sec. 12104. Permitting Performance Fund.

“Sec. 12105. Effective date.

“Subtitle B—Judicial Review

“Sec. 12201. Causes of action.

“Sec. 12202. Petition requirements.

“Sec. 12203. Review by reviewing courts.

“Sec. 12204. Expedited procedure; relief; appeals.

“Subtitle C—Fully Permitted Projects

“Sec. 12301. Treatment of fully permitted projects.”.

1 **TITLE II—MINING REGULATORY**
2 **CLARITY**

3 **SEC. 201. HARDROCK MINING MILL SITES.**

4 (a) MULTIPLE MILL SITES.—Section 2337 of the Re-
5 vised Statutes (30 U.S.C. 42) is amended by adding at
6 the end the following:

7 “(c) ADDITIONAL MILL SITES.—

8 “(1) DEFINITIONS.—In this subsection:

9 “(A) MILL SITE.—The term ‘mill site’
10 means a location of public land that is reason-
11 ably necessary for waste rock or tailings dis-
12 posal or other operations reasonably incident to
13 mineral development on, or production from,
14 land included in a plan of operations.

15 “(B) OPERATIONS; OPERATOR.—The
16 terms ‘operations’ and ‘operator’ have the
17 meanings given those terms in section 3809.5
18 of title 43, Code of Federal Regulations (as in
19 effect on the date of enactment of this sub-
20 section).

21 “(C) PLAN OF OPERATIONS.—The term
22 ‘plan of operations’ means a plan of operations
23 that an operator is required to submit, and the
24 Secretary of the Interior or the Secretary of
25 Agriculture, as applicable, is required to ap-

1 prove, before the operator may begin oper-
2 ations, in accordance with, as applicable—

3 “(i) subpart 3809 of title 43, Code of
4 Federal Regulations (or successor regula-
5 tions establishing application and approval
6 requirements); and

7 “(ii) part 228 of title 36, Code of
8 Federal Regulations (or successor regula-
9 tions establishing application and approval
10 requirements).

11 “(D) PUBLIC LAND.—The term ‘public
12 land’ means land owned by the United States
13 that is open to location under sections 2319
14 through 2344 of the Revised Statutes (30
15 U.S.C. 22 et seq.), including—

16 “(i) land that is mineral-in-character
17 (as defined in section 3830.5 of title 43,
18 Code of Federal Regulations (as in effect
19 on the date of enactment of this sub-
20 section));

21 “(ii) nonmineral land (as defined in
22 section 3830.5 of title 43, Code of Federal
23 Regulations (as in effect on the date of en-
24 actment of this subsection)); and

1 “(iii) land the mineral character of
2 which has not been determined.

3 “(2) AUTHORIZATION.—Notwithstanding sub-
4 sections (a) and (b), if public land is needed by the
5 proprietor of a lode or placer claim for operations in
6 connection with any lode or placer claim within the
7 proposed plan of operations, the proprietor may—

8 “(A) locate and include within the plan of
9 operations as many mill site claims under this
10 subsection as are reasonably necessary for its
11 operations; and

12 “(B) use or occupy public land in accord-
13 ance with an approved plan of operations.

14 “(3) MILL SITES CONVEY NO MINERAL
15 RIGHTS.—A mill site under this subsection does not
16 convey mineral rights to the locator.

17 “(4) SIZE OF MILL SITES.—A location of a sin-
18 gle mill site under this subsection shall not exceed
19 5 acres.

20 “(5) MILL SITE AND LODE OR PLACER CLAIMS
21 ON SAME TRACTS OF PUBLIC LAND.—A mill site
22 may be located under this subsection on a tract of
23 public land on which the claimant or operator main-
24 tains a previously located lode or placer claim.

1 “(6) EFFECT ON MINING CLAIMS.—The loca-
2 tion of a mill site under this subsection shall not af-
3 fect the validity of any lode or placer claim, or any
4 rights associated with such a claim.

5 “(7) PATENTING.—A mill site under this sec-
6 tion shall not be eligible for patenting.

7 “(8) SAVINGS PROVISIONS.—Nothing in this
8 subsection—

9 “(A) diminishes any right (including a
10 right of entry, use, or occupancy) of a claimant;

11 “(B) creates or increases any right (includ-
12 ing a right of exploration, entry, use, or occu-
13 pancy) of a claimant on land that is not open
14 to location under the general mining laws;

15 “(C) modifies any provision of law or any
16 prior administrative action withdrawing land
17 from location or entry;

18 “(D) limits the right of the Federal Gov-
19 ernment to regulate mining and mining-related
20 activities (including requiring claim validity ex-
21 aminations to establish the discovery of a valu-
22 able mineral deposit) in areas withdrawn from
23 mining, including under—

24 “(i) the general mining laws;

1 “(ii) the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1701
3 et seq.);

4 “(iii) the Wilderness Act (16 U.S.C.
5 1131 et seq.);

6 “(iv) sections 100731 through 100737
7 of title 54, United States Code;

8 “(v) the Endangered Species Act of
9 1973 (16 U.S.C. 1531 et seq.);

10 “(vi) division A of subtitle III of title
11 54, United States Code (commonly re-
12 ferred to as the ‘National Historic Preser-
13 vation Act’); or

14 “(vii) section 4 of the Act of July 23,
15 1955 (commonly known as the ‘Surface
16 Resources Act of 1955’) (69 Stat. 368,
17 chapter 375; 30 U.S.C. 612);

18 “(E) restores any right (including a right
19 of entry, use, or occupancy, or right to conduct
20 operations) of a claimant that—

21 “(i) existed prior to the date on which
22 the land was closed to, or withdrawn from,
23 location under the general mining laws;
24 and

1 “(ii) has been extinguished by such
2 closure or withdrawal; or

3 “(F) modifies section 404 of division E of
4 the Consolidated Appropriations Act, 2024
5 (Public Law 118–42; 138 Stat. 284).”.

6 (b) ABANDONED HARDROCK MINE FUND.—

7 (1) ESTABLISHMENT.—There is established in
8 the Treasury of the United States a separate ac-
9 count, to be known as the “Abandoned Hardrock
10 Mine Fund” (referred to in this subsection as the
11 “Fund”).

12 (2) SOURCE OF DEPOSITS.—Any amounts col-
13 lected by the Secretary of the Interior pursuant to
14 the claim maintenance fee under section 10101(a)(1)
15 of the Omnibus Budget Reconciliation Act of 1993
16 (30 U.S.C. 28f(a)(1)) on mill sites located under
17 subsection (c) of section 2337 of the Revised Stat-
18 utes (30 U.S.C. 42) shall be deposited into the
19 Fund.

20 (3) USE.—The Secretary of the Interior may
21 make expenditures from amounts available in the
22 Fund, without further appropriation, only to carry
23 out section 40704 of the Infrastructure Investment
24 and Jobs Act (30 U.S.C. 1245).

1 (ii) in the first sentence, by striking
2 “The holder of” and inserting the fol-
3 lowing:

4 “(A) IN GENERAL.—The holder of”; and
5 (B) in paragraph (2)—

6 (i) in the second sentence—

7 (I) by striking “the Mining Law
8 of 1872 (30 U.S.C. 28 to 28e)” and
9 inserting “sections 2319 through
10 2344 of the Revised Statutes (30
11 U.S.C. 22 et seq.)”; and

12 (II) by striking “Such claim
13 maintenance fee” and inserting the
14 following:

15 “(B) FEE.—The claim maintenance fee
16 under subparagraph (A)”; and

17 (ii) in the first sentence, by striking
18 “The holder of” and inserting the fol-
19 lowing:

20 “(A) IN GENERAL.—The holder of”; and
21 (3) in subsection (b)—

22 (A) in the second sentence, by striking
23 “The location fee” and inserting the following:
24 “(2) FEE.—The location fee”; and

1 (B) in the first sentence, by striking “The
2 claim main tenance fee” and inserting the fol-
3 lowing:

4 “(1) IN GENERAL.—The claim maintenance
5 fee”.

6 **TITLE III—GEOTHERMAL** 7 **ENERGY ADVANCEMENT**

8 **SEC. 301. EFFECT OF PENDING CIVIL ACTIONS ON PROC-** 9 **ESSING APPLICATIONS RELATING TO GEO-** 10 **THERMAL LEASING.**

11 Section 4 of the Geothermal Steam Act of 1970 (30
12 U.S.C. 1003) is amended by adding at the end the fol-
13 lowing:

14 “(h) EFFECT OF PENDING CIVIL ACTIONS ON PROC-
15 ESSING APPLICATIONS RELATING TO GEOTHERMAL
16 LEASING.—

17 “(1) DEFINITION OF AUTHORIZATION.—In this
18 subsection, the term ‘authorization’ means any li-
19 cense, permit, approval, finding, determination, or
20 other administrative decision issued by a Federal
21 agency, or any interagency consultation, that is re-
22 quired or authorized under Federal law (including
23 regulations) in order to site, construct, reconstruct,
24 or commence operation of a geothermal project ad-
25 ministered by a Federal agency.

1 “(2) REQUIREMENT TO PROCESS APPLICA-
2 TIONS.—Notwithstanding any pending civil action
3 that affects an application for a geothermal drilling
4 permit, sundry notice, notice to proceed, right-of-
5 way, or any other authorization under a valid exist-
6 ing geothermal lease, the Secretary shall, unless a
7 Federal court vacates or provides injunctive relief
8 for the applicable geothermal lease, geothermal drill-
9 ing permit, sundry notice, notice to proceed, right-
10 of-way, or other authorization, approve and issue, or
11 deny, each such application not later than 60 days
12 after completing all requirements under applicable
13 Federal laws (including regulations), including the
14 National Environmental Policy Act of 1969 (42
15 U.S.C. 4321 et seq.), the Endangered Species Act of
16 1973 (16 U.S.C. 1531 et seq.), and division A of
17 subtitle III of title 54, United States Code.

18 “(3) NO NEW AUTHORITY FOR FEDERAL
19 COURTS.—Nothing in this subsection modifies any
20 existing authority of a Federal court to vacate or
21 provide injunctive relief for a geothermal lease, geo-
22 thermal drilling permit, sundry notice, notice to pro-
23 ceed, right-of-way, or other authorization.”.

1 **SEC. 302. COST RECOVERY FROM GEOTHERMAL LEASING,**
2 **PERMITTING, AND INSPECTIONS.**

3 (a) IN GENERAL.—Section 6 of the Geothermal
4 Steam Act of 1970 (30 U.S.C. 1005) is amended by add-
5 ing at the end the following:

6 “(j) COST RECOVERY.—

7 “(1) IN GENERAL.—During the period begin-
8 ning on the date of enactment of the FREEDOM
9 Act and ending on September 30, 2033, the Sec-
10 retary may require an applicant for, or holder of, a
11 geothermal lease to reimburse the United States for
12 all reasonable administrative and other costs in-
13 curred by the United States from—

14 “(A) processing the application for the
15 geothermal lease, including any application for
16 an operations plan, geothermal drilling permit,
17 utilization plan, site license, facility construc-
18 tion permit, commercial use permit, and any
19 other approval associated with a geothermal
20 lease; and

21 “(B) inspecting and monitoring—

22 “(i) geophysical exploration activities;

23 “(ii) the drilling, plugging, or aban-
24 donment of wells; and

25 “(iii) the construction, operation, ter-
26 mination, or reclamation of any well site or

1 facility for the utilization of geothermal re-
2 sources pursuant to the geothermal lease.

3 “(2) FACTOR FOR CONSIDERATION.—In deter-
4 mining whether to require reimbursement under
5 paragraph (1), the Secretary shall take into consid-
6 eration whether there is in effect a cooperative cost-
7 share agreement between the United States and the
8 holder of a geothermal lease.

9 “(3) ADJUSTMENTS.—The Secretary may re-
10 duce the amount required to be reimbursed under
11 paragraph (1) if the Secretary determines that—

12 “(A) full reimbursement would impose on
13 the applicant an economic hardship; or

14 “(B) a less-than-full reimbursement is nec-
15 essary to promote the greatest use of geo-
16 thermal resources.

17 “(4) USE.—The amounts reimbursed under this
18 subsection shall be—

19 “(A) credited to the currently applicable
20 appropriation, account, or fund of the Depart-
21 ment of the Interior as discretionary offsetting
22 collections; and

23 “(B) available only to the extent provided
24 in advance in appropriations Acts for—

1 “(i) processing applications for geo-
2 thermal leases, including any applications
3 for operations plans, geothermal drilling
4 permits, utilization plans, site licenses, fa-
5 cility construction permits, commercial use
6 permits, and any other approval associated
7 with geothermal leases; and

8 “(ii) inspecting and monitoring—

9 “(I) geophysical exploration ac-
10 tivities;

11 “(II) the drilling, plugging, or
12 abandonment of wells; and

13 “(III) the construction, oper-
14 ation, termination, or reclamation of
15 any well site or facility for the utiliza-
16 tion of geothermal resources pursuant
17 to geothermal leases.”.

18 (b) REPORT.—

19 (1) IN GENERAL.—Not later than 5 years after
20 the date of enactment of this Act, the Secretary of
21 the Interior, in consultation with representatives of
22 the geothermal industry and other stakeholders,
23 shall submit to the Committee on Energy and Nat-
24 ural Resources of the Senate and the Committee on
25 Natural Resources of the House of Representatives,

1 and make publicly available on the website of the
2 Department of the Interior, a report that includes—

3 (A) an assessment of how the amendment
4 made by subsection (a) affected the geothermal
5 program of the Bureau of Land Management
6 during the preceding 5 years;

7 (B) any recommendations for reauthoriza-
8 tion of subsection (j) of section 6 of the Geo-
9 thermal Steam Act of 1970 (30 U.S.C. 1005)
10 (as added by subsection (a)); and

11 (C) any other recommendations for up-
12 dates to—

13 (i) subsection (j) of section 6 of the
14 Geothermal Steam Act of 1970 (30 U.S.C.
15 1005) (as so added); or

16 (ii) the geothermal program of the
17 Bureau of Land Management.

18 (2) INFORMATION.—In developing the report
19 under paragraph (1), the Secretary of the Interior
20 shall solicit information from representatives of the
21 geothermal industry and other stakeholders.

22 **SEC. 303. PUBLICATION OF GOLD BOOK FOR GEOTHERMAL**
23 **OPERATIONS ON FEDERAL LAND.**

24 (a) IDENTIFICATION.—Not later than 1 year after
25 the date of enactment of this Act, the Secretary of the

1 Interior, in consultation with other relevant Federal agen-
2 cies, shall identify standard procedures and guidelines for
3 efficient and environmentally responsible geothermal leas-
4 ing and permitting to the extent such standard procedures
5 and guidelines are not addressed in the fourth edition of
6 the document of the Bureau of Land Management entitled
7 “Surface Operating Standards and Guidelines for Oil and
8 Gas Exploration and Development”, commonly known as
9 the “Gold Book”, and most recently revised in 2007.

10 (b) PUBLICATION.—

11 (1) IN GENERAL.—Not later than 270 days
12 after identifying standard procedures and guidelines
13 under subsection (a), the Secretary of the Interior
14 shall publish an updated version of the Gold Book,
15 incorporating any changes necessary to support effi-
16 cient and environmentally responsible geothermal
17 leasing and permitting, for use by the field offices of
18 the Bureau of Land Management and geothermal
19 operators.

20 (2) RENAMING.—The Secretary of the Interior
21 shall rename the Gold Book as the Secretary deter-
22 mines to be appropriate to reflect the incorporation
23 of standard procedures and guidelines relating to
24 geothermal development.

1 (c) CONSULTATION.—Before publishing an updated
2 version of the Gold Book under subsection (b)(1), the Sec-
3 retary of the Interior shall consult with—

4 (1) other relevant Federal agencies, including
5 field offices of the Bureau of Land Management;
6 and

7 (2) outside stakeholders, including developers
8 and other experts.

9 (d) PERIODIC REVISION.—The Secretary of the Inte-
10 rior shall—

11 (1) not less frequently than once every 5 years,
12 review the most recent version of the Gold Book (or
13 a successor to that book); and

14 (2) as the Secretary of the Interior determines
15 to be necessary to support efficient and environ-
16 mentally responsible geothermal leasing and permit-
17 ting, publish an updated version of the Gold Book
18 (or a successor).

19 (e) INCLUSIONS.—Each updated version of the Gold
20 Book (or a successor to that book) shall include standard
21 procedures and guidelines for ensuring the efficient review
22 and approval of environmentally responsible geothermal
23 development, including—

24 (1) exploration and geophysical operations;

25 (2) permitting lease operations;

1 (3) compliance with all applicable laws (includ-
2 ing regulations);

3 (4) construction and maintenance; and

4 (5) drilling, production, and utilization oper-
5 ations.

6 **SEC. 304. GEOTHERMAL OMBUDSMAN AND PERMITTING**

7 **TASK FORCE.**

8 (a) DEFINITIONS.—In this section:

9 (1) BUREAU.—The term “Bureau” means the
10 Bureau of Land Management.

11 (2) GEOTHERMAL AUTHORIZATION.—The term
12 “geothermal authorization” means any license, per-
13 mit, approval, finding, determination, or other ad-
14 ministrative decision issued by the Bureau (includ-
15 ing any interagency consultation) that is required or
16 authorized under Federal law in order to site, con-
17 struct, reconstruct, or commence operation of a
18 project that—

19 (A) is located in whole or in part on land
20 subject to geothermal leasing under section 3 of
21 the Geothermal Steam Act of 1970 (30 U.S.C.
22 1002); and

23 (B) uses geothermal energy to generate
24 heat or electricity.

1 (3) GEOTHERMAL OMBUDSMAN.—The term
2 “Geothermal Ombudsman” means the Geothermal
3 Ombudsman appointed under subsection (b)(1).

4 (4) TASK FORCE.—The term “Task Force”
5 means the Geothermal Permitting Task Force estab-
6 lished under subsection (c)(1).

7 (b) GEOTHERMAL OMBUDSMAN.—

8 (1) IN GENERAL.—Not later than 60 days after
9 the date of enactment of this Act, the Secretary of
10 the Interior shall appoint from within the Bureau an
11 individual to serve as Geothermal Ombudsman.

12 (2) DUTIES.—The Geothermal Ombudsman
13 shall—

14 (A) act as a liaison between—

15 (i) the individual field, district, and
16 State offices of the Bureau;

17 (ii) the Division Chief of the National
18 Renewable Energy Coordination Office of
19 the Bureau; and

20 (iii) the Director of the Bureau;

21 (B) provide dispute resolution services for
22 disputes between the individual field, district,
23 and State offices of the Bureau and applicants
24 for geothermal authorizations;

1 (C) monitor and facilitate permit proc-
2 essing practices and timelines across individual
3 field offices of the Bureau;

4 (D) develop best practices for the permit-
5 ting and leasing process for geothermal re-
6 sources; and

7 (E) coordinate with the Federal Permitting
8 Improvement Steering Council.

9 (c) GEOTHERMAL PERMITTING TASK FORCE.—

10 (1) ESTABLISHMENT.—Not later than 60 days
11 after the date of enactment of this Act, the Sec-
12 retary of the Interior shall establish within the Bu-
13 reau a task force, to be known as the “Geothermal
14 Permitting Task Force”.

15 (2) LEADERSHIP.—The Task Force shall be
16 headed by the Geothermal Ombudsman.

17 (3) PERMITTING SUPPORT.—The Task Force
18 shall support the duties of the Geothermal Ombuds-
19 man under subsection (b).

20 (4) CROSS-OFFICE PERSONNEL ASSIGN-
21 MENTS.—

22 (A) IN GENERAL.—The Geothermal Om-
23 budsman, acting as head of the Task Force,
24 may coordinate with any bureau or office of the
25 Department of the Interior to assign personnel

1 with relevant expertise to assist with the com-
2 pletion of geothermal authorizations in Bureau
3 field, district, or State offices other than the of-
4 ficial duty stations at which such personnel are
5 located if—

6 (i) the applicable bureau or office de-
7 termines that such an assignment will not
8 materially delay ongoing completion of geo-
9 thermal authorizations within the applica-
10 ble official duty station; and

11 (ii) approval is received from the head
12 of that official duty station.

13 (B) ASSIGNED PERSONNEL REQUIRE-
14 MENTS.—An employee assigned to assist with
15 the completion of geothermal authorizations
16 pursuant to subparagraph (A) shall—

17 (i) work in-person full-time at an offi-
18 cial office of the Department of the Inte-
19 rior;

20 (ii) as the Geothermal Ombudsman
21 determines to be necessary, travel to the
22 Bureau field, district, or State office with
23 jurisdiction over the geothermal authoriza-
24 tions to which the employee has been as-
25 signed;

1 (iii) participate as part of the team of
2 personnel working on geothermal author-
3 izations to which the employee has been
4 assigned; and

5 (iv) regularly report to the head of the
6 Bureau field, district, or State office with
7 jurisdiction over the geothermal authoriza-
8 tions to which the employee has been as-
9 signed.

10 (C) RETENTION ALLOWANCES.—

11 (i) IN GENERAL.—Subject to the
12 availability of appropriations, the Geo-
13 thermal Ombudsman may pay a retention
14 allowance to an employee assigned to assist
15 with the completion of geothermal author-
16 izations under subparagraph (A).

17 (ii) REQUIREMENTS.—A retention al-
18 lowance under clause (i)—

19 (I) shall be stated as the percent-
20 age of the rate of basic pay of the ap-
21 plicable employee, subject to the con-
22 dition that such an allowance may not
23 exceed 25 percent of that rate of basic
24 pay;

1 (II) may not be considered to be
2 part of the basic pay of the employee;

3 (III) may not be appealed on re-
4 duction or elimination; and

5 (IV) shall be paid at the same
6 time and in the same manner as the
7 basic pay of the employee is paid.

8 (iii) FACTORS FOR CONSIDERATION.—

9 In paying a retention allowance under
10 clause (i), the Geothermal Ombudsman
11 shall take into consideration—

12 (I) any specialized expertise of
13 the applicable employee relating to
14 geothermal authorizations;

15 (II) the demonstrated need to re-
16 tain an employee to meet the perform-
17 ance improvement objectives for geo-
18 thermal authorization timelines and
19 develop best practices for completion
20 of geothermal authorizations; and

21 (III) the difficulty in recruiting
22 or replacing qualified personnel with
23 relevant expertise relating to geo-
24 thermal authorizations.

1 (D) SAVINGS CLAUSE.—The assignment of
2 personnel pursuant to this paragraph shall not
3 alter the underlying jurisdiction of any office of
4 the Bureau with respect to geothermal author-
5 izations.

6 (d) REPORT.—The Geothermal Ombudsman shall
7 submit to the Committee on Energy and Natural Re-
8 sources of the Senate and the Committee on Natural Re-
9 sources of the House of Representatives an annual report
10 that—

11 (1) describes the activities of the Task Force
12 during the preceding year; and

13 (2) evaluates the effectiveness of geothermal au-
14 thorization processing during the preceding year.

15 **SEC. 305. GEOTHERMAL ROYALTIES.**

16 (a) DEFINITIONS.—

17 (1) IN GENERAL.—Section 2 of the Geothermal
18 Steam Act of 1970 (30 U.S.C. 1001) is amended—

19 (A) by striking the section designation and
20 heading and all that follows through “the
21 term—” in the matter preceding subsection (a)
22 and inserting the following:

23 **“SEC. 2. DEFINITIONS.**

24 “In this Act:”;

1 (B) in each of subsections (a) through (d),
2 by striking the semicolon at the end and insert-
3 ing a period;

4 (C) in subsection (c), by striking “re-
5 sources” and inserting “resource”;

6 (D) by striking subsection (e);

7 (E) in subsection (f)—

8 (i) in paragraph (1), by striking “Sec-
9 tion” and inserting “section”;

10 (ii) by redesignating paragraphs (1)
11 through (4) as subparagraphs (A) through
12 (D), respectively, and indenting appro-
13 priately; and

14 (iii) by striking the subsection des-
15 ignation and all that follows through “lim-
16 ited to,” in the matter preceding subpara-
17 graph (A) (as so redesignated) and insert-
18 ing the following:

19 “(f) ‘significant thermal feature within a unit of the
20 National Park System’ includes”;

21 (F) in subsection (g), by striking “; and”
22 at the end and inserting a period;

23 (G) by redesignating subsections (a), (b),
24 (c), (d), (f), and (g) as paragraphs (7), (4), (5),
25 (1), (8), and (2), respectively, indenting the

1 paragraphs appropriately, and moving the para-
2 graphs so as to appear in numerical order;

3 (H) in each of paragraphs (1), (2), (4),
4 (5), (7), and (8) (as so redesignated)—

5 (i) by inserting “The term” after the
6 paragraph designation; and

7 (ii) by adding a paragraph heading,
8 the text of which comprises the term de-
9 fined in the paragraph;

10 (I) by inserting after paragraph (2) (as so
11 redesignated) the following:

12 “(3) GEOTHERMAL ELECTRIC GENERATING FA-
13 CILITY.—

14 “(A) IN GENERAL.—The term ‘geothermal
15 electric generating facility’ means a facility, in-
16 cluding all necessary equipment and structures
17 (including turbines and cooling equipment),
18 that produces electricity using geothermal re-
19 sources.

20 “(B) TREATMENT.—For purposes of sec-
21 tion 5(a)(1), a facility described in subpara-
22 graph (A) shall be considered to be a separate
23 facility from any other such facility unless the
24 facility shares a turbine with the other facil-
25 ity.”; and

1 (J) by inserting after paragraph (5) (as so
2 redesignated) the following:

3 “(6) IN-SERVICE DATE.—The term ‘in-service
4 date’, with respect to a geothermal electric gener-
5 ating facility, means the date on which the geo-
6 thermal electric generating facility commences oper-
7 ation.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Section 6(i) of the Geothermal Steam
10 Act of 1970 (30 U.S.C. 1005(i)) is amended by
11 striking “as defined in section 2(c) herein”.

12 (B) Section 28(a)(1) of the Geothermal
13 Steam Act of 1970 (30 U.S.C. 1026(a)(1)) is
14 amended, in the matter preceding subparagraph
15 (A), by striking “, as defined in section 2(f),”.

16 (b) ROYALTIES ON ELECTRICITY PRODUCED USING
17 GEOTHERMAL RESOURCES.—Section 5(a) of the Geo-
18 thermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amend-
19 ed by striking paragraph (1) and inserting the following:

20 “(1) a royalty on electricity produced using geo-
21 thermal resources, other than direct use of geo-
22 thermal resources, in an amount equal to, with re-
23 spect to a geothermal electric generating facility pro-
24 ducing electricity from geothermal resources—

1 “(A) not less than 1 percent, and not more
2 than 2.5 percent, of the gross proceeds from
3 the sale of electricity produced by the geo-
4 thermal electric generating facility from those
5 geothermal resources during each year of the
6 10-year period beginning on the in-service date
7 of the geothermal electric generating facility;
8 and

9 “(B) not less than 2 percent, and not more
10 than 5 percent, of the gross proceeds from the
11 sale of electricity produced by the geothermal
12 electric generating facility from those geo-
13 thermal resources during each year after the
14 10-year period described in subparagraph (A);”.

15 **SEC. 306. NEPA REVIEW.**

16 Section 390 of the Energy Policy Act of 2005 (42
17 U.S.C. 15942) is amended—

18 (1) in subsection (a)—

19 (A) by striking “(NEPA)” and inserting
20 “(42 U.S.C. 4321 et seq.) (referred to in this
21 section as ‘NEPA’)”;

22 (B) by inserting “(30 U.S.C. 181 et seq.)”
23 after “Mineral Leasing Act”; and

24 (C) by inserting “or the Geothermal Steam
25 Act of 1970 (30 U.S.C. 1001 et seq.) for the

1 purpose of exploration or development of geo-
2 thermal resources” before the period at the end;

3 and

4 (2) in subsection (b)—

5 (A) in paragraph (2), by striking “oil or
6 gas” and inserting “oil, gas, or geothermal re-
7 sources”; and

8 (B) in paragraph (3), by striking “oil or
9 gas” and inserting “oil, gas, or geothermal re-
10 sources”.