111TH CONGRESS
2D SESSION

H. R. 3534

AN ACT
To provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior, and for other purposes.
any other penalties to which the owner or operator of the
facility is subject, including those under section 311.

(2) EFFECTIVE DATE.—The amendment made
by paragraph (1) takes effect on April 1, 2010.

TITLE VI—COORDINATION AND
PLANNING

SEC. 601. REGIONAL COORDINATION.

(a) IN GENERAL.—The purpose of this title is to pro-
mote—

(1) better coordination, communication, and
collaboration between Federal agencies with author-
ties for ocean, coastal, and Great Lakes manage-
ment; and

(2) coordinated and collaborative regional plan-
ing efforts using the best available science, and to
ensure the protection and maintenance of marine
ecosystem health, in decisions affecting the sustain-
able development and use of Federal renewable and
nonrenewable resources on, in, or above the ocean
(including the Outer Continental Shelf) and the
Great Lakes for the long-term economic and envi-
ronmental benefit of the United States.

(b) OBJECTIVES OF REGIONAL EFFORTS.—Such re-

gional efforts shall achieve the following objectives:
(1) Greater systematic communication and coordination among Federal, coastal State, and affected tribal governments concerned with the conservation of and the sustainable development and use of Federal renewable and nonrenewable resources of the oceans, coasts, and Great Lakes.

(2) Greater reliance on a multiobjective, science- and ecosystem-based, spatially explicit management approach that integrates regional economic, ecological, affected tribal, and social objectives into ocean, coastal, and Great Lakes management decisions.

(3) Identification and prioritization of shared State and Federal ocean, coastal, and Great Lakes management issues.

(4) Identification of data and information needed by the Regional Coordination Councils established under section 602.

(c) REGIONS.—There are hereby designated the following Coordination Regions:

(1) PACIFIC REGION.—The Pacific Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Washington, Oregon, and California.
(2) GULF OF MEXICO REGION.—The Gulf of Mexico Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Texas, Louisiana, Mississippi, and Alabama, and the west coast of Florida.

(3) NORTH ATLANTIC REGION.—The North Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

(4) MID ATLANTIC REGION.—The Mid Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

(5) SOUTH ATLANTIC REGION.—The South Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of North Carolina, South Carolina, Georgia, the east coast of Florida, and the Straits of Florida Planning Area.

(6) ALASKA REGION.—The Alaska Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the State of Alaska.
(7) PACIFIC ISLANDS REGION.—The Pacific Islands Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the State of Hawaii, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam.

(8) CARIBBEAN REGION.—The Caribbean Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to Puerto Rico and the United States Virgin Islands.

(9) GREAT LAKES REGION.—The Great Lakes Coordination Region, which shall consist of waters of the Great Lakes in the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 602. REGIONAL COORDINATION COUNCILS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Chairman of the Council on Environmental Quality, in consultation with the affected coastal States and affected Indian tribes, shall establish or designate a Regional Coordination Council for each of the Coordination Regions designated by section 601(c).

(b) MEMBERSHIP.—

(1) FEDERAL REPRESENTATIVES.—Within 90 days after the date of enactment of this Act, the
Chairman of the Council on Environmental Quality shall publish the titles of the officials of each Federal agency and department that shall participate in each Council. The Councils shall include representatives of each Federal agency and department that has authorities related to the development of ocean, coastal, or Great Lakes policies or engages in planning, management, or scientific activities that significantly affect or inform the use of ocean, coastal, or Great Lakes resources. The Chairman of the Council on Environmental Quality shall determine which Federal agency representative shall serve as the chairperson of each Council.

(2) COASTAL STATE REPRESENTATIVES.—

(A) NOTICE OF INTENT TO PARTICIPATE.—The Governor of each coastal State within each Coordination Region designated by section 601(c) shall within 3 months after the date of enactment of this Act, inform the Chairman of the Council on Environmental Quality whether or not the State intends to participate in the Regional Coordination Council for the Region.

(B) APPOINTMENT OF RESPONSIBLE STATE OFFICIAL.—If a coastal State intends to
participate in such Council, the Governor of the coastal State shall appoint an officer or employee of the coastal State agency with primary responsibility for overseeing ocean and coastal policy or resource management to that Council.

(C) ALASKA REGIONAL COORDINATION COUNCIL.—The Regional Coordination Council for the Alaska Coordination Region shall include representation from each of the States of Alaska, Washington, and Oregon, if appointed by the Governor of that State in accordance with this paragraph.

(3) REGIONAL FISHERY MANAGEMENT COUNCIL REPRESENTATION.—A representative of each Regional Fishery Management Council with jurisdiction in the Coordination Region of a Regional Coordination Council (who is selected by the Regional Fishery Management Council) and the executive director of the interstate marine fisheries commission with jurisdiction in the Coordination Region of a Regional Coordination Council shall each serve as a member of the Council.

(4) REGIONAL OCEAN PARTNERSHIP REPRESENTATION.—A representative of any Regional Ocean Partnership that has been established for any
part of the Coordination Region of a Regional Co-
ordination Council may appoint a representative to
serve on the Council in addition to any Federal or
State appointments.

(5) TRIBAL REPRESENTATION.—An appropriate
tribal official selected by affected Indian tribes situ-
ated in the affected Coordination Region may elect
to appoint a representative of such tribes collectively
to serve as a member of the Regional Coordination
Council for that Region.

(6) LOCAL REPRESENTATION.—The Chairman
of the Council on Environmental Quality shall, in
consultation with the Governors of the coastal States
within each Coordination Region, identify and ap-
point representatives of county and local govern-
ments, as appropriate, to serve as members of the
Regional Coordination Council for that Region.

(c) ADVISORY COMMITTEE.—Each Regional Coordi-
nation Council shall establish advisory committees for the
purposes of public and stakeholder input and scientific ad-
vise, made up of a balanced representation from the en-
ergy, shipping, transportation, commercial and recre-
ational fishing, and recreation industries, from marine
environmental nongovernmental organizations, and from
scientific and educational authorities with expertise in the
conservation and management of ocean, coastal, and
Great Lakes resources to advise the Council during the
development of Regional Assessments and Regional Strate-
gic Plans and in its other activities.

(d) COORDINATION WITH EXISTING PROGRAMS.—
Each Regional Coordination Council shall build upon and
complement current State, multistate, and regional capac-
ity and governance and institutional mechanisms to man-
age and protect ocean waters, coastal waters, and ocean
resources.

SEC. 603. REGIONAL STRATEGIC PLANS.

(a) INITIAL REGIONAL ASSESSMENT.—

(1) IN GENERAL.—Each Regional Coordination
Council, shall, within one year after the date of en-
actment of this Act, prepare an initial assessment of
its Coordination Region that shall identify defi-
ciencies in data and information necessary to in-
formed decisionmaking by Federal, State, and af-
fected tribal governments concerned with the con-
servation of and management of the oceans, coasts,
and Great Lakes. Each initial assessment shall to
the extent feasible—

(Δ) identify the Coordination Region's re-
newable and non renewable resources, including
current and potential energy resources, except
for the assessment for the Great Lakes Coordination Region, for which the Regional Coordination Council for such Coordination Region shall only identify the Great Lakes Coordination Region's renewable energy resources, including current and potential renewable energy resources;

(B) identify and include a spatially and temporally explicit inventory of existing and potential uses of the Coordination Region, including fishing and fish habitat, recreation, and energy development;

(C) document the health and relative environmental sensitivity of the marine ecosystem within the Coordination Region, including a comprehensive survey and status assessment of species, habitats, and indicators of ecosystem health;

(D) identify marine habitat types and important ecological areas within the Coordination Region;

(E) assess the Coordination Region's marine economy and cultural attributes and include regionally-specific ecological and socio-economic baseline data;
(F) identify and prioritize additional scientific and economic data necessary to inform the development of Strategic Plans; and

(G) include other information to improve decision making as determined by the Regional Coordination Council.

(2) DATA.—Each initial assessment shall—

(A) use the best available data;

(B) collect and provide data in a spatially explicit manner wherever practicable and provide such data to the interagency comprehensive digital mapping initiative as described in section 2 of Public Law 109–58 (42 U.S.C. 15801); and

(C) make publicly available any such data that is not classified information.

(3) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunity for review and input by stakeholders and the general public during the preparation of the initial assessment and any revised assessments.

(b) REGIONAL STRATEGIC PLANS.—(1) REQUIREMENT.—Each Regional Coordination Council shall, within 3 years after the completion of the initial regional assessment, prepare and
submit to the Chairman of the Council on Environmental Quality a multiobjective, science- and ecosystem-based, spatially explicit, integrated Strategic Plan in accordance with this subsection for the Council’s Coordination Region.

(2) OBJECTIVE AND GOALS.—The objective of the Strategic Plans under this subsection shall be to foster comprehensive, integrated, and sustainable development and use of ocean, coastal, and Great Lakes resources, while protecting marine ecosystem health and sustaining the long-term economic and ecosystem values of the oceans, coasts, and Great Lakes.

(3) CONTENTS.—Each Strategic Plan prepared by a Regional Coordination Council shall—

(A) be based on the initial regional assessment and updates for the Coordination Region under subsections (a) and (c), respectively;

(B) foster the sustainable and integrated development and use of ocean, coastal, and Great Lakes resources in a manner that protects the health of marine ecosystems;

(C) identify areas with potential for siting and developing renewable and nonrenewable energy resources in the Coordination Region cov-
erred by the Strategic Plan, except for the Strategic Plan for the Great Lakes Coordination Region which shall identify only areas with potential for siting and developing renewable energy resources in the Great Lakes Coordination Region;

(D) identify other current and potential uses of the ocean and coastal resources in the Coordination Region;

(E) identify and recommend long-term monitoring needs for ecosystem health and socioeconomic variables within the Coordination Region covered by the Strategic Plan;

(F) identify existing State and Federal regulating authorities within the Coordination Region covered by the Strategic Plan and measures to assist those authorities in carrying out their responsibilities;

(G) identify best available technologies to minimize adverse environmental impacts and use conflicts in the development of ocean and coastal resources in the Coordination Region;

(H) identify additional research, information, and data needed to carry out the Strategic Plan;
(I) identify performance measures and benchmarks for purposes of fulfilling the responsibilities under this section to be used to evaluate the Strategic Plan's effectiveness;

(J) define responsibilities and include an analysis of the gaps in authority, coordination, and resources, including funding, that must be filled in order to fully achieve those performance measures and benchmarks; and

(K) include such other information at the Chairman of the Council on Environmental Quality determines is appropriate.

(4) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunities for review and input by stakeholders and the general public during the development of the Strategic Plan and any Strategic Plan revisions.

(e) UPDATED REGIONAL ASSESSMENTS.—Each Regional Coordination Council shall update the initial regional assessment prepared under subsection (a) in coordination with each Strategic Plan revision under subsection (e), to provide more detailed information regarding the required elements of the assessment and to include any relevant new information that has become available in the interim.
(d) Review and Approval.—

(1) Commencement of review.—Within 10 days after receipt of a Strategic Plan under this section, or any revision to such a Strategic Plan, from a Regional Coordination Council, the Chairman of the Council of Environmental Quality shall commence a review of the Strategic Plan or the revised Strategic Plan, respectively.

(2) Public notice and comment.—Immediately after receipt of such a Strategic Plan or revision, the Chairman of the Council of Environmental Quality shall publish the Strategic Plan or revision in the Federal Register and provide an opportunity for the submission of public comment for a 90-day period beginning on the date of such publication.

(3) Requirements for approval.—Before approving a Strategic Plan, or any revision to a Strategic Plan, the Chairman of the Council on Environmental Quality must find that the Strategic Plan or revision—

(A) complies with subsection (b); and

(B) complies with the purposes of this title as identified in section 601(a) and the objectives identified in section 601(b).
161

(4) DEADLINE FOR COMPLETION.—Within 180
days after the receipt of a Strategic Plan, or a revi-
sion to a Strategic Plan, the Chairman of the Coun-
cil of Environmental Quality shall approve or dis-
approve the Strategic Plan or revision. If the Chair-
man disapproves the Strategic Plan or revision, the
Chairman shall transmit to the Regional Coordina-
tion Council that submitted the Strategic Plan or re-
vision, an identification of the deficiencies and rec-
ommendations to improve it. The Council shall sub-
mitt a revised Strategic Plan or revision to such plan
with 180 days after receiving the recommendations
from the Chairman.

(e) PLAN REVISION.—Each Strategic Plan shall be
reviewed and revised by the relevant Regional Coordina-
tion Council at least once every 5 years. Such review and
revision shall be based on the most recently updated re-
gional assessment. Any proposed revisions to the Strategic
Plan shall be submitted to the Chairman of the Council
on Environmental Quality for review and approval pursu-
ant to this section.

SEC. 604. REGULATIONS AND SAVINGS CLAUSE.

(a) REGULATIONS.—The Chairman of the Council on
Environmental Quality may issue such regulations as the
Chairman considers necessary to implement sections 601 through 603.

(b) SAVINGS CLAUSE.—Nothing in this title shall be construed to affect existing authorities under Federal law.

SEC. 605. OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a separate account to be known as the Ocean Resources Conservation and Assistance Fund.

(2) CREDITS.—The ORCA Fund shall be credited with amounts as specified in section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), as amended by section 207 of this Act.

(3) ALLOCATION OF THE ORCA FUND.—Of the amounts appropriated from the ORCA Fund each fiscal year—

(A) 70 percent shall be allocated to the Secretary, of which—

(i) one-half shall be used to make grants to coastal States and affected Indian tribes under subsection (b); and
(ii) one-half shall be used for the ocean, coastal, and Great Lakes grants program established by subsection (c);

(B) 20 percent shall be allocated to the Secretary to carry out the purposes of subsection (e); and

(C) 10 percent shall be allocated to the Secretary to make grants to Regional Ocean Partnerships under subsection (d) and the Regional Coordination Councils established under section 602.

(4) PROCEDURES.—The Secretary shall establish application, review, oversight, financial accountability, and performance accountability procedures for each grant program for which funds are allocated under this subsection.

(b) GRANTS TO COASTAL STATES.—

(1) GRANT AUTHORITY.—The Secretary may use amounts allocated under subsection (a)(3)(A)(I)(I) to make grants to—

(A) coastal States pursuant to the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)); and
(B) affected Indian tribes based on and
proportional to any specific coastal and ocean
management authority granted to an affected
tribe pursuant to affirmation of a Federal re-
erved right.

(2) ELIGIBILITY.—To be eligible to receive a
grant under this subsection, a coastal State or af-
fected Indian tribe must prepare and revise a 5-year
plan and annual work plans that—

(A) demonstrate that activities for which
the coastal State or affected Indian tribe will
use the funds are consistent with the eligible
uses of the Fund described in subsection (f); and

(B) provide mechanisms to ensure that
funding is made available to government, non-
government, and academic entities to carry out
eligible activities at the county and local level.

(3) APPROVAL OF STATE AND AFFECTED TRIB-
AL PLANS.—

(A) IN GENERAL.—Plans required under
paragraph (2) must be submitted to and ap-
proved by the Secretary.

(B) PUBLIC INPUT AND COMMENT.—In de-
termining whether to approve such plans, the
Secretary shall provide opportunity for, and
take into consideration, public input and com-
ment on the plans from stakeholders and the
general public.

(5) ENERGY PLANNING GRANTS.—For each of
the fiscal years 2011 through 2015, the Secretary
may use funds allocated for grants under this sub-
section to make grants to coastal States and affected
tribes under section 320 of the Coastal Zone Man-
agement Act of 1972 (16 U.S.C. 1451 et seq.), as
amended by this Act.

(6) USE OF FUNDS.—Any amounts provided as
a grant under this subsection, other than as a
grants under paragraph (5), may only be used for
activities described in subsection (f).

(c) OCEAN AND COASTAL COMPETITIVE GRANTS

PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall use
amounts allocated under subsection (a)(3)(A)(I)(II)
to make competitive grants for conservation and
management of ocean, coastal, and Great Lakes eco-
systems and marine resources.

(2) OCEAN, COASTAL, AND GREAT LAKES RE-
VIEW PANEL.—

•HR 3594 EH
(A) **IN GENERAL.**—The Secretary shall establish an Ocean, Coastal, and Great Lakes Review Panel (in this subsection referred to as the "Panel"), which shall consist of 12 members appointed by the Secretary with expertise in the conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources. In appointing members to the Council, the Secretary shall include a balanced diversity of representatives of relevant Federal agencies, the private sector, nonprofit organizations, and academia.

(B) **FUNCTIONS.**—The Panel shall—

(i) review, in accordance with the procedures and criteria established under paragraph (3), grant applications under this subsection;

(ii) make recommendations to the Secretary regarding which grant applications should be funded and the amount of each grant; and

(iii) establish any specific requirements, conditions, or limitations on a grant application recommended for funding.
(3) Procedures and Eligibility Criteria

for grants.—

(A) in general.—The Secretary shall establish—

(i) procedures for applying for a grant under this subsection and criteria for evaluating applications for such grants; and

(ii) criteria, in consultation with the Panel, to determine what persons are eligible for grants under the program.

(B) Eligible Persons.—Persons eligible under the criteria under subparagraph (A)(ii) shall include Federal, State, affected tribal, and local agencies, fishery or wildlife management organizations, nonprofit organizations, and academic institutions.

(4) Approval of Grants.—In making grants under this subsection the Secretary shall give the highest priority to the recommendations of the Panel. If the Secretary disapproves a grant recommended by the Panel, the Secretary shall explain that disapproval in writing.

(5) Use of Grant Funds.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).
(d) **GRANTS TO REGIONAL OCEAN PARTNERSHIPS.**—

(1) **GRANT AUTHORITY.**—The Secretary may use amounts allocated under subsection (a)(3)(A)(iii) to make grants to Regional Ocean Partnerships.

(2) **ELIGIBILITY.**—In order to be eligible to receive a grant, a Regional Ocean Partnership must prepare and annually revise a plan that—

(A) identifies regional science and information needs, regional goals and priorities, and mechanisms for facilitating coordinated and collaborative responses to regional issues;

(B) establishes a process for coordinating and collaborating with the Regional Coordination Councils established under section 602 to address regional issues and information needs and achieve regional goals and priorities; and

(C) demonstrates that activities to be carried out with such funds are eligible uses of the funds identified in subsection (f).

(3) **APPROVAL BY SECRETARY.**—Such plans must be submitted to and approved by the Secretary.

(4) **PUBLIC INPUT AND COMMENT.**—In determining whether to approve such plans, the Secretary shall provide opportunity for, and take into consider-
ation, input and comment on the plans from stakeholders and the general public.

(5) USE OF FUNDS.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).

(c) LONG-TERM OCEAN AND COASTAL OBSERVATIONS.—

(1) IN GENERAL.—The Secretary shall use the amounts allocated under subsection (a)(3)(A)(ii) to build, operate, and maintain the system established under section 12304 of Public Law 111–11 (33 U.S.C. 3603), in accordance with the purposes and policies for which the system was established.

(2) ADMINISTRATION OF FUNDS.—The Secretary shall administer and distribute funds under this subsection based upon comprehensive system budgets adopted by the Council referred to in section 12304(c)(1)(A) of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603(c)(1)(A)).

(f) ELIGIBLE USE OF FUNDS.—Any funds made available under this section may only be used for activities that contribute to the conservation, protection, maintenance, and restoration of ocean, coastal, and Great Lakes ecosystems in a manner that is consistent with Federal
environmental laws and that avoids environmental degradation, including—

(1) activities to conserve, protect, maintain, and restore coastal, marine, and Great Lakes ecosystem health;

(2) activities to protect marine biodiversity and living marine and coastal resources and their habitats, including fish populations;

(3) the development and implementation of multiobjective, science- and ecosystem-based plans for monitoring and managing the wide variety of uses affecting ocean, coastal, and Great Lakes ecosystems and resources that consider cumulative impacts and are spatially explicit where appropriate;

(4) activities to improve the resiliency of those ecosystems;

(5) activities to improve the ability of those ecosystems to become more resilient, and to adapt to and withstand the impacts of climate change and ocean acidification;

(6) planning for and managing coastal development to minimize the loss of life and property associated with sea level rise and the coastal hazards resulting from it;
(7) research, education, assessment, monitoring, and dissemination of information that contributes to the achievement of these purposes;

(8) research of, protection of, enhancement to, and activities to improve the resiliency of culturally significant areas and resources; and

(9) activities designed to rescue, rehabilitate, and recover injured marine mammals, marine birds, and sea turtles.

(g) DEFINITIONS.—In this section:

(1) ORCA FUND.—The term “ORCA Fund” means the Ocean Resources Conservation and Assistance Fund established by this section.

(2) SECRETARY.—Notwithstanding section 3, the term “Secretary” means the Secretary of Commerce.

SEC. 606. WAIVER.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Regional Coordination Councils established under section 602.