

AMENDMENT NO. _____

Calendar No. _____

Purpose: To promote the development of renewable energy on public land.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

AMENDMENT N^o 3212

By Heller

To: Amend No 2953

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GPO: 2014 91-623 (mac)

HELLER (for himself and Mr. HEINRICH) to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Mr. Gardner
Mr. Tester
Mr. Bennet
Mr. Risch

Viz:

- 1 On page 244, between lines 13 and 14, insert the fol-
- 2 lowing:
- 3 **Subpart B—Development of Geothermal, Solar, and**
- 4 **Wind Energy on Public Land**
- 5 **SEC. 3011A. DEFINITIONS.**
- 6 In this subpart:
- 7 (1) COVERED LAND.—The term “covered land”
- 8 means land that is—
- 9 (A) public land administered by the Sec-
- 10 retary; and

1 (B) not excluded from the development of
2 geothermal, solar, or wind energy under—

3 (i) a land use plan established under
4 the Federal Land Policy and Management
5 Act of 1976 (43 U.S.C. 1701 et seq.); or

6 (ii) other Federal law.

7 (2) EXCLUSION AREA.—The term “exclusion
8 area” means covered land that is identified by the
9 Bureau of Land Management as not suitable for de-
10 velopment of renewable energy projects.

11 (3) PRIORITY AREA.—The term “priority area”
12 means covered land identified by the land use plan-
13 ning process of the Bureau of Land Management as
14 being a preferred location for a renewable energy
15 project.

16 (4) PUBLIC LAND.—The term “public land”
17 has the meaning given the term “public lands” in
18 section 103 of the Federal Land Policy and Manage-
19 ment Act of 1976 (43 U.S.C. 1702).

20 (5) RENEWABLE ENERGY PROJECT.—The term
21 “renewable energy project” means a project carried
22 out on covered land that uses wind, solar, or geo-
23 thermal energy to generate energy.

24 (6) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (7) VARIANCE AREA.—The term “variance
2 area” means covered land that is—

3 (A) not an exclusion area; and

4 (B) not a priority area.

5 **SEC. 3011B. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
6 **GRAMMATIC ENVIRONMENTAL IMPACT**
7 **STATEMENTS.**

8 (a) PRIORITY AREAS.—

9 (1) IN GENERAL.—The Secretary, in consulta-
10 tion with the Secretary of Energy, shall establish
11 priority areas on covered land for geothermal, solar,
12 and wind energy projects.

13 (2) DEADLINE.—

14 (A) GEOTHERMAL ENERGY.—For geo-
15 thermal energy, the Secretary shall establish
16 priority areas as soon as practicable, but not
17 later than 5 years, after the date of enactment
18 of this Act.

19 (B) SOLAR ENERGY.—For solar energy,
20 the solar energy zones established by the 2012
21 western solar plan of the Bureau of Land Man-
22 agement shall be considered to be priority areas
23 for solar energy projects.

24 (C) WIND ENERGY.—For wind energy, the
25 Secretary shall establish priority areas as soon

1 as practicable, but not later than 3 years, after
2 the date of enactment of this Act.

3 (b) **VARIANCE AREAS.**—To the maximum extent
4 practicable, variance areas shall be considered for renew-
5 able energy project development, consistent with the prin-
6 ciples of multiple use as defined in the Federal Land Pol-
7 icy and Management Act of 1976 (43 U.S.C. 1701 et
8 seq.).

9 (c) **REVIEW AND MODIFICATION.**—Not less fre-
10 quently than once every 10 years, the Secretary shall—

11 (1) review the adequacy of land allocations for
12 geothermal, solar, and wind energy priority and vari-
13 ance areas for the purpose of encouraging new re-
14 newable energy development opportunities; and

15 (2) based on the review carried out under para-
16 graph (1), add, modify, or eliminate priority, vari-
17 ance, and exclusion areas.

18 (d) **COMPLIANCE WITH THE NATIONAL ENVIRON-**
19 **MENTAL POLICY ACT.**—For purposes of this section, com-
20 pliance with the National Environmental Policy Act of
21 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

22 (1) for geothermal energy, by supplementing
23 the October 2008 final programmatic environmental
24 impact statement for geothermal leasing in the west-
25 ern United States;

1 (2) for solar energy, by supplementing the July
2 2012 final programmatic environmental impact
3 statement for solar energy projects; and

4 (3) for wind energy, by supplementing the July
5 2005 final programmatic environmental impact
6 statement for wind energy projects.

7 (e) NO EFFECT ON PROCESSING APPLICATIONS.—A
8 requirement to prepare a supplement to a programmatic
9 environmental impact statement under this section shall
10 not result in any delay in processing an application for
11 a renewable energy project.

12 (f) COORDINATION.—In developing a supplement re-
13 quired by this section, the Secretary shall coordinate, on
14 an ongoing basis, with appropriate State, tribal, and local
15 governments, transmission infrastructure owners and op-
16 erators, developers, and other appropriate entities to en-
17 sure that priority areas identified by the Secretary are—

18 (1) economically viable (including having access
19 to transmission);

20 (2) likely to avoid or minimize conflict with
21 habitat for animals and plants, recreation, and other
22 uses of covered land; and

23 (3) consistent with section 202 of the Federal
24 Land Policy and Management Act of 1976 (43

1 U.S.C. 1712), including subsection (c)(9) of that
2 section.

3 (g) REMOVAL FROM CLASSIFICATION.—In carrying
4 out subsections (a), (c), and (d), if the Secretary deter-
5 mines an area previously suited for development should
6 be removed from priority or variance classification, not
7 later than 90 days after the date of the determination,
8 the Secretary shall submit to Congress a report on the
9 determination.

10 **SEC. 3011C. ENVIRONMENTAL REVIEW ON COVERED LAND.**

11 (a) IN GENERAL.—If the Secretary determines that
12 a proposed renewable energy project has been sufficiently
13 analyzed by a programmatic environmental impact state-
14 ment conducted under section 3011B(d), the Secretary
15 shall not require any additional review under the National
16 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
17 seq.).

18 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
19 Secretary determines that additional environmental review
20 under the National Environmental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.) is necessary for a proposed renewable
22 energy project, the Secretary shall rely on the analysis in
23 the programmatic environmental impact statement con-
24 ducted under section 3011B(d), to the maximum extent

1 practicable when analyzing the potential impacts of the
2 project.

3 **SEC. 3011D. PROGRAM TO IMPROVE RENEWABLE ENERGY**
4 **PROJECT PERMIT COORDINATION.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 a program to improve Federal permit coordination with
7 respect to renewable energy projects on covered land.

8 (b) MEMORANDUM OF UNDERSTANDING.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this Act, the Sec-
11 retary shall enter into a memorandum of under-
12 standing for purposes of this section, including to
13 specifically expedite the environmental analysis of
14 applications for projects proposed in a variance area,
15 with—

16 (A) the Secretary of Agriculture; and

17 (B) the Assistant Secretary of the Army
18 for Civil Works.

19 (2) STATE PARTICIPATION.—The Secretary
20 may request the Governor of any interested State to
21 be a signatory to the memorandum of understanding
22 under paragraph (1).

23 (c) DESIGNATION OF QUALIFIED STAFF.—

24 (1) IN GENERAL.—Not later than 90 days after
25 the date on which the memorandum of under-

1 standing under subsection (b) is executed, all Fed-
2 eral signatories, as appropriate, shall identify for
3 each of the Bureau of Land Management Renewable
4 Energy Coordination Offices an employee who has
5 expertise in the regulatory issues relating to the of-
6 fice in which the employee is employed, including, as
7 applicable, particular expertise in—

8 (A) consultation regarding, and prepara-
9 tion of, biological opinions under section 7 of
10 the Endangered Species Act of 1973 (16 U.S.C.
11 1536);

12 (B) permits under section 404 of Federal
13 Water Pollution Control Act (33 U.S.C. 1344);

14 (C) regulatory matters under the Clean Air
15 Act (42 U.S.C. 7401 et seq.);

16 (D) planning under section 14 of the Na-
17 tional Forest Management Act of 1976 (16
18 U.S.C. 472a);

19 (E) the Federal Land Policy and Manage-
20 ment Act of 1976 (43 U.S.C. 1701 et seq.);

21 (F) the Migratory Bird Treaty Act (16
22 U.S.C. 703 et seq.); and

23 (G) the preparation of analyses under the
24 National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.).

1 (2) DUTIES.—Each employee assigned under
2 paragraph (1) shall—

3 (A) be responsible for addressing all issues
4 relating to the jurisdiction of the home office or
5 agency of the employee; and

6 (B) participate as part of the team of per-
7 sonnel working on proposed energy projects,
8 planning, monitoring, inspection, enforcement,
9 and environmental analyses.

10 (d) ADDITIONAL PERSONNEL.—The Secretary may
11 assign additional personnel for the renewable energy co-
12 ordination offices as are necessary to ensure the effective
13 implementation of any programs administered by those of-
14 fices, including inspection and enforcement relating to re-
15 newable energy project development on covered land, in
16 accordance with the multiple use mandate of the Federal
17 Land Policy and Management Act of 1976 (43 U.S.C.
18 1701 et seq.).

19 (e) RENEWABLE ENERGY COORDINATION OF-
20 FICES.—In implementing the program established under
21 this section, the Secretary may establish additional renew-
22 able energy coordination offices or temporarily assign the
23 qualified staff described in subsection (c) to a State, dis-
24 trict, or field office of the Bureau of Land Management

1 to expedite the permitting of renewable energy projects,
2 as the Secretary determines to be necessary.

3 (f) REPORT TO CONGRESS.—

4 (1) IN GENERAL.—Not later than February 1
5 of the first fiscal year beginning after the date of en-
6 actment of this Act, and each February 1 thereafter,
7 the Secretary shall submit to the Committee on En-
8 ergy and Natural Resources of the Senate and the
9 Committee on Natural Resources of the House of
10 Representatives a report describing the progress
11 made pursuant to the program under this subpart
12 during the preceding year.

13 (2) INCLUSIONS.—Each report under this sub-
14 section shall include—

15 (A) projections for renewable energy pro-
16 duction and capacity installations; and

17 (B) a description of any problems relating
18 to leasing, permitting, siting, or production.

19 On page 244, line 14, strike “**Subpart B**” and in-
20 sert “**Subpart C**”.