

111TH CONGRESS  
1ST SESSION

# H. R. 3736

To reform the Minerals Management Service by establishing it as an independent Federal agency.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2009

Mr. ISSA introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To reform the Minerals Management Service by establishing it as an independent Federal agency.

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.**

4 This Act may be cited as the “Minerals Management  
5 Service Reform Act”.

6 **SEC. 2. ESTABLISHMENT AND ORGANIZATIONAL STRUC-**  
7 **TURE.**

8 There is established as an independent establishment  
9 in the executive branch the Minerals Management Service.  
10 The Service shall succeed the Minerals Management Serv-

1 ice of the Department of the Interior as such department  
2 is in existence on the day before the effective date of this  
3 Act.

4 **SEC. 3. OFFICERS OF SERVICE.**

5 (a) DIRECTOR.—

6 (1) APPOINTMENT.—The Service shall be head-  
7 ed by a Director, who shall be appointed by the  
8 President, by and with the advice and consent of the  
9 Senate, to a 5-year term of office.

10 (2) FUNCTIONS.—The Director—

11 (A) shall carry out all functions trans-  
12 ferred to the Director by this Act; and

13 (B) shall have authority and control over  
14 all personnel, programs, and activities of the  
15 Service.

16 (3) COMPENSATION.—The Director shall be  
17 compensated at the rate prescribed for level II of the  
18 Executive Schedule.

19 (b) DEPUTY DIRECTOR.—

20 (1) APPOINTMENT.—There shall be in the Serv-  
21 ice a Deputy Director, who shall be appointed by the  
22 President, by and with the advice and consent of the  
23 Senate.

24 (2) FUNCTIONS.—The Deputy Director—

1 (A) shall perform such functions and have  
2 such duties and powers as the Director may  
3 prescribe;

4 (B) shall act for and perform the functions  
5 of the Director when the Director is absent or  
6 unable to serve and when the office of the Di-  
7 rector is vacant; and

8 (C) shall, to the maximum extent prac-  
9 ticable, assure that procurement actions of the  
10 Service take advantage of all methods available  
11 to expedite the procurement process.

12 (3) COMPENSATION.—The Deputy Director  
13 shall be compensated at the rate prescribed for level  
14 III of the Executive Schedule.

15 (c) ASSOCIATE DIRECTORS.—

16 (1) APPOINTMENT.—The Director shall appoint  
17 Associate Directors who shall each have such duties  
18 as may be prescribed by the Director.

19 (2) COMPENSATION.—Each Associate Director  
20 appointed under this subsection shall be com-  
21 pensated at the rate prescribed for level IV of the  
22 Executive Schedule.

23 (d) CHIEF COUNSEL.—

1           (1) APPOINTMENT.—There shall be in the Serv-  
 2           ice a Chief Counsel, who shall be appointed by the  
 3           Director.

4           (2) FUNCTIONS.—The Chief Counsel shall be  
 5           the chief legal officer for all legal matters arising  
 6           from the activities of the Service.

7           (3) COMPENSATION.—The Chief Counsel shall  
 8           be compensated at the rate prescribed for level IV  
 9           of the Executive Schedule.

10          (e) INSPECTOR GENERAL.—The Inspector General  
 11          Act of 1978 (5 U.S.C. App.) is amended—

12           (1) in section 12(1), by inserting “the Minerals  
 13           Management Service;” after “the Export-Import  
 14           Bank;”; and

15           (2) in section 12(2), by inserting “the Min-  
 16           erals Management Service,” after “the Export-Im-  
 17           port Bank,”.

18          **SEC. 4. FUNCTIONS OF DIRECTOR.**

19          (a) IN GENERAL.—The Director shall—

20           (1) exercise all powers and discharge all duties  
 21           of the Service; and

22           (2) carry out all functions, powers, and duties  
 23           that are vested in the Department of the Interior on  
 24           the day before the effective date of this Act relating  
 25           to—

1 (A) bidding, leasing, and managing all off-  
2 shore oil and gas, including with respect to the  
3 Gulf of Mexico and other areas of the Outer  
4 Continental Shelf; and

5 (B) collection of revenue (other than taxes)  
6 generated by such oil and gas.

7 (b) EXISTING LAW.—Except as otherwise provided  
8 by this Act, in carrying out the functions of the Service  
9 under this Act, the Director shall be subject to all provi-  
10 sions of law to which the Director was subject on the day  
11 before the effective date of this Act to the extent such pro-  
12 visions are not inconsistent with this Act.

13 (c) NOT SUBJECT TO ENTITIES CREATED BY EXEC-  
14 UTIVE ORDER.—The Director shall not submit decisions  
15 for the approval of, and shall not be bound by the deci-  
16 sions or recommendations of, any committee, board, or  
17 other organization created by Executive Order.

18 **SEC. 5. TRANSFERS AND INCIDENTAL PROVISIONS.**

19 (a) TRANSFERS.—The following are transferred to  
20 the Minerals Management Service established by section  
21 2:

22 (1) FUNCTIONS OF MMS.—All functions vested  
23 by law on the day before the effective date of this  
24 Act in the Minerals Management Service in the De-  
25 partment of the Interior or its Director, and all

1 functions vested by law on the day before the effective  
2 date of this Act in the Department of the Interior  
3 or the Department of the Interior that are administered  
4 through the Minerals Management Service (including budgetary  
5 and procurement functions) or related to the Minerals Management  
6 Service.

7 (2) INCIDENTAL FUNCTIONS.—All functions of  
8 the Department of the Interior and of the Minerals  
9 Management Service in the Department of the Interior  
10 on the day before the effective date of this Act  
11 that are incidental to, helpful to, or necessary for,  
12 the performance of the functions transferred by  
13 paragraph (1), or that relate primarily to those  
14 functions.

15 (3) PERSONNEL, PROPERTY, RECORDS, AND  
16 FUNDS.—So much of the personnel, property,  
17 records, funds, accounts, and unexpended balances  
18 of appropriations, allocations, and other funds of the  
19 Department of the Interior and the Minerals Management  
20 Service as are employed, used, held, available,  
21 or to be made available in connection with the  
22 functions transferred by paragraphs (1) and (2).

23 (b) NO REDUCTION IN CLASSIFICATION OR COM-  
24 PENSATION.—The personnel transferred under this sec-

1 tion shall be transferred without reduction in classification  
2 or compensation.

3 (c) EXERCISE OF FUNCTIONS BY DIRECTOR.—The  
4 Director of the Minerals Management Service shall exer-  
5 cise all functions transferred by subsection (a) of this sec-  
6 tion and any other function vested by any law in the Min-  
7 erals Management Service or the Director of the Minerals  
8 Management Service after the date of the enactment of  
9 this Act.

10 **SEC. 6. RULES; REGULATIONS.**

11 In the performance of functions pursuant to this Act,  
12 the Director may make, promulgate, issue, rescind, and  
13 amend rules and regulations in accordance with chapter  
14 5 of title 5, United States Code.

15 **SEC. 7. DELEGATION.**

16 (a) IN GENERAL.—Except as otherwise provided in  
17 this Act, the Director may delegate functions to officers  
18 and employees of the Service, and may authorize succes-  
19 sive redelegations of such functions in the Service, as the  
20 Director considers necessary or appropriate.

21 (b) DIRECTOR REMAINS RESPONSIBLE.—A delega-  
22 tion of functions by the Director under this section or  
23 under any other provision of this Act shall not relieve the  
24 Director of responsibility for the administration of such  
25 functions.

1 **SEC. 8. SUPPLEMENTAL PERSONNEL AND SERVICES.**

2 (a) EXPERTS AND CONSULTANTS.—In addition to  
3 the officers provided for by section 3, the Director may  
4 obtain the services of experts and consultants in accord-  
5 ance with section 3109 of title 5, United States Code.

6 (b) PERSONNEL OF OTHER AGENCIES.—Upon re-  
7 quest of the Director, the head of any Federal agency may  
8 detail, on a reimbursable basis, any of the personnel of  
9 such agency to assist the Director in carrying out func-  
10 tions of the Service.

11 (c) VOLUNTEER SERVICES.—

12 (1) IN GENERAL.—The Director may accept  
13 voluntary services of individuals in accordance with  
14 the provisions of section 3111 of title 5, United  
15 States Code and without regard to the provisions of  
16 section 1342 of title 31, United States Code, if such  
17 services will not be used to displace Federal employ-  
18 ees employed on a full-time, part-time, or seasonal  
19 basis.

20 (2) INCIDENTAL EXPENSES.—The Director may  
21 provide for incidental expenses, including transpor-  
22 tation, lodging, and subsistence, for persons who  
23 provide voluntary services pursuant to this sub-  
24 section to the Director.

25 (3) NOT FEDERAL EMPLOYEES.—An individual  
26 who provides voluntary services to the Director pur-



1       suant to this subsection shall not be considered to  
2       be a Federal employee for any purpose other than  
3       for purposes of chapter 81 of title 5, United States  
4       Code (relating to compensation for work injuries)  
5       and chapter 171 of title 28, United States Code (re-  
6       lating to tort claims).

7       **SEC. 9. CONTRACTS.**

8       The Director may, without regard to the provisions  
9       of section 3324 of title 31, United States Code, and sub-  
10      ject to appropriations Acts, enter into and perform con-  
11      tracts, leases, cooperative agreements, and other trans-  
12      actions, on such terms and conditions as the Director con-  
13      siders appropriate, with any Federal agency or any instru-  
14      mentality of the United States, with any State, territory,  
15      or possession, with any political subdivision thereof, and  
16      with any person (including any educational institution), as  
17      may be necessary to carry out the functions of the Direc-  
18      tor and the Service.

19      **SEC. 10. USE OF SERVICES, EQUIPMENT, PERSONNEL, AND**  
20                                   **FACILITIES OF OTHER AGENCIES.**

21      (a) IN GENERAL.—With the consent of the appro-  
22      priate agency, the Director may, with or without reim-  
23      bursement, use the services, equipment, personnel, and fa-  
24      cilities of Federal agencies and other public and private  
25      agencies, and may cooperate with other public and private

1 agencies in the use of services, equipment, personnel, and  
2 facilities.

3 (b) COOPERATION OF OTHER FEDERAL AGENCIES.—

4 The head of each Federal agency shall cooperate fully with  
5 the Director in making the services, equipment, personnel,  
6 and facilities of the Federal agency available to the Direc-  
7 tor.

8 (c) SUPPLIES AND EQUIPMENT.—Notwithstanding  
9 any other provision of law, the head of a Federal agency  
10 may transfer to or receive from the Service, without reim-  
11 bursement, supplies and equipment, other than adminis-  
12 trative supplies and equipment.

13 **SEC. 11. ACQUISITION AND MAINTENANCE OF PROPERTY.**

14 (a) IN GENERAL.—The Director may—

15 (1) acquire (by purchase, lease, condemnation,  
16 or otherwise), construct, improve, repair, operate,  
17 and maintain such other real and personal property  
18 (including office space and patents), and any inter-  
19 est therein within or outside the continental United  
20 States as the Director considers necessary;

21 (2) lease to others such real and personal prop-  
22 erty; and

23 (3) provide by contract or otherwise for eating  
24 facilities and other necessary facilities for the wel-  
25 fare of employees of the Service at its installations

1 and purchase and maintain equipment for such fa-  
2 cilities.

3 (b) TITLE TO PROPERTY.—Title to any property or  
4 interest therein acquired pursuant to this section shall be  
5 in the United States.

6 (c) LIMITATION.—The authority granted by sub-  
7 section (a) shall be available only with respect to facilities  
8 of a special purpose nature that cannot readily be reas-  
9 signed from similar Federal activities and are not other-  
10 wise available for assignment to the Service by the Direc-  
11 tor of General Services.

12 (d) CONTRACTS AND LEASES SUBJECT TO APPRO-  
13 PRIATIONS.—The authority of the Director to enter into  
14 contracts and leases under this section shall be to such  
15 extent and in such amounts as are provided in appropria-  
16 tion Acts.

17 **SEC. 12. TRANSFERS OF FUNDS FROM OTHER FEDERAL**  
18 **AGENCIES.**

19 The Director may accept transfers from other Fed-  
20 eral agencies of funds that are available to carry out—

21 (1) functions transferred by this Act to the Di-  
22 rector; or

23 (2) functions assigned by law to the Director  
24 after the date of the enactment of this Act.

1 **SEC. 13. SEAL OF SERVICE.**

2 The Service shall cause a seal of office to be made  
3 for the Service of such design as the Director shall ap-  
4 prove, and judicial notice shall be taken of such seal.

5 **SEC. 14. STATUS OF SERVICE UNDER CERTAIN LAWS.**

6 For purposes of chapter 9 of title 5, United States  
7 Code, the Service is an independent regulatory agency.

8 **SEC. 15. SAVINGS PROVISIONS.**

9 (a) IN GENERAL.—All orders, determinations, rules,  
10 regulations, permits, contracts, certificates, licenses, and  
11 privileges—

12 (1) that have been issued, made, granted, or al-  
13 lowed to become effective by the President, any Fed-  
14 eral department or agency or official thereof, or by  
15 a court of competent jurisdiction, in regard to func-  
16 tions that are transferred under this Act to the  
17 Service on or after the date of the enactment of this  
18 Act; and

19 (2) that are in effect on the effective date of  
20 this Act;

21 shall continue in effect according to their terms until  
22 modified, terminated, superseded, set aside, or revoked in  
23 accordance with law by the President, the Director or  
24 other authorized official, by a court of competent jurisdic-  
25 tion, or by operation of law.

1 (b) PENDING LICENSES, PERMITS, CERTIFICATES,  
2 AND FINANCIAL ASSISTANCE.—

3 (1) IN GENERAL.—This Act shall not affect any  
4 proceedings or any application for any license, per-  
5 mit, certificate, or financial assistance pending on  
6 the effective date of this Act, and such proceedings  
7 and applications, to the extent that they relate to  
8 functions so transferred, shall be continued.

9 (2) PROCEEDINGS.—Orders shall be issued in  
10 proceedings referred to in paragraph (1), appeals  
11 shall be taken therefrom, and payments shall be  
12 made pursuant to such orders, as if this Act had not  
13 been enacted, and orders issued in any such pro-  
14 ceedings shall continue in effect until modified, ter-  
15 minated, superseded, or revoked by a duly author-  
16 ized official, by a court of competent jurisdiction, or  
17 by operation of law.

18 (3) DISCONTINUANCE OR MODIFICATION.—  
19 Nothing in this subsection shall be considered to  
20 prohibit the discontinuance or modification of any  
21 proceeding under the same terms and conditions and  
22 to the same extent that such proceeding could have  
23 been discontinued or modified if this Act had not  
24 been enacted.

25 (c) PENDING SUITS.—

1           (1) IN GENERAL.—This Act shall not affect  
2 suits commenced before the effective date of this  
3 Act.

4           (2) PROCEEDINGS.—In all suits referred to in  
5 paragraph (1), proceedings shall be had, appeals  
6 taken, and judgments rendered in the same manner  
7 and effect as if this Act had not been enacted.

8           (d) INTERIM APPOINTMENTS.—

9           (1) IN GENERAL.—In any case involving an of-  
10 ficer required by this Act to be appointed by and  
11 with the advice and consent of the Senate who has  
12 not entered office on the effective date of this Act,  
13 the President may designate the person who served  
14 as such officer on the day before the effective date  
15 of this Act to act in such office until the office is  
16 filled as provided by this Act.

17           (2) COMPENSATION.—A person designated to  
18 act in an office under paragraph (1) shall receive  
19 compensation at the rate of pay provided by this Act  
20 for the office in which the person acts.

21 **SEC. 16. LAWS AND REGULATIONS.**

22           Except as otherwise provided in this Act, all laws,  
23 rules, and regulations in effect and applicable to the Min-  
24 erals Management Service of the Department of the Inte-  
25 rior or to the Director of such Service on the date imme-

1 diately preceding the effective date of this Act shall, on  
2 and after such effective date, be applicable to the Minerals  
3 Management Service and the Director established by this  
4 Act, until such law, rule, or regulation is repealed or other-  
5 wise modified or amended.

6 **SEC. 17. DEFINITIONS.**

7 For the purposes of this Act, the following definitions  
8 apply:

9 (1) **DIRECTOR.**—The term “Director” means  
10 the Director of the Minerals Management Service  
11 appointed under section 3.

12 (2) **SERVICE.**—The term “Service” means the  
13 Minerals Management Service established by section  
14 2.

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